



BSB-Saugbagger und Zweivegetechnik Stefan Mattes GmbH & Co KG
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Standard Terms and Conditions of Sale of BSB-Saugbagger und Zweivegetechnik Stefan Mattes GmbH & Co. KG

I. General terms and conditions

1. The area of applicability of these standard terms and conditions of sale covers the sales of **BSB Saugbagger und Zweivegetechnik Stefan Mattes GmbH & Co. KG** (BSB in the following) to buyers. They only apply insofar as you are an entrepreneur and use the items sold by BSB for your commercial or self-employment needs and do not resell them to consumers. You may not resell to consumers. In the event that that you sell to consumers or are a consumer, BSB has the right to rescind this contract and does not as a result waive damages; these are covered by the standard terms and conditions of sale.

2. Insofar as your standard terms and conditions deviate from our terms and conditions of sale to their detriment and are to be incorporated into our contract, the statutory legal regulations shall apply. Your standard terms and conditions will not in any circumstances become part of the contract. In any conflict between our Standard Terms and Condition of Sales in English and our German Standard Terms and Condition of Sales our German Standard Terms and Condition of Sales shall prevail both in meaning and interpretation.

3. Details of descriptions, valid at the time of conclusion of the contract, of the scope of goods supplied - appearance, performance, dimensions and weight, fuel consumption, operating costs, etc. - are to be understood as being approximate only. Types and dimensions are determined by the agreed standards and, in the absence of any agreement, in accordance with the technical or legally applicable standards applicable at the time of conclusion of the contract; in the absence of such standards, in accordance with established practice. Reference to standards e.g. DIN / EN, or their integral parts such as material sheets, inspection certificates and inspection standards as well as details of sorts, dimensions, weights, conformity statements, manufacturer's declarations and corresponding CE and GS marks, and on usability are not warranties or guarantees unless they are explicitly designated as such by BSB or agreed with you in writing.

They are not warranted features but only serve to establish whether the correct item of sale has been supplied. Insofar as no other agreements exist, BSB reserves the right to make changes in design or form, to deviations in colour as well as changes to the scope of goods supplied during the delivery period, provided that the item sold is not substantially changed or you cannot reasonably be expected to accept the changes. The instructions in the operator's manual are to be complied with.

4. The weighing or measurements carried out by us or our suppliers and shown on the weight note /delivery note are applicable. We have the right to calculate the weight and the dimensions without weighing / measuring according to the standard (theoretical) additional 1 % (commercial weight). In the case of goods charged by weight, the figures indicated in the advice of shipping are not binding. Unless, as is customary, individual weighing takes place, whereby the total weight of the shipment shall apply. Differences in comparison with the individual weights calculated will be allocated to these proportionally.

5. The right to customary discrepancies is reserved.

6. The subject matter of the contract is the objects specified in writing; no further agreements have been reached; no verbal agreements exist. However, this does not constitute an irrefutable presumption.

7. Assignments of claims against BSB are, with the exception of monetary claims of enterprises, without legal force without our consent. Consent will be given if no infringement of any BSM interests is threatened.

8. Offsetting against monetary claims of BSB is only admissible if a claim established with final legal force or a claim pending before a court against BSB and ready for a ruling is due to you or the claim is not contested by BSB.
 No right of retention by enterprises against BSB exists unless their claim is established with final legal force or a claim pending before a court against BSB and ready for a ruling is due to you or the claim is not contested by BSB.

9. Unless proof is provided that the goods are for export, the buyer shall pay the value-added tax valid for deliveries in the Federal Republic of Germany from the invoice amount.

II. Prices and terms of payment, place of jurisdiction, reservation of title and goods subject to retention of title (conditional goods)

1. The sole place of performance and jurisdiction is Berlin if the contracting party is a businessperson or legal entity under public law or a special fund under public law. German law applies exclusively. The CISG shall not apply.

2. All prices, other than those for consumers, are net prices without the statutory value-added tax, packing, customs duties and charges, or shipping, insurance, assembly, programming and commissioning costs, unless a separate agreement was concluded. The price is due at the place of performance - it is due upon delivery unless anything else has been agreed.

3. If it becomes apparent after conclusion of the contract that our payment claim is at risk due to inability of the buyer to pay, or if the buyer has defaulted on payment of a substantial amount (30 % of the contract sum), or other circumstances occur that indicate a substantial deterioration in the payment ability of the buyer after conclusion of the contract, we have the right to demand immediate payment arising from the on-going business relationship not yet due. In such a case BSB has the right to full or partial rescission unless after our demand - but at your choosing - no security is provided.

4. The supplied goods remain the property of BSB until payment of the sales price in full. The extended reservation of title applies to businesspersons in the ordinary course of business. Dispositions regarding the conditional goods may only be made with our consent insofar as they cause damage. Monies received or monetary claims acquired against credit institutions as a result of payment of the sales price received are to be lodged on a fiduciary basis until they are paid to BSB. In addition, all goods supplied remain our property (conditional goods) until performance of all claims, including the balance claims that are due to us in the context of the business relations (outstanding payments). This shall also apply to monetary claims that arise in the future or are conditional, e.g. from acceptors' bills of exchange if payments have been made towards specified claims. This outstanding payments clause expires with final effect upon the settlement of all claims still outstanding and covered by this outstanding payments clause at the time of payment.



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5. In terms of property law, processing and treating the conditional goods take place for us, as the manufacturer, within the meaning of Section 950 BGB (Bürgerliches Gesetzbuch - German Civil Code) without obliging us. In the case of processing, combining and mixing the conditional goods with other goods by the buyer, we have a co-ownership share in the new product proportional to the invoice value of the other goods used. If our ownership ceases to exist due to combination or mixing, the buyer hereby transfers the ownership rights in the new item or object due to it, to the extent of the invoice value of the conditional goods and shall keep them safe for us at no charge and in trust. Our co-ownership rights are deemed to be conditional goods. Insofar as the buyer acquires a lien arising from work productions with regard to third-party objects by means of our conditional goods, the buyer hereby transfers the liens regarding the work containing our conditional goods to the extent of their invoices.

6. The buyer may only sell the conditional goods in the course of ordinary business under its standard terms and conditions and provided it is not in default on the condition that monetary claims from resale are transferred to us. It does not have the right to make any other dispositions regarding the conditional goods.

7. The monetary claims arising from the resale of the conditional goods are hereby assigned to us, together with all forms of security that the buyer acquires for the claims. BSB accepts the assignment. They serve as security to the same extent as the conditional goods. In the event that the conditional goods are sold by the buyer together with other goods not purchased from us, the monetary claim arising from resale shall be assigned in the amount of the invoice value at the invoice value of the other goods sold. In the case of the sale of goods in which we have co-ownership shares or liens, a share corresponding to our co-ownership shares will be assigned to us.

8. The buyer has the right to collect our claims arising from the resale. This collection authority shall expire if it is revoked by us or, at the latest, upon payment default towards us, if a bill of exchange is not honoured or an application filed for institution of bankruptcy proceedings. We will only use the right of revocation if it becomes apparent after conclusion of the contract that our payment claim arising from this or other contracts with the buyer is at risk due to its inability to pay. At our request, the buyer is obliged to immediately notify its customer of the assignment to us and to provide us with the documents required for collection. We have the right to give notice of the assignment, as well as in the name of the buyer, and to collect the claim in the name of the buyer to the extent that the claim has been assigned to us.

9. The buyer shall notify us of any attachment or other restrictions imposed by a third party without delay. It shall inform all third parties without delay of our rights that are recognisably called for; attachments or other restrictions on our conditional goods, co-ownership rights or liens. The buyer shall bear all the costs that must be expended to set aside the restriction, or for the return transport of the conditional goods to us unless the costs are reimbursed by a third party.

10. In the event that the invoice value of the security existing in our favour exceeds the secured monetary claims plus ancillary costs of 15 % (for interest, costs, information) by a total of over 20 %, we are obliged to release security of the buyer's choosing at its request.

III. Warranty and liability

1. No claims to damages will be recognised unless they arise from gross negligence or intent, or infringement of material contractual duties (cardinal duties) jeopardising achievement of the purpose of the contract, or relate to guaranteed claims, or loss of life, bodily harm or damage to health and insofar as we have not given any guarantee for the properties and quality of the object sold, as well as in cases of mandatory liability under the Produkthaftungsgesetz (Product Liability Act). The regulations on the onus of proof are not affected by the aforesaid. The same shall apply to all relevant claims against the legal representatives and vicarious agents of BSB. Apart from this, we will not accept any liability for damage and consequential damage.

2. Unless otherwise agreed, all contractual claims that the buyer obtains by reason of and in connection with supply of the goods shall become time-bared one year after delivery of the goods, in the case of new goods. This period shall also apply to those goods that, in keeping with their typical form of use, are used for a building or ship and have caused its defectiveness, unless this form of use was agreed in writing. No warranty will be given in the case of used goods supplied by us. Our liability arising from infringement of a duty due to intent or gross negligence, culpable loss of life, bodily injury and damage to health and the time limitation of regress claims under Sections 478, 479 BGB (Bürgerliches Gesetzbuch) are not affected by the aforesaid.

3. Our supply obligation is subject to the proviso that we are supplied by third parties as contractually agreed, with the correct items and in good time unless we are incorrectly supplied or not supplied in time for reasons beyond our control. An extension of the delivery period shall be to an adequate extent after your set timeframe, if BSB should not be in position to deliver for reasons beyond our control. If this cannot be reasonably expected of the customer, it has the right to rescind the contract.

4. Part deliveries by us are admissible unless a separate agreement was concluded on this point.

5. Complaints relating to obvious defects are to be made without delay in writing otherwise it will not be possible to raise them. You have the right to provide proof of non-culpable failure to comply with the period of time.

6. Improvements or additional deliveries shall be conducted, at our discretion, at the business premises, the location of the equipment or a workshop approved by us. We have the right to choose the transport route and means of transport if otherwise the appropriate handling of the equipment cannot be ensured. Transportation will only be at our risk if it is undertaken by us. Transportation and forwarding services must be concluded separately and named explicitly in the contract. We are liable in our capacity of forwarder / haulier on the basis of the most recent version of ADSp (Allgemeine Deutsche Spediteurbedingungen - German Freight Forwarders' Standard Terms and Conditions). The customer may not replace parts itself for which warranty claims exist.