

# Standard Conditions of Delivery and Payment

## SKF Lubrication Systems Germany GmbH



Effective for:

1. Persons acting in the pursuance of their commercial or independent profession when the agreement is concluded (trader);
2. Juristic persons under public law or public trust.

### I. In general

The following conditions of delivery and payment are valid for all agreements, deliveries and other performances including advisory services rendered, unless they are amended or excluded by and with the express written permission of a person registered as authorized in the Commercial Register.

The General Terms and Conditions of Business of the buyer or customer are not binding, even if we do not expressly contradict them again.

### II. Offer

Property rights and copyrights to offers, estimates, drafts and other documents remain with us. These documents must be returned on request and may not be made accessible to third parties. Any breach of this requires replacement of the incurred loss.

### III. Agreement

1. The agreement comes about through acceptance of the offer. The subject-matter of the agreement is according to the following list:  
The offer, these conditions of delivery and payment, a written agreement, the written order confirmation and/or the written order.
2. Any documentation that is part of the offer, such as illustrations, drawings, weight indications etc., is only approximately binding unless it has been expressly termed binding.
3. Supplementary agreements are only effective if they have been confirmed in writing by a person registered as authorized in the Commercial Register.

### IV. Price and payment

1. The prices are valid ex works excluding packaging. Prices do not include the respective legal amount of sales tax. Payments to us must be made ex paying agent.
2. The invoice will be issued simultaneously with the dispatch or mailing of the supply information. Payment of the bills is due within 30 days of the billing date without deduction.
3. Bills for assembly or repairs are due within 10 days of the billing date without deduction.
4. Payment by means of bank money order, check, bill of exchange or promissory note are only possible with our permission and then only on account of performance. Costs and expenses incurred through discounting are at the buyer's expense.
5. If the time allowed for payment is exceeded, interest on arrears of 12% will be charged without further submission of proof. The right to assert additional interest on arrears remains reserved.
6. The customer is only entitled to withhold payments or offset with counterclaims insofar as his counterclaims have been deemed undisputed or legally valid.
7. If installments have been agreed and the customer falls behind with an installment entirely or longer than seven days, the respective outstanding amount is due for immediate payment, irrespective of our rights from VII.
8. In the case of binding and non-binding delivery deadlines of over four months, we are entitled to demand wage and material price increases in addition to the agreed price.

### V. Delivery and delay

1. The delivery date is dependent on the agreements of the contractual parties. Its observance on our part presupposes that all commercial and technical matters between the contractual parties are settled and that the customer has met all obligations for which he is responsible, such as the production of the required official documents or permits or the payment of a deposit. If this is not the case, the delivery deadline is extended to a reasonable degree. This does not apply if we are responsible for the delay.
2. The meeting of the delivery deadline is under the proviso of correct and punctual self-supply.
3. The delivery deadline is met if the delivery item has left our works by the deadline date or has been announced as being ready for shipping. If an inspection has to take place, the inspection date, or alternatively the announcement that the delivery item is ready for inspection, is binding - except in the case of a justified non-acceptance.
4. If the shipment resp. acceptance of the delivery item is delayed for reasons for which the customer is responsible, he will be charged any costs incurred by the delay, starting one week from the announcement that the delivery item is ready for shipment resp. inspection.
5. If the non-observance of the delivery date is caused by force majeure, industrial action or other events that are outside our sphere of influence, the delivery deadline is extended to a reasonable degree. We will notify the customer of the start and end of the current circumstances as soon as possible.

6. The customer can withdraw from the agreement without a time limit having been fixed if the entire performance finally becomes impossible for us before the risk is passed. In addition, the customer can withdraw from the agreement if the performance of a part of the delivery becomes impossible in an order and he has a justified interest in the refusal of the partial delivery. If this is not the case, the customer must pay the contractual price allotted to the partial delivery. The same thing applies in the case of powerlessness. Section IX.2 applies otherwise.  
If the impossibility or powerlessness occurs during the default of acceptance, or if the customer is solely or predominantly responsible for these circumstances, he remains obliged to payment in return.
7. If we are in default and the customer - taking legal exceptional cases into consideration - grants us a reasonable period for the performance and the period is not observed, the customer is entitled to withdraw within the scope of legal provisions.  
Further claims from delay in delivery are determined exclusively according to Section IX.2 of these conditions.

### VI. Risk taking, Acceptance

1. The risk is passed to the customer when the delivery item has left the factory, even if partial deliveries take place and we have taken over other services, e.g. shipping costs or delivery and installation. If an inspection has to take place, this is binding for the passing of the risk. It has to be carried out promptly on the inspection date, or alternatively after our announcement that the delivery item is ready for inspection. The customer is not allowed to refuse acceptance due to an insignificant defect.
2. If shipment resp. inspection is delayed or does not happen as a result of circumstances for which we are not to blame, the risk is passed to the customer from the day of the announcement that the delivery item is ready for shipment resp. inspection.
3. Partial deliveries are admissible if they are reasonable for the customer.

### VII. Reservation of ownership

1. The delivery of the goods takes place under reservation of ownership according to § 449 German civil code (BGB) with the following extensions.
2. The goods remain our property until complete payment of all current and also future demands.
3. An acquisition of property of the buyer to the reserved goods according to § 950 BGB in the case of conversion into a new article is excluded; any conversion takes place by the buyer for us. The converted goods are only for our safety to the value of the reserved goods. In the case of conversion of other goods that do not belong to us, we are entitled to co-ownership in the ratio of the value of the reserved goods to the other converted goods at the time of conversion. Otherwise the same thing applies to the new property created from the conversion as with the reserved goods: it is considered reserved goods within the meaning of our conditions.
4. The buyer's demands from the re-sale of the reserved goods are already assigned to us now, regardless of whether the reserved goods are sold without or after conversion and whether they are sold to one or several customers. The assigned demand is only for our safety to the value of the reserved goods. We are entitled to assign the accounts receivable from trading for financing purposes.
5. The buyer is only entitled and empowered to resell the reserved goods under the proviso that the purchase price demand from the resale is passed to us as per the aforementioned Clause 4. The buyer is not entitled to otherwise dispose of the reserved goods.
6. The buyer is entitled to collect the demand from the resale in spite of the assignment. Our collection authorization remains unaffected by this. However, we will not collect the demand as long as the buyer fulfills his payment obligations properly. At our request, the buyer must notify the debtors of the assigned demands, impart all information on the collection, hand over the relevant documents and show the debtors the assignment.
7. The reservation of ownership as per the aforementioned provisions applies to the entire business connection and the resulting balance claim in our favor.
8. Our reservation of ownership is qualified in such a way that the ownership of the reserved goods is automatically passed to the buyer with the full payment of all our demands from the business connection and the buyer is entitled to the assigned demands. We promise to release the securities to which we are entitled according to the aforementioned provisions - at our discretion - insofar as their value exceeds the demand to be guaranteed by 25%, but subject to the proviso that with the exception of delivery in real mutual accounts, a release only has to take place for such deliveries or their replacement value that are fully paid themselves.
9. As long as the reservation of ownership exists, a pledging or collateral assignment is inadmissible.
10. In the event of intervention by the buyer's creditors, especially in the case of seizures, the buyer must notify us immediately through registered letter and by sending a sheriff's return, as well as assurance in lieu of an oath about the identity of the seized object, as well as pay the costs of measures for removing the intervention, especially intervention processes, if they are unable to be collected by the other side. Furthermore, the buyer pays all costs that have to be used to recover the object of purchase.

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11. The assertion of the reservation of ownership as well as the seizure of the delivery item by us is not valid as a contract rescission. A rescission from the contract only exists in the withdrawal as well as in the seizure of the object by us, insofar as §§ 395 ff. BGB do not apply, if this is expressly stated in writing by a person registered as authorized in the Commercial Register.
12. The buyer has the duty to keep the object of purchase in an orderly condition at his expense for the duration of the reservation of ownership.

### VIII. Liability for defects

We guarantee material deficiencies and deficiencies in title of the delivery - subject to Section IX - excluding further claims as follows:

#### Material deficiencies:

1. All parts have to be repaired or supplied new - at our option - that turn out to be defective as a result of a factor lying before the passing of the risk. We must be notified immediately in writing if such defects are discovered. The statutory limitation is determined according to X.
2. The customer must give us the time and opportunity necessary to carry out all repairs and replacement deliveries that appear necessary to us; otherwise we are exempted from the liability for the resulting consequences.
3. The customer has a right to withdraw from the contract within the framework of legal regulations if we let a set reasonable deadline for the repair or replacement delivery pass fruitlessly, taking legal exceptions into account. If the defect is insignificant, the customer is only entitled to a reduction of the contractual price. The right to a reduction of the contractual price is otherwise excluded.
4. In particular, no guarantee is given in the following cases: unsuitable or improper use, defective assembly resp. commissioning by the customer resp. third parties, natural wear and tear, incorrect or improper treatment, improper maintenance, unsuitable production equipment and facilities, defective construction work, chemical, electrochemical or electrical influences - unless we are responsible for them.
5. If the customer or a third party carries out improper repairs, there is no liability for the resulting consequences. The same thing applies to alterations to the delivery item that are carried out without our prior approval.
6. In the case of outside products, the customer is obliged to seriously try to enforce warranty claims out of court on the supplier of the outside products before we use them. To this end we will assign our own warranty claims against the supplier of the outside products to the customer on request and provide the documentation required by the customer where this is necessary to enforce the claims. The aforementioned rights of the customer apply if and insofar as the customer is not satisfied after this.

#### Deficiencies in title:

7. If use of the item leads to the infringement of domestic industrial property rights or copyrights, we will always provide the customer with the right to further use or modify the delivery item in a manner that is reasonable for the customer in such a way that the industrial property right infringement no longer exists. If this is economically not possible at reasonable conditions or within a reasonable time period, the customer is entitled to withdraw from the contract. We are also entitled to a right to withdrawal under the aforementioned conditions.
8. The obligations quoted in Section VIII. 7. are conclusive subject to Section IX.2. for the case of industrial property right or copyright infringement. They only exist if
  - the customer immediately notifies us of asserted industrial property right or copyright infringements,
  - the customer supports us to a reasonable extent in warding off the asserted claims resp. allows us to carry out the modification measures according to Section VIII. 7.,
  - we are left all defense reactions, including out-of-court settlements,
  - the deficiency in title is not based on an instruction from the customer
  - the infringement of a right was not caused by the customer altering the delivery item without proper authority or using it in a non-contractual manner.

### IX. Liability

1. If the delivery item cannot be used by the customer as per agreement through our fault as a result of omitted or incorrect implementation or of suggestions carried out before or after the conclusion of the contract or the infringement of other contractual accessory obligations - in particular instructions for operating and servicing the delivery item -, the regulations of sections VIII und IX.2 apply accordingly, to the exclusion of further claims by the customer.
2. We are only responsible for damages that are not incurred to the delivery item itself - regardless of the legal reasons -
  - in the event of criminal intent,
  - in the event of gross negligence by the owner/executive bodies or executive employees,
  - in the event of culpable injury of life, body or health,
  - for defects that were fraudulently concealed or whose absence we have guaranteed,
  - for defects of the delivery item, insofar as there is a liability for personal injury or property damage to the privately used objects according to the Product Liability Act.

In the event of culpable infringement of essential contractual obligations, we are also liable in the event of gross negligence by non-executive employees; the latter case is limited to reasonably foreseeable damage typical for contracts. Any other claims are excluded.

### X. Statutory limitation

All claims by the customer - regardless of the legal reasons - become statute-barred in twelve months. The legal deadlines apply for deliberate or fraudulent conduct as well as for claims according to the Product Liability Act. They also apply to building defects or for delivery items, which were used in accordance with their usual application for a building and caused its defectiveness.

### XI. Software utilization

If software is included in scope of supplies, the customer is granted a non-exclusive right to use the supplied software including its documentation. The software is provided for use on the specified delivery item and is not allowed to be used on more than one system. The customer may only use, duplicate, rework, translate the software to the legally admissible extent (§§ 69 a ff. Copyright Statute (UrG)) or convert it from the object code into the source code. The customer undertakes not to remove manufacturer details - particularly copyright notes - or to change them without our prior express permission.

All other rights to the software and the documentation including the copies remain with us resp. the software supplier. The issue of sublicenses is not permitted.

### XII. Assembly

Our special assembly conditions are valid for all assemblies.

### XIII. Restraint of assignment

A transfer, assignment or seizure of the customer's rights from this contract or similar ordinances are ineffective without our written permission, which is to be given by a person registered as authorized in the Commercial Register.

### XIV. Place of performance and legal venue

Place of performance for delivery and payment is D-69190 Walldorf.

The courts in Heidelberg are exclusively responsible for all disputes, irrespective of the legal reason, subject to their jurisdiction over the subject-matter. We are also entitled to take legal action against the customer at his legal venue.

The law of the Federal Republic of Germany is otherwise valid for the contractual regulations excluding UN law.

### XV. Liability in the event of partial invalidity

In the case of the invalidity of individual conditions, the remaining Standard Conditions of Delivery & Payment and the contract remain binding. The appropriate legal regulation takes the place of invalid conditions.

Supplier declarations according to Ordinance EC (EG) 1207/2001

The supplier's declaration quoted in our order confirmation is currently valid and can change by the delivery. A legally valid supplier's declaration will be written in our invoices.

We, the SKF Lubrication Systems Germany GmbH Company, declare that the goods listed in this invoice have been manufactured in the Community and correspond to the rules of origin for the preferential goods trade of the European Economic Area (EWR) as well as to the following states: Switzerland, Iceland, Norway, Ceuta and Melilla, the Faeroe Islands, Cyprus, Israel, Malta, Morocco, Tunisia, Egypt, Jordan, Lebanon, Syria, ACP, the Czech Republic, the Slovak Republic, Poland, Hungary, Rumania, Macedonia, Bosnian-Herzegovina, Croatia, Slovenia and Bulgaria.

Non-originating products are labeled position-related as "no preferential treatment". We promise to present documents relating to this declaration to the customs authorities.

Note: Country of origin of the goods is the Federal Republic of Germany unless otherwise stated position-related.

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