

General Terms and Conditions of Sale and Delivery

I. General Conditions

1. These terms are valid for all agreements for the delivery of our products and the performance of maintenance/repair works by us (henceforth: supplier). Objections in this regard must be made without delay. Oral agreements that deviate from the content of the order confirmation are only valid when confirmed in writing. The supplier is not bound by the customer's purchasing conditions even when these are not expressly repudiated.
2. Drawings and technical documentation remain the property of the supplier and may not be made available to third parties. Breaches of this obligation must be compensated in full and are prosecutable.
3. Where required for customised deliveries, designs and tools remain the property of the supplier even when paid in part, or in full, by the customer. The supplier is only obliged to reserve the rights of a customer to special embodiments of delivered goods where these are protected by a patent of German registered utility patent (DBGM).

II. Prices

All offers are subject to confirmation, estimates are non-binding. Unless otherwise agreed, prices are ex works and exclude packaging. Prices are calculated on the basis of the costs of materials and labour at the time that the offer is made. In the event of a change to these base values during the period of manufacture, the supplier reserves the right to adjust the price accordingly.

III. Delivery times

1. Delivery times are only binding where these have been expressly agreed as binding. The supplier shall, however, make every effort to ensure that delivery periods are observed. The period for delivery commences when all details of the performance have been clarified and both parties have agreed the contract in writing. The notification of delivery-readiness is equivalent to notification of the delivery date. The supplier is entitled to make delivery, or part deliveries, prior to the expiry of the period for delivery, unless this would be unreasonable for the customer.
2. Where there are obstructions to performance arising from force majeure including war, riots, arson, strikes or lock-out affecting the supplier or the operational centres of the supplier's suppliers, including, in particular, operational interruptions arising from materials or goods shortages or delayed material deliveries, the supplier becomes entitled to delay performance of the agreement or to withdraw from the agreement entirely. This only applies where the supplier is not responsible for the failure to deliver, in particular where there is a congruent covering arrangement with the supplier's supplier. The customer shall be informed without delay as to the failure of delivery. The counter-performance shall be recompensed without delay.
3. If the supplier is in default, the customer may – insofar as they can prove that it has hereby incurred a loss – claim compensation of 0.5% of the price for each full week of delay up to a maximum of 5% of the price, for that part of the delivery which could not be put into operational use by reason of the delay. The customer's claims in relation to compensation for delays to delivery and in relation to compensation as a substitute for performance, are excluded in all instances of delayed delivery, where these claims go beyond the aforementioned limitations, even after the expiry of the delivery period stipulated by the supplier. This does not apply in relation to statutory liability for intentional acts, gross negligence or cases of personal injury. The customer may only withdraw from the agreement within the terms of the legal regulations where the supplier is responsible for the delay in delivery. The aforementioned regulations shall not constitute any change to the onus of proof where this would be to the detriment of the customer.

IV. Goods on Call

Goods ordered on call are to be accepted without any special agreement, at the latest, within 12 months of the date that the order is confirmed. If the goods are not accepted within 12 months, and no demand has been issued for the delivery of the goods, the supplier has the option to either store goods ready for delivery at the cost and risk of the customer and to invoice the customer as if the goods were already delivered together with the aforementioned costs, or to demand compensation equivalent to 20% of the net goods value. The supplier reserves the right to claim compensation for further losses. The customer may prove that no loss, or a lesser amount of loss, has been incurred.

V. Dispatch and packaging

The shipping of goods is undertaken at the cost and the risk of the customer, unless otherwise agreed. We will determine the dispatch type and dispatch type sequence to the best of our judgement. The customer is responsible for all costs of shipping, dispatch and insurance. The cost of packaging is charged at actual cost and packaging cannot be returned.

VI. Transfer of Risk

The risk of accidental loss and accidental damage of the goods is, for mail order purchases, transferred with the delivery of the goods to the shipper, carrier or other dispatch agent (person or organisation) charged with undertaking the delivery to the customer. This also applies where carriage-free delivery is agreed. If the dispatch is delayed for reasons for which the customer is culpable, or the customer is in default of acceptance, the risk then passes to the customer.

VII. Right of Withdrawal

The supplier is entitled to withdraw from the agreement when, after the conclusion of the agreement, it is apparent that the customer has put in an application for the initiation of insolvency procedures on his property, has given a statutory declaration in accordance with art. 807 ZPO [Code of Civil Procedure] or has initiated insolvency procedures on his property or was refused due to the lack of assets. The customer has no right to compensation in this instance. The customer may withdraw from the agreement if the supplier has intentionally, or through gross negligence, breached their contractual duties or where delivery is overdue by a period of more than 2 months and the subsequent period of delivery stipulated by the customer is exceeded by a period of more than 10 working days.

VIII. Cancellation of the Order or Rescission of the Agreement

In the event that the ordered goods are not received within a period of 4 weeks as stipulated by the supplier, or where the customer rescinds the agreement, the customer is obliged to pay all costs incurred in the processing of the order including preparation work and materials procured together with compensation commensurate with the profit lost. The agreement of the supplier is required prior to any rescission of the agreement.

IX. Retention of Title

1. The subject matter of the delivery (goods subject to retention of title clause) remain in the ownership of the supplier until all of its claims arising from its business arrangements vis-à-vis the customer are settled. Where the value of all the supplier's security interests exceeds the

value of all secured claims by more than 20%, the supplier will, if requested, by the customer, release a corresponding part of these security interests.

2. The customer may not pledge or otherwise assign the goods for the purpose of arranging security during the period of the retention of title by the supplier. Any seizure, confiscation etc. of the goods by a third party, as a result of a pledging arrangement for example, must be reported without delay to the supplier, as must any damage to or loss of the goods. The customer must also promptly inform the supplier as to any change in ownership of the goods or its own change of address. In the event that the customer breaches its contractual obligations, in particular the obligation of due payment, the supplier becomes entitled to cancel the agreement and to demand return of the goods. The customer is obliged to comply with the request to return the goods.
3. The customer is entitled to resell the goods in the ordinary course of business. Upon the sale, they will directly assign to the supplier all claims amounting to the invoice value accruing to it by reason of the re-sale vis-à-vis third parties. The supplier accepts this assignment. Following the assignment, the customer is permitted to collect the receivables. The supplier reserves the right itself to collect the receivables in the event that the customer does not properly fulfil its obligations of payment whereby it is in default of the said payment.

X. Warranty

1. In the event that, within the warranty period, a defect is detected in delivered parts or other service performance, the supplier has the option of repair without charge, re-delivery or re-performance, provided that the cause of the defect was in existence at the time of the transfer of risk.
2. Claims based on material defects are time-barred after 12 months. This does not apply where a longer warranty period is prescribed by law for cases of personal injury, where there is an intentional or grossly negligent breach of contractual obligations on the part of the supplier, or where there is fraudulent concealment of a defect.
3. The customer must inform the supplier in writing as to any perceivable material defects within 2 weeks of receipt of the goods, or, where the defects are not readily apparent, they must inform the supplier without delay; other claims under the warranty are excluded. Dispatch of the notice of defects is sufficient to comply with the period of notice requirement. The customer is entirely responsible for proving the grounds for claims, in particular the actual defect itself, the point in time that the defect is detected and for the compliance with the provision of information requirements.
4. The supplier initially will be given a reasonable period in which to rectify the defect.
5. If the rectification does not succeed, the customer may withdraw from the agreement or they may claim a reduction of payment. If the customer opts to cancel the agreement on the grounds of a legal or material defect following the failure of rectification of the defect, they have no other rights of compensation. If the customer opts to claim compensation on the grounds of the failure to rectify the defect, they shall retain the goods if it is reasonable for them to do so. The compensation is limited to the difference between the value of the purchase price and the value of the defective goods. This does not apply in the event that the supplier is culpable of an intentional or grossly negligent breach of contractual obligations, or where they have fraudulently concealed defects.
6. There is no entitlement to compensation for minor discrepancies in the agreed specifications, for minor impairments in usability, for normal wear and tear, or for defects that arise after the transfer of risk due to incorrect or improper operation, excessive loads, unsuitable operating materials, or which arise due to particular external factors, which are not prescribed for within the agreement. There is, moreover, no claim for defects and the consequences thereof, which arise from incorrect alterations or maintenance work undertaken by the customer or a third party.
7. If the customer is supplied with defective assembly instructions, the supplier is obliged only to re-supply assembly instructions free of defects, and only where the defect in the assembly instructions prevents the correct assembly of the goods.
8. Claims of the customer with regard to costs arising from the rectification of defects, in particular for increases to transport, transport routes, work and material costs, by reason of a retrospective relocation of the delivered goods to a location away from the customer's branch location, are excluded except where the relocation of the goods corresponds to a standard use of the goods.
9. Rights of recourse of the customer against the supplier in accordance with section 478 BGB (German Civil Code) exist only insofar as the customer has not made arrangements with their own customers that extend beyond the legal warranty claims. Application shall be made of no. 8 of section 478 para. 2 BGB for determining the extent of the rights of recourse of the customer against the supplier.
10. The supplier does not make any guarantees in a legal sense to the customer.

XI. Conditions of Payment

1. The supplier's invoices are payable within 10 days of the invoice with a deduction of a 2% discount. Invoices for wage labour are payable without deduction. Cheques and bills are accepted as payment subject to punctual encashment. The amount will be credited to the account after deduction of the ancillary costs.
2. If, following the conclusion of the agreement, it becomes apparent that the customer has applied to initiate insolvency procedures on his property, has given a statutory declaration in accordance with art. 807 ZPO [Code of Civil Procedure] or has initiated insolvency proceedings on his property or was refused due to lack of assets, then the supplier can, instead of withdrawal, make his services dependent on pre-payment or security of the customer. If the customer defaults in his payment obligation, then the entire remaining debt falls due. At the same time, maintaining the validity of further default damages, default interest to the value of 8% points above the basic interest rate is charged. The customer has a right to offset only if his counter-claims are established by law or recognised by the supplier. Claims that are not expressly recognised by the supplier do not free the customer from the payment obligation. The supplier is not obliged to supply substitute parts, as long as the customer has accounts outstanding with the supplier.

XII. Miscellaneous

1. The place of performance for all deliveries, receipt of goods and payments is Nürnberg. The court with jurisdiction for to hear actions arising from the agreement documentation and exchange law is the competent court in Nürnberg.
2. The mutual contractual arrangement is subject exclusively to the law of the Federal Republic of Germany.
3. In the event that an individual term of the agreement with the customer including these General Terms and Conditions is, or proves in the future to be, partially or wholly invalid, the remaining terms and conditions continue to be valid. The partial or wholly invalid term shall be substituted for one that most closely fulfils the commercial aims of the original.