

I. conclusion of contract and offer

1. all services and supplies are subject exclusively to our terms and conditions of business together with any special contractual agreements. they are deemed to be acknowledged by the placing of an order or by acceptance of the supply. different conditions of sale of the customer do not become a part of the contract even through acceptance of an order. a contract comes into being - in the absence of any special agreement - with the written confirmation on our part of the order.

2. the weights and measures contained in our printed materials, catalogues etc. and all statements of all kinds, constructions, forms, materials, drawings etc., diagrams and descriptions are subject to technical changes and are therefore to be treated as non-binding even during the delivery period, unless they are expressly designated as binding. The customer has by his own examination to satisfy himself of the suitability of the products for the application intended.

3. we reserve ownership and intellectual property rights to all representations, diagrams, drawings, calculations and similar, information of a tangible and of an intangible nature, including in electronic form. they may not be made available to third parties without our permission.

4. offers

all offers on our part are without obligation and are not binding, insofar as nothing else arises from them.

II. prices and terms of payment

1. in the absence of special agreements, our prices apply ex works or supply depot including loading in the works or supply depot. packaging, freight, postage and insurance are excluded. this also applies for part deliveries.

2. prices are subject to VAT. Discounts agreed with us are on the basis of prices exclusive of VAT.

3. deduction of discount requires special written agreement.

4. the customer is only entitled to withhold payments or to offset counterclaims against them insofar as his counterclaims are not disputed by us or are established as being legally binding.

III. delivery period, delayed delivery

1. the delivery period arises from the agreements of the contract parties. observance by us of the delivery period is dependent on all commercial and technical questions between the contract parties being resolved and the customer having fulfilled all his obligations, e.g. delivery of the necessary official licences and permissions, or provision of a down payment. if this is not the case, the delivery period is extended accordingly. this does not apply insofar as we are responsible for the delay.

2. partial deliveries are permissible insofar as the customer can reasonably be expected to accept them.

3. the delivery period is observed when the subject of supply has left our works before expiry of the period or readiness to delivery has been notified.

4. delayed delivery of a call-off or of a part quantity does not give the customer the right to withdraw from the whole contract. In the case of special manufacture, both withdrawal of the customer from the contract and return of the object are excluded. A different regulation is only possible by express written agreement, in which compensation by the customer for all processing costs incurred must be regulated.

5. if we fall into arrears and the customer thereby suffers damages, he is entitled to require overall compensation for damages due to arrears. they amount to 0.5% for each full week of delay, but to a maximum total of 5% of the value of the part of the whole delivery which as a consequence of the delay cannot be used in good time or in accordance with the contract. if the customer then after the due date - taking account of the legal exceptional cases - sets an appropriate period of grace for us to deliver, and this period is not observed, the customer is entitled within the framework of the legal prescriptions to withdraw from the contract.

6. if despatch of the subject of supply is delayed for reasons for which the customer is responsible, we will charge to him the costs which arise from the delay, beginning from the 15th day after the notification of readiness to dispatch.

7. if non-observance of the delivery period is to be attributed to force majeure, industrial strife or other occurrences which are outside the realm of influence of the supplier, the delivery period is extended correspondingly. the supplier will notify the customer as early as possible of the beginning and ending of circumstances of this nature.

IV. order cancellation

if an order which has been given to us by the customer is cancelled or revoked, the customer must ensure that his revocation is known to us within two days from the date of his order. if such a revocation is not known to us within the period defined, we are entitled to charge at least 10% of the value of the order as compensation for expenses or to insist on acceptance of the goods ordered. we reserve the right to exclude revocation or cancellation of an order by the customer, in particular when the goods ordered by the customer are ready for dispatch within the above-named period or have already left our stores and are on the way to him or are in the process of manufactured or have been manufactured and, due to their nature, cannot immediately be sold otherwise. this applies particularly where goods are specially manufactured.

V. transfer of risk

1. the risk transfers to the customer when the subject of supply has left the works, and also when partial deliveries are made.

2. if, as a consequence of circumstances for which we cannot be accountable, dispatch is delayed or does not take place, the risk transfers to the customer from the day of notification of dispatch or of readiness for collection.

3. part deliveries are permissible insofar as the customer can reasonable be expected to accept them.

VI. retention of ownership

1. the products supplied (retained goods) remain our property until the sale price has been paid in full and all our claims existing and arising in the future from our business relationship with the customer have been paid.
2. the customer is entitled to dispose of the retained goods within the framework of orderly business operations, so long as he fulfils his contractual obligations. otherwise, we are entitled to require the return of the retained goods - the customer has insofar no right of possession. we are then also entitled, without prejudice to the obligation of the customer to payment, to turn the goods taken back to account and to credit the customer with the profit.
3. the customer may not pledge the subject of supply, nor may he assign it as security. in the case of pledges or distraint or other dispositions by third parties, he has to notify us of these without delay.
4. the customer assigns to us on sale of the subject of supply the claims against his customers which arise from its further disposal. he is entitled subject to revocation to collect the claims assigned, but on our request he has to inform us immediately and completely of the amount of these claims and the names of his customers.

VII. warranty (claims of deficiency)

complaints regarding recognisable deficiencies, incorrect deliveries, or quantity variances are to be notified to us in writing immediately, and in any case at the latest within 4 days after delivery of the subject of supply. if the customer does not notify us of any deficiency within this period, the subject of supply is deemed to be accepted as being free of deficiencies.

we make warranty as follows against material deficiencies of the goods supplied, with the exclusion - subject to section VIII (liability) - of further claims:

material deficiencies

1. all parts which are determined to be defective as a consequence of a circumstance existing before the transfer of risk are to be made good or replaced by us, at our discretion, without compensation. parts replaced become our property.
2. after notification, the customer has to give us the necessary time and opportunity to undertake all improvements and replacement deliveries which seem necessary to us, otherwise we are freed from liability for the consequences arising therefrom. only in urgent cases of endangerment of operational safety or to avoid disproportionately large damage, whereby we are to be informed immediately, does the customer have the right to rectify the deficiency himself or to have it rectified by third parties, and to require from us compensation of the necessary expenditures.
3. from the immediate costs arising from the improvement or replacement supply, we bear - insofar as the objection turns out to be justified - the costs of the replacement including shipping. in addition to this, we also bear the costs of de-installation and installation, together with the costs of any essential provision of the necessary fitters and auxiliary workers including travel costs, insofar as no disproportionate cost thereby occurs at our expense.
4. the customer has, within the framework of the legal prescriptions, a right to withdraw from the contract if we - taking into account the legal cases of exception - allow a grace period which has been set for us for improvement or replacement with regard to a material deficiency to lapse without fruit. if only a minor deficiency exists, the customer only has a right to reduce the contract price. the right to reduce the contract price is otherwise excluded. further claims are determined in accordance with section VIII (liability) of these terms and conditions.
5. in particular, no warranty is given in the following cases: unsuitable or inappropriate use, incorrect fitting or bringing into service by the customer or third parties, natural wear, incorrect or negligent treatment, improper maintenance, unsuitable maintenance materials, deficient construction work, unsuitable construction ground, chemical, electrochemical or electrical influences, insofar as we are not responsible for them.
6. if the customer or a third party inappropriately improves the subject of supply, no liability exists on our part for the consequences arising therefrom. the same applies for changes to the subject of supply undertaken without our agreement in advance.

VIII. liability

for damages which do not occur to the subject of supply itself, we are only liable - on any legal basis whatsoever - in the following cases:

- a) in case of intent,
- b) in case of gross negligence by the owner or by the organs or by managing appointees,
- c) in the case of culpable injury to life, limb or health,
- d) in case of deficiencies over which we have maliciously maintained silence or whose absence we have guaranteed,
- e) in case of deficiencies of the subject of supply, insofar as there is liability in accordance with the product liability law for damage to persons or property for objects used privately. further claims are excluded.

IX. expiry

all entitlements of the customer - on any legal basis whatsoever - expire in 12 months. for claims for compensation for damages in accordance with section VIII (liability), the legally prescribed periods apply.

X. applicable law, place of fulfilment, place of judgement

1. the law of the federal republic of germany for determining legal relationships between domestic parties applies exclusively for all legal relationships between us and the customer.
2. place of fulfilment, place of payment and place of judgement for all disputes arising directly or indirectly - including for actions on bills of exchange and cheques - are the court responsible for the registered address of our company. we are, however, entitled to bring suit at the company or residential address of the customer.

XI. final provision

the legal ineffectiveness of individual provisions does not affect the effectiveness of the remainder of the contract.