

Sales, machining and delivery terms and conditions

§ 1 General scope of application

1. Our conditions apply exclusively; we do recognise conditions of the contractual partner contrary to or deviating from our conditions, unless we have explicitly agreed to its validity in writing. Our conditions also apply then when we unconditionally execute our services while being aware of contradicting or deviating conditions of our partner. Our conditions also apply to future business transactions with our contractual partner.
2. The written form applies.
3. Our sales conditions only apply to companies in terms of §14 BGB (German Civil Code).

§ 2 Offer, offer documentation

1. Our offer is without obligation.
2. We reserve the ownership rights and copyrights to illustrations, drawings, calculations and other documents; they may not be made accessible to third parties. This shall in particular apply to written documents designated as "confidential"; the buyer shall require our express approval before forwarding them to third parties.

§ 3 Prices and payment conditions

1. Unless otherwise specified in the confirmation of order, our prices are ex factory, excluding packaging, which will appear as a separate item on the invoice. We commit ourselves to keeping the agreement for 3 months from confirmation of order. Thereafter we reserve the right to change our prices accordingly, when after conclusion of the contract costs decrease or increase especially due to collective wage agreements or materials price increases. The increase will only take place within the context of the occurring changes. We will substantiate these to the buyer at request.
2. The user is informed in writing about the intended price change when the change takes effect. The user has the right to cancel the contract if the price increase in relation to the total price is clearly higher than the increase in the cost of living.
3. Statutory value-added tax (VAT) is not included in our prices. It is charged at the rate valid on the day the invoice is issued and itemised in the invoice.
4. The deduction of cash discounts shall require a separate written agreement.
5. The contractual partner is only entitled to make set-off claims if his counterclaims have legal validity, are uncontested or recognised by us. He shall, furthermore, be entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

§ 4 Delivery time

1. The start of the delivery time specified by us is subject to the clarification of all technical questions.
2. If we fall behind with delivery for reasons, for which we are responsible, the contractual partner is entitled to claim an inclusive sum in compensation for the delay of 1% of the order value for each complete week up to a maximum of 5% of the order value or of our service. We reserve the right to demonstrate to the contractual partner that no loss was incurred as a consequence of the delay in delivery or that the loss was substantially less than claimed. If we fall behind with delivery for reasons, for which we are responsible, then liability for compensation is excluded in the case of common negligence.
3. If the contractual partner sets us, after we have already become delayed, a reasonable grace period with a threat of rejection, then he is entitled, after the fruitless expiry of this grace period, to withdraw from the contract. Claims for compensation due to non-fulfilment to the amount of foreseeable damage are only available to the buyer if the delay is due to intent or gross negligence.
4. The limitations of liability according to Paragraph 2 and 3 shall not apply if a fixed business was agreed to; the same then applies if, as a consequence of any delay in delivery that we are responsible for, the contractual partner is entitled to assert the right that his interest in the continued fulfilment of the contract has ended.
5. Compliance with our delivery obligation is subject to the timely and proper fulfilment of the obligations on the part of the contractual partner.
6. The delivery date is non-binding unless another written arrangement is agreed to.

§ 5 Transfer of risk – packaging costs

1. Transport packaging and all other packaging according to the packaging regulations is not returnable, including disposable pallets, with the exception of Euro pallets and mesh box pallets. The contractual partner is obligated to provide for the disposal of the packaging at his own expense.
2. When receiving written instruction we will arrange for goods in transit insurance at the expense of the contractual partner.

§ 6 Warranty for defects

1. The warranty rights of the contractual partner are contingent on his complying with these inspection and notification duties and responsibilities as stipulated by §§ 377 and § 381 Paragraph 2 HGB (German Commercial Code).
2. If an item proves to be defective, we are entitled at our discretion to remedy the defect or replace the defective item. In the event of the defect being remedied, we shall be obligated to bear all the necessary costs for the remedying of the defect, in particular transport, mileage, labour and material costs, provided that such costs are not increased by the additional cost of shipping the item to a location other than the place of performance.
3. If we are not prepared to remedy the defect or replace the item, or are not in the position to do so, especially if this is delayed beyond a reasonable grace period for reasons that we are responsible for; or should the attempt at remedy or replacement fail for whatever reason, then the contractual partner is entitled to choose either to cancel the contract or demand an appropriate reduction in the purchase price.
4. Unless stated otherwise in these general terms and conditions, further claims by the contractual partner - regardless of the legal grounds - excluded. We are therefore only liable for damages, which did not occur to the delivered item itself; we are in particular not liable for any loss of profit or other financial losses by the contractual partner.
5. The above exemption from liability shall not apply if the damage was caused by intent or gross negligence. Furthermore, it does not apply if the contractual partner claims for compensation for damages caused by the absence of assured product features or the failure to perform according to §§ 463, 480 II BGB (German Civil Code) or that derive from § 637 BGB (German Civil Code).
6. If we negligently are in breach of a cardinal obligation or an obligation essential to the contract, our liability to pay damages shall be limited to the amount of the foreseeable contract-typical loss.
7. The warranty period lasts for one year from the transfer of risk. This period is subject to statutory limitation and shall also apply to claims for compensation in respect of damage consequential to a defect unless tort claims are asserted.

§ 7 Joint liability

1. Further liability on the basis of compensation for damages as foreseen in § 6 Paragraph 4 to 6 is excluded, regardless of the legal nature of the asserted claims.
2. The provision according to 1 does not apply to claims according to § 1, 4 of the Product Liability Act and in case of incapability or impossibility.
3. Insofar as our liability is excluded or limited, this is also applicable to the personal liability of our employees and agents/subcontractors.
4. The limitation period between us and the contractual partner is determined by § 6 Paragraph 7, unless claims resulting from product liability according to § 823 et seq is in question.

§ 8 Place of jurisdiction – Place of execution

1. Insofar as the contractual partner is a merchant, legal entity under public law or a contractual partner of a special fund under public law, the place of jurisdiction shall be our place of business; we shall however be entitled to bring proceedings against the contractual partner before the court at his place of business.
2. Unless otherwise stipulated in the confirmation of order, our registered place of business shall be the place of execution.

§ 9 Data processing

Our contractual partner agrees to the processing of his data for business purposes; the preceding shall apply as notification according to § 26 Paragraph 1 of the German Federal Data Protection Act

A. Special conditions for sales contracts

§ 10 Payment terms

§ 288 Paragraph 2 of the BGB (German Civil Code) applies. If we suffer greater damages due to delay we are entitled to claim for recourse.

§ 11 Payment

In the absence of a special agreement payment must be rendered in cash strictly net free and namely 1/3 deposit after receipt of the confirmation of order, 1/3 when the buyer is informed that the main components are ready for shipment and the remaining amount within one month.

§ 12 Delivery time

1. The delivery deadline is met if by date of its expiry the goods have left the factory or the contractual partner has received notice that it is ready to be dispatched.
2. The delivery period shall be appropriately extended in case of measures within the scope of industrial disputes, in particular strike and lock-out as well as in case of the occurrence of unforeseen obstacles which do not lie within the supplier's intention, insofar as such obstacles demonstrably have a considerable influence on the completion or delivery of the delivery item. This shall also apply if the circumstances occur at sub-suppliers. The above-mentioned circumstances will not be considered our fault or responsibility if they occur during an already existing delay. In serious cases, we will notify the contractual partner without delay at the beginning and end of obstacles of this nature.
3. If dispatch is delayed at the request of the buyer, he shall be charged the costs incurred through storage, beginning one month after notification of readiness for dispatch, or at least 0.5% of the invoice amount for each month in case of storage at our factory, unless the contractual partner proves that the costs incurred are less. Moreover, we shall be entitled, after the setting of an appropriate notice period and expiry thereof, to otherwise dispose of the delivery goods and to supply the contractual partner within a correspondingly extended timeframe.

§ 13 Transfer and acceptance

1. If the contractual partner has ordered dispatch himself, the risk shall be passed to the contractual partner at the latest with dispatch of the ordered parts, also if partial deliveries are rendered.
2. Delivered items must be accepted by the buyer even if they have slight defects.
3. Partial deliveries are permissible if it concerns individual, machined working sections or partial deliveries from a large number.

§ 14 Reservation of proprietary rights

1. We reserve the right of ownership to the purchased or supplied goods until receipt of all payments from the sales contract. In case of breach of contract on the part of the buyer, especially default of payment, we shall be entitled to reclaim and take back the goods at any time. Taking back the goods does not constitute withdrawal from the contract unless this has been expressly declared in writing prior to or during the act of taking it back. In the event of attachment of the purchased or supplied goods by us, this shall always constitute a withdrawal from the contract. After taking back the goods, we shall be entitled to utilise it. The proceeds of utilisation shall be set off against the buyer's liabilities minus reasonable administration costs.
2. The buyer is obligated to handle the delivered goods with care; he is especially obligated to insure them at his own cost at replacement value against fire and water damage and theft. If maintenance and inspection work is required, the buyer must perform these at the appropriate time at his expense.
3. In the event of attachment or other acts of possession by third parties with regard to parts that our reservation of proprietary rights applies, the purchaser must notify us in writing immediately about the type and form of the interference, including possible court rulings and file references. If we incur costs as a result of the fact that the third party cancel his stipulation, especially when we have to institute legal proceedings pursuant to § 771 ZPO (German Code of Civil Procedure) judicial and extrajudicial we are incurring must be refunded by the buyer if the third party is not liable for it.
4. The customer shall be entitled to resell the delivered goods in an orderly business transaction; however, he hereby assigns all claims in the sum of the final invoice amount (including value added tax) of our claim which accrue from the reselling to his purchaser or third party, independent of whether or not the delivered goods are resold after any further processing or without further processing. The buyer shall remain authorised to collect this account receivable even after assignment. Our authority to collect the receivables ourselves remains unaffected by this. However, we undertake not to collect the amount owing as long as the buyer complies with his payment obligations deriving from the monies received, and does not default on payment and in particular as long as no application is lodged for the institution of insolvency or composition proceedings against him or as long as he has not suspended payments. If this is the case, we have the right to request the customer to disclose to us the assigned claims and their respective debts, to furnish all information required for collection, hand over the relevant documents, and inform the debtors (third parties) of the assignment. The processing or modification of the delivered goods by the buyer is always performed for us. If the goods are processed together with other items not belonging to us, we acquire co-ownership of the new item according to our proportion of the value of the goods in relation to the processed items at the time of processing. For the item produced as a result of this processing, the same applies as to the purchased goods delivered under reservation of ownership.
5. If the goods to which we reserved title are processed or inseparably mixed with other items not owned by us, we acquire co-ownership of the new item in the proportion which the value of our items bears to the value of the other items at the time of processing or mixing. If such processing or mixing has been carried out in such a way that the buyer's goods must be seen as the main products, then it is hereby agreed that the buyer assigns part ownership to us in the appropriate proportion. The customer shall hold in trust the solely owned or partly owned property which has been produced in this way on our behalf.
6. As security against our claims against him, the buyer shall also assign to us claims which he acquires vis-à-vis third parties as a result of the connection of the delivered goods to a property.
7. We undertake to release the security owed to us at the buyer's request to the extent that the value of our security exceeds the claims to be secured by more than 20%; the selection of the type of security to be released shall be incumbent upon us.

§ 15 Acceptance

We can demand acceptance A written notification of the period of acceptance will be given by us, if necessary with a proposed date of acceptance. If acceptance does not take place within the specified deadline and no other arrangement is made, acceptance is assumed as having taken place.

B. Additional special conditions for the activities of our bending works**§ 16 Delivery deadlines**

The delivery deadlines specified by us are approximations; a fixed date only applies when it has been specifically agreed to.

§ 17 Liability

We are not liable for defects to material if the material was ordered by the contractual partner and when the defect was not detected during an inspection in the normal course of business. In case of a justified complaint about our machining we are only liable to a value equal to our machining costs, unless gross negligence or intent exists.

§ 18 Payment date

Our labour costs are due immediately after issuance of the invoice. We can require payment in advance in case of first business with new contractual partners or, if a previous order was not paid according to schedule.

§ 19 Extension of delivery deadlines

The delivery period shall be appropriately extended in case of measures within the scope of industrial disputes, in particular strike and lock-out as well as in case of the occurrence of unforeseen obstacles which do not lie within the supplier's intention, insofar as such obstacles demonstrably have a considerable influence on the commissioned work. This shall also apply if the circumstances occur at sub-suppliers. This also applies if the afore-mentioned conditions occur during an already existing delay.

§ 20 Release

If we do not keep an approximate date, we should be given a reasonable extension of time. It must be done in writing. The contractual partner is only entitled to legal recourse afterwards.

§ 21 Technical conditions – tolerance for cold-formed profiles (metal-forming technology)

Our technical conditions are based on the cold-forming of profiles in standard shapes. The specified standard data and values represent the technically "feasible" without a large outlay. Tolerance ranges from raw materials according to specifications of the raw material manufacturer are not taken into account. Dimensional variations caused by transport or external factors (sunshine, etc.) are not defects that we are responsible for.

1. Diameter tolerances

Based on the specified diameters, the following tolerances are permissible:

- Diameter 1000 +/- 5 mm
- Diameter 2000 +/- 6 mm
- Diameter 3000 +/- 7 mm
- Diameter 3000 to 5000 +/- 8 mm

For sections from 5000 the following tolerances of the height of the arch of the standard to be applied is permissible:

- s = 1000 +/- 1 mm
- s = 2000 +/- 1,5 mm
- s = 3000 +/- 2 mm

2. Length tolerance

Length tolerances apply to components cut to size. DIN ISO 2768 T1 applies in rough terms, but at least +/-3mm.

3. Angular deviation

Depending on the bending radius a tolerance of a maximum of 4 degrees – based on the leg height – is permissible.

4. Change in shape

Depending on the bending radius a permissible deviation of a maximum of 12% applies unless other tolerances have been determined for this standard.

5. Ovality (out-of-roundness)

| Pipe/tube diameter [mm] | Bending diameter >=2000 | | Bending diameter <=2000 | |
|-------------------------|-------------------------|------------------------|-------------------------|------------------------|
| | with filling medium | without filling medium | with filling medium | without filling medium |
| 15 to 114.3 | max. 2.5% | max. 5% | max. 2.5% | max. 5.5% |
| 127 to 273.0 | max. 2.5% | max. 6.5% | max. 2.5% | max. 6.5% |

6. Cross-section variation

The cross-section variation in square and rectangular tubing is equivalent to the ratio under point 5.

7. Flatness and evenness

Based on the length used, a deviation of +/- 15% per metre of length used is permissible.

8. Rippling

Depending on the bending radius, a maximum of +/- 5% is permissible for rippling.

§ 22 Preparation for transportation

If the workload is added to due to inadequate vehicle capacity and nature and condition of the vehicle, the customer/purchaser will be invoiced separately for the costs incurred.