

General Commercial Conditions (Status 1/2021)

1. Validity

1.1 Our Delivery Conditions are exclusively valid for all deliveries and services. The General Commercial Conditions of the customer will therefore only apply if they have been expressly recognized by us in writing.

2. Quotation, completion of contract and scope of delivery or service

2.1 Our quotations are subject to alteration.

2.2 Orders are considered to be accepted when they have been confirmed in writing by us or they have been carried out immediately after order receipt or as per agreed schedule. In such a case the invoice is valid as the order confirmation.

2.3 Our written confirmation is authoritative for the scope of delivery. Supplementary agreements and changes require our written confirmation.

2.4 We retain the unrestricted ownership rights, copyright and exploitation rights on cost proposals, drawings, films, drafts or any other documents. These items must not be made available to third parties. Drawings and other documents, which belong to quotations must be immediately returned to us if the order is not granted to us.

2.5 Unforeseen technical difficulties, which because they are rooted in the type of contract and make the execution unreasonable for us, give us the right to withdraw from the contract. This withdrawal must be declared immediately after information on the unforeseen technical difficulties has been requested. Any payments already made will be immediately returned.

3. Prices

3.1 If there are no other agreements prices will be valid as ex-works, excluding packing.

3.2 Packing costs will be invoiced. There is no possibility of returning the packing materials. Returnable frames such as euro-pallets, box pallets, BGT transport frames, large and small, one-sided B frames, wooden A frames, steel A frames remain our property and must be returned as soon as possible and at the most within 2 weeks, otherwise they will be invoiced for.

3.3 In addition to the prices the VAT at the respective level will be added.

4. Payment

4.1 All payments must be made net within 30 days of the invoice date free to the given payment centre.

4.2 Any agreed discounts will only be valid if the customer is not late in paying for earlier deliveries.

4.3 If the target date is exceeded the normal bank interest payable on arrears, but at least 5% above basic interest rate for customers, who are users, and at least 8 percentage points for contractors will be charged, plus the respective VAT. This will be set higher or lower if we can prove the charging of a higher interest rate or if the customer can prove a lower charge. The application of additional damages due to the delay are not excluded because of this.

4.4 Invoice payments by cheque or bills of exchange will take place on account of payment and in the case of bills of exchange will require our previous agreement. The customer will bear all the costs associated with bills of exchange and cheques. We will not be liable for the correct timing of the non-acceptance.

4.5 The retention of payments for the offsetting of payments by any claims disputed by us without a legally-established counter-claim by the customer are not permitted.

4.6 If the customer delays the call-off, acceptance or collection of the dispatched goods, or if he is responsible for a delay in the dispatch or delivery, then we have the right to store the goods at his cost in a warehouse at the locally-applicable storage costs and to charge the full value of the goods to him. The customer is granted the right of evidence that no or only slight damage has arisen.

5. Delivery period

5.1 The dates of deliveries and services are only binding if we have expressly confirmed them in writing. The delivery period begins with the sending of the order confirmation, however not before the provision of any documents required from the customer.

5.2 The delivery period is maintained if the delivered item has left the factory when the period expires or if we have informed the customer that it is ready for dispatch.

5.3 The delivery period is correspondingly extended in the event of such things as industrial disputes, especially strikes and lockouts, as well as if unforeseen impediments occur, which we cannot do anything about, insofar as such impediments can be proven to have a significant influence on the manufacturing or delivery of the supplied item. This also applies if the situations arise at sub-contractors. The above conditions are also not our fault if they arise during an already-existing delay. We will inform the customer of the beginning and end of such impediments in important cases as soon as possible. Contract completion will take place with the reservation of correct and timely delivery by our own suppliers. This will only apply to the situation where the non-delivery is not our fault, especially in the event of the completion of a congruent coverage business with our supplier. The customer will be informed without delay of non-availability of the scope of performance. The payment will be returned immediately.

5.4 If we become delayed ourselves with our supplies and services and if the customer demands the delivery he must set us an appropriate period of extension in writing.



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5.5	If the customer incurs damages due to a delay for which we are to blame, he then has the right to demand damages for delay— however excluding further claims. For every full week of delay, these damages amount to 1 / 2 %, but in total never more than 5 % of the value of the respective part of our overall scope of performance, which due to the delay cannot be used at the right time or not according to the contract.
6.	Transfer of risk and dispatch
6.1	The risk is transferred to the customer at the latest with the consignment of the supplied parts, also in the case where part deliveries are made or where we have taken on other services such as the transport costs or the carriage and installation.
6.2	If the dispatch is delayed due to reasons caused by the customer, then the risk is transferred to the customer on the day when the delivery is ready to send.
6.3	If the customer so wishes we will insure the consignment at his cost and according to his instructions.
6.4	Part deliveries as well as deviations from the ordered quantities of up to +/- 10 % are permitted in the case of repeated supply orders to a reasonable extent. Special conditions for individual products are printed on the back, are attached as appendices, are known of from the brochures or are assumed to be known of.
7.	Guarantee
7.1	The customer must immediately check our supplies and services for any deficiencies after receipt. If deficiencies are found they must be made known immediately in writing, but at the latest 14 days after receipt. Otherwise the goods will be deemed to have been accepted. Goods, which are the subject of a complaint, must be made available to the supplier for inspection. If a deficiency exists, which is not recognizable during the immediate inspection, then the complaint must be made immediately following discovery. Acceptance will be valid at the latest after the installation or processing of the goods made by us.
7.2	For external products our liability is restricted to the transfer of any liability claims to the supplier of the external products. These guarantee claims correspond at least with the guarantee claims in this contract. If the third party does not satisfy the customer's rightful claims then we are liable according to the measures in our AGB's.
7.3	If the goods are found to be defective when the risk is transferred, then we have the right to, and are obliged to carry our later correction of the goods. This correction will take place according to our own choice by means of rectification of the defect or the manufacture of a new item. The customer must allow us an appropriate period of time for the correction of this guarantee obligation. In the case of remanufacturing, the appropriate additional time will be agreed depending on the product. If the later correction does not take place within an appropriate time set by the customer or if it is avoided, the customer has the right to take up his legal rights.
7.4	The liability for deficiencies does not apply to natural wear. Furthermore it does not apply to damage, which arises after the transfer of risk as a result of faulty or negligent treatment, excessive loads or faulty construction and/or assembly.
7.5	If changes or repairs are made by the customer or a third party inexpertly without previous approval we will not be liable for any consequences which arise.
8.	General liability
8.1	We are completely liable, without restrictions according to the legal regulations, where the damage is due to groß negligence or malice aforethought, or where liability is intended according to the product liability law or if it concerns personal injury.
8.2	For the culpable violation of significant contractual duties we will generally only be liable for contract-typical damage and only up to a level of 50,000.00 € for material damage and 25,000.00 € for damage purely to property.
8.3	Further contractual and indictable claims are excluded.
8.4	In the case of the violation of precontractual duties or a performance impediment which exists even at the completion of the contract (§§ 311 Para. 2, 311a BGB) our liability for damage is restricted to the negative interest.
8.5	Insofar as our liability is excluded or limited, this also applies for the personal liability of our staff, workers, employees, representatives and contractual assistants.
8.6	If the customer is a contractor, he is only entitled to withdrawal from the contract in the case of a violation of duty which is our fault.
8.7	The customer's guarantee claims are limited to a period of five years from acceptance of the goods. Accordingly the right to withdrawal and a reduction is excluded according to the statutory regulations. The legal limit will remain for the assertion of personal damages as well as for damage which is based on malice aforethought or gross negligence or on the violation of a significant contractual duty.
9.	Reservation of ownership rights
9.1	We reserve the ownership of the delivered object until all payments in connection with the supply contract have been received. If the customer contravenes the contract, in particular if he delays payments, we have the right to take back the delivered object after a reminder and the customer has the duty of surrendering the object. In the case of seizures or other forms of intervention by third parties the customer must inform us immediately in writing.



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9.2	The customer has the right to sell on the delivered object in normal trade processes. He will however transfer to us even at this stage any claims together with any supplementary agreements, which arise for him from the onward selling with respect to the purchaser or a third party. Furthermore it does not matter whether the reserved goods are sold without or after further processing. The customer has the right to call in these claims even after the transfer. Our right to call in the claims ourselves, is not affected by this, however we undertake not to call in the claims as long as the customer continues properly with his payment obligations. We can demand that the customer informs us of the transferred claims and the debtor, carries out all the required instructions for calling them in, hands over the respective documents and informs the debtor of the transfer. If the delivered item is sold on together with other goods which do not belong to us, then the claims of the customer against the purchaser will be assumed to have been transferred at the level of the delivery price agreed between us and the customer.
9.3	The processing or transformation of reserved items will be always be deemed to be carried out for us by the customer. If the reserved items are processed with other items which do not belong to us, we will acquire combined ownership of the new item in the ratio of the value of the reserved items to the other processed items at the time of the processing. The item arising from the processing will in general be valid in the same way as for the reserved item.
9.4	The customer is obliged to insure the delivered object against theft, breakage, fire, water and other types of damage during the period of reserved ownership.
9.5	If, in connection with the payment of the purchase price, the customer establishes a bill-of-exchange liability for us, then the ownership reservation will not expire – including its agreed special forms and any other agreed securities to safeguard the payments – before the bill of exchange has been redeemed by the customer and is drawn.
10	Place of jurisdiction
10.1	If the customer is a fully-qualified trader, a public corporate body or a special public body the exclusive place of jurisdiction for any disputes arising from this contract is our company location. The action must be brought at the court which is responsible for our area. We have the right to bring action at the customer's HQ.
10.2	The object of the contract is exclusively the manufactured item with the properties and features as well as its purpose according to the product description. Other or additional properties and/or features or a purpose going beyond this will only be valid if we have expressly confirmed them in writing.
10.3	Additional claims by the customer, in particular claims to compensation for damages, which did not arise from the supplied object itself, are excluded.



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