

Terms and Conditions of Sale and Delivery of Matzinger Performance GmbH

§ 1 Scope of Application:

The following terms and conditions shall govern all our sales, deliveries, as well as our consulting terms for development and production of connecting rods, pistons, crankshafts, related cranktrain components or any other parts supplied by Matzinger Performance GmbH. Any changes of our terms and conditions of sales and delivery will be invalid without written confirmation.

§ 2 Quotation, Acknowledgement, Order Confirmation:

Our quotes are without engagement and will be valid for the duration highlighted on our quotation. Any oral amendments are invalid. We accept order by written acknowledgement only. If our order confirmation and acknowledgement varies from the terms and conditions of the related order, especially with regards to delivery- and payment terms, the conditions of Matzinger Performance GmbH will apply, unless a written confirmation exists, in case of any deviation.

§ 3 Purchase Price:

Unless otherwise agreed, our prices valid on the day of delivery will apply. It is possible that prices change during the production process. Hence, Matzinger Performance GmbH is entitled to amend those prices in accordance with the customer. All prices are net prices, ex works (Incoterms 2010) and include commercial packaging. If a customer requests special packaging, he needs to cover the additional costs for such packaging. If delivery is made at a later point in time for reasons within the customer's responsibility, we are entitled to increase the prices in order to compensate for additional costs. This shall not affect our right for compensation in case of any or further damages occurred to Matzinger Performance GmbH.

Any taxes, custom duties and other fees the customer may have to pay for the acceptance of the goods shall be borne by him, unless we have confirmed to cover those charges in writing prior delivery.

In respect of tools, the agreed prices only represent a contribution of the customer to these costs for the development and production of any tool.

§ 4 Place of Performance, Delivery:

Place of Performance is Bad Vöslau. Shipment and transport is on the account and the risk of the customer. Any risk shall pass to the customer as soon as the items are offered to the customer at the place of performance. Should the customer not accept the items, this shall constitute a default in acceptance. In this event, we shall be deemed to have provided our services and we are entitled to store the goods at the customer's costs and charge the customer immediately thereof. If we are unable to deliver on the agreed date due to unforeseeable circumstances which we are unable to control (force majeure, delays in delivery by sub-suppliers etc.), we are entitled to deliver on the next possible date, provided that the customer can be reasonably expected to still accept the items. Otherwise, Matzinger Performance GmbH is entitled to withdraw from the contract. We shall be liable for any other default only in case of our own gross negligence and intent.

§ 5 Warranty and Liability:

We guarantee and are liable for the fact that the subject matter of the contract corresponds to the agreed specifications and the drawings approved by the customer. We do not guarantee and are not liable for a specific suitability, compatibility or usability of the subject matter of the contract at the customer. Claims for defects are also excluded in particular in the event of non-compliance and/or incorrect and/or incomplete implementation of the specifications, requirements and instructions of Matzinger Performance GmbH, natural wear and tear, subsequent unauthorized changes to the delivery item, improper use of the delivery item, in the event of improper storage of the delivery item, improper installation and/or improper assembly of the delivery item, damage caused as a result of incorrect and/or negligent handling, damage caused by the customer and/or a third party if he combines, mixes, processes and/or otherwise improperly handles the delivered items with unsuitable, faulty and/or defective components and in the event of damage occurring as a result of special external influences that are not specially provided for in the contract. If the customer and/or a third party installs the delivery item in their products, the customer bears the burden of proof that none of the above reasons for exclusion of claims apply, since Matzinger Performance GmbH should not know and cannot know the environment in which the delivery item is used and in this respect Matzinger Performance GmbH is not entitled to any enforceable rights to information. The customer is

independently responsible for compliance with all statutory and official provisions to be observed in connection with the further use of the delivery items. If a defect is due to a product delivered by a sub-supplier, Matzinger Performance GmbH will fulfill the customer's claims by assigning its own claims against the sub-supplier.

The customer must carefully examine the subject matter of the contract/delivery item upon acceptance and report any defects to us in writing within five days of delivery of the subject matter of the contract, handing over a sample of the goods complained about by means of a notice of defects. If a defect is reported in due time, we are entitled to improve the defect, exchange the defective goods or take them back for a credit note at our choice. Claims by the customer going beyond this are excluded to the extent permitted by law. Matzinger Performance GmbH is liable - for whatever legal reason - in the event of intent and gross negligence. In the event of slight negligence, Matzinger Performance GmbH is only liable for damage resulting from injury to life, limb or health, as well as for damage resulting from the breach of a material contractual obligation (obligation whose fulfilment is essential for the proper execution of the contract and whose compliance is the responsibility of the customer regularly trusts and may trust), in the second case, however, liability is limited to compensation for foreseeable, typically occurring damage. In any case, foreseeable, typical damage is not indirect damage (e.g. lost profit). We only bear installation and removal costs if we are at fault for a defect. The amount of liability for damage typical of the contract is doubly limited, namely per case of damage to a maximum of the net purchase price of the items of the delivery of the contract concerned and per calendar year to a maximum of the net sales at which the customer purchased items from Matzinger Performance GmbH in the previous calendar year has acquired. In the first year of the contract, the maximum is the amount of sales for which the customer has purchased items from Matzinger Performance GmbH up until the occurrence of the damage.

The customer is not entitled to withhold payments due to warranty claims or other claims of any kind whatsoever.

The return of rejected goods requires our written prior consent and is at the expense and risk of the customer. If the goods are returned without our prior consent, we are entitled to refuse to accept the returned goods and to return them to the customer at the customer's expense.

§ 6 Payment and Default:

Place of payment is Bad Vöslau. Payment of the agreed selling price needs to be made within 14 days after the invoice was issued without deduction, as well as of any deduction of costs or charges.

If the invoiced amount is not paid when due, Matzinger Performance GmbH may withhold further deliveries, charge all dunning and collection fees and statutory default interest, or rescind from the contract in case of non-compliance with a reasonable grace period. If foreclosure proceedings are conducted, or if the customers' payment ability is in doubt, we are entitled to set all invoices without due dates to "due promptly", withhold further deliveries or services and only deliver if paid prior delivery. If the customer refuses to make payments in advance, we may rescind from the contract and assert damages for lost profit. Payments will always be applied to the oldest debts and resulting interest, even if stated otherwise on the payment slip.

§ 7 Place of Jurisdiction and applicable Law:

All legal relationships between us and the client shall be governed by Austrian Law. All disputes shall exclusively be referred to the courts of Wiener Neustadt. Disputes not falling within that scope of application shall be referred to the Austrian Economic Chamber in Vienna. We may, however, bring claims against the customer before any other court having jurisdiction. For purpose of the construction of the contract and these terms and conditions, the German version shall prevail.

§ 8 Final Provisions

The customer may not set off claims against us with open payments. The customer may not assign his claim to others with regards to the delivery of the items.

The appeal by a customer on a contract due to his "mistake" is invalid.

Any documents or information about us, our products, samples, promotional material, distributors or other customers that are made available to the customer, or the customer gets aware of, are not allowed to be distributed or shared with any third party, especially with competitors.

If any terms of this contract are or become invalid or unenforceable, it shall not affect the remaining terms. These invalid or unenforceable terms shall be replaced by valid and enforceable term, which closest reflect the intended economic purpose.