

INTERNATIONAL SALES AND DELIVERY CONDITIONS of ZEHNDER

1. General

The International Sales and Delivery Conditions shall be binding if declared applicable in any contract or in any offer or acceptance of Zehnder GmbH, Lahr or its subsidiary/ies acting as seller (hereinafter "Seller"). If the deliveries are made in performance of a distribution agreement between Buyer and Seller, these International Sales and Delivery Conditions apply to every order made under such contract. Any conditions stipulated by Buyer which are in contradiction to the conditions set out herein shall only be valid if expressly accepted by Seller in writing.

2. Orders

Every purchase order shall be subject to individual and explicit acceptance by Seller before any obligation of Seller is created.

3. Conditions of Delivery

The delivery of goods shall be made "ex works" Seller's manufacturing plant (EXW - INCOTERMS 1990) unless otherwise stated on the order confirmation. Any duties, charges, taxes, etc. imposed in connection with the import of the goods shall be borne by Buyer.

In case delivery is made by postal service, special delivery or express service, Buyer has to meet additional expenses over and above normal "ex works" delivery or as agreed upon. The delivery of the goods shall be at Buyer's risk.

4. Packaging

Unless otherwise agreed upon, the packaging of goods will be charged to Buyer separately and may not be returned to Seller. Merchandise return containers and pallets have to be emptied and returned immediately. Expenses hereby incurred are to be carried by Buyer.

5. Delivery Dates

Delivery dates are approximate dates. Delay in scheduled delivery shall not entitle Buyer to any claims against Seller and/or to cancel any purchase order.

The delivery date which has been agreed upon with Buyer must be reasonably extended when circumstances arise which Seller cannot prevent despite using the required care.

6. Prices/Long-Term Orders

Unless credit terms have been agreed between the parties, goods must be paid for at the time of the order. If any payment is overdue, interest on the outstanding sum is payable at commercial bank rates.

If the specified quantities of goods ordered by Buyer are not called down for delivery and/or paid within the agreed timeframe, Seller is entitled to withdraw from the purchase with immediate effect and Buyer is prohibited from claiming any damages. Alternatively, Seller has the option to demand from Buyer a guarantee for the full purchase price in exchange for delivery of the remaining goods.

7. Right to Withdraw

In case of Buyer's insolvency or Buyer's default on payment of an earlier purchase, Seller shall be entitled to withhold its performance until the payment of the outstanding purchase price is guaranteed. If such a guarantee cannot be established by Buyer within a reasonable period of time, Seller may withdraw from the purchase.

In case Buyer is in default of payment of the purchase price, Seller is entitled to charge interest at commercial bank rates.

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8. Warranty

The warranty period shall be sixty (60) months from date of delivery to Buyer. Excluded are electrical radiators, electrical and electronic components. The warranty period for these products is twenty-four (24) months.

Buyer must inspect the goods immediately upon receipt. Any defects must be notified in writing within eight (8) days after receipt. Otherwise the goods purchased are deemed to have been accepted and any warranty claims against Seller are excluded.

Within the warranty period set forth above, defects which were not recognisable in the course of a customary examination, must be notified in written immediately upon their discovery. Otherwise the goods purchased are deemed to have been accepted and any warranty claims against Seller are excluded.

Provided the goods are proven defective and Buyer has notified the defects as set out herein above, Buyer has the option to have the defective goods repaired or replaced free of cost. Costs of shipment from and to Seller's plant, if necessary, will be split in half.

Warranty claims are conditioned upon Buyer's prior performance of all and any of its own obligations. Any other warranty claims against defects in the goods are expressly excluded.

9. Retention of Title

Seller shall retain ownership of the goods supplied until full payment has been received. Buyer shall take all necessary measures for the protection of the proprietary rights of Seller.

10. Export Restriction

Seller products are protected by patents, designs and trademarks in several foreign jurisdictions. Buyer has, therefore, to seek advice from Seller before delivery will take place into such a jurisdiction.

11. Applicable Law and Arbitration

In any event, the UN Convention for the International Sales of Goods ("Vienna Sales Convention") is applicable. To the extent the Vienna Sales Convention does not provide any guidance, the legal relationship between Seller and Buyer shall be governed by the substantive laws in effect at the domicile of Seller.

All disputes arising in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by a sole arbitrator appointed in accordance with said Rules. The place of arbitration shall be at the domicile of Seller. The language shall be English.