



A. General Conditions

1. Scope of application

1.1 For all of our offers, deliveries and performances, these general contract conditions shall apply in their applicable version at the time of ordering; we shall accept orders only in application of these general contract conditions. We will not acknowledge conditions of the customer/lessee in derogation of these conditions, which we shall oppose expressly. Varying general contract conditions of the customer/lessee shall be valid only if approved by us expressly and in writing.

All agreements, which are made between us and the customer/lessee for the purpose of executing this contract, must be set forth in writing.

1.2 Our conditions of sale, delivery and leasing shall apply only with respect to companies, legal entities under public law or a special fund under public law within the meaning of Sec. 310 German Civil Code (BGB).

2. Offers and conclusion of contract

2.1 We are authorised to accept offers within a time limit of two weeks upon receipt. The acceptance of the contractual offer within order placement shall be made in writing.

2.2 Our offers are subject to change without notice and are non-binding. Drawings, pictures, dimensions, weights and other performance data shall be binding only if expressly agreed upon in writing. Information contained in our offers or other contractual documents do not represent an equality, warranty or a guarantee, unless specified as such and agreed upon in writing.

2.3 Sample and inspection deliveries will be invoiced unless they have been returned to us at the latest after 15 days carriage paid.

3. Miscellaneous

3.1 The applicability of the order governing the placing and contents of contracts for building work (VOB/B) shall be excluded.

3.2 The laws of the Federal Republic of Germany shall be applicable to the contract conditions and all legal relationships between us and the customer/lessee, irrespective of whether the customer/lessee has its registered office or regular residence in the home country, in a country within the EU or in a country outside the EU. The provisions of the UN Sales Convention do not apply.

3.3 If the customer/lessee is a merchant, Leonberg Local Court shall be applicable in a case of disputes to be settled by a local court, and Stuttgart Regional Court for disputes arising from this contract to be settled by regional court.

3.4 Should one of the provisions of these contract terms or a provision within the scope of other agreements be or become invalid, this shall not affect the validity of other provisions or agreements.

3.5 We are authorised to store, use, transfer, change and delete personal data of the customer/lessee, provided this is necessary for the processing of the contract. Upon the customer's/lessee's request, we shall provide the customer/lessee information as to our stored data.

3.6 The documents and drawings, as well as performances for construction provided by us and the production of the item of delivery/leased object produced by us may be used by the customer/lessee only for the contractually intended purpose, and may not be made accessible to third parties without our approval, nor become the object of publications.

B. Conditions of sale and delivery

1. Term of delivery and performance

1.1 Delivery dates or time limits shall be deemed to be only approximate unless negotiated in writing as binding. Delivery obligations are subject to the reservation of correct and timely availability of supplies, unless incorrect or late availability of supplies is caused due to our own fault.

1.2 Delivery and performance delays based on force majeure and due to events which make our delivery considerably difficult or impossible, not only temporarily for reasons for which we are not responsible – which include in particular strikes, lock-outs, official decrees, etc., also if they occur with the Seller's or its subcontractor's suppliers – shall not be our responsibility, even in the case of binding stipulated time limits and dates. They authorise us to postpone the delivery and/or performance for the period of impediment plus a reasonable start-up period or to withdraw from the contract in whole or in part on account of the non-fulfilled part.

1.3 If the impediment occurs for a period in excess of three months, the customer following a reasonable retroactive performance period is authorised in terms of the non-fulfilled performance to withdraw from the contract. If the period of delivery is extended or if we are released from our obligation, the customer may derive no damage claims herefrom. We may plead the referred-to circumstances only if the customer was notified immediately.

1.4 Should we be responsible for the non-compliance of binding dates and time limits, or if we are in default, the customer will be entitled to damage caused by delay in the amount of 0.5 % for each completed week per delay, totalling, however, a maximum of 5% of the invoice value of the deliveries and performances affected by the delay. Additional claims shall be excluded, unless the delay at least is based on gross negligence on our part.

1.5 We are authorised to effect partial deliveries and partial performances at any time, unless the partial delivery or partial performance is of no interest to the customer.

1.6 The compliance of our delivery and performance obligations requires the timely and proper fulfilment of the customer's obligations.

1.7 If the customer is in default of acceptance, we will be authorised to request replacement of the damage incurred to us; upon the start of the default of acceptance, the risk of accidental deterioration and loss will be assigned to the customer.

2. Prices and payment conditions

2.1 The prices relate to the time relevant to the conclusion of contract.

2.2 Unless otherwise negotiated, the purchase price will be due without deduction within 15 days after receipt of invoice. The default interest is 8 percentage points above the basic interest rate, unless a higher interest burden is provable. Payments to our representative cannot be effected with discharging effect.

2.3 The customer is entitled to set-off rights only if its counterclaims are legally valid, undisputed or are acknowledged by us. In order to exercise a right of retention, the customer is authorised to do so only if its counterclaim is based on the same contractual relationship.





3. Transfer of risk

The risk will be transferred to the customer upon the transfer of the merchandise. If the transportation is effected to third parties, the risk will be transferred to the customer as soon as the merchandise is transferred to said person or for the purpose of shipping, is left with this transport person or for the purpose of shipping has left the seller's warehouse.

If the shipping is delayed at the customer's request, the risk will be transferred to the customer at the time of reporting the readiness for shipping.

4. Reservation of title

4.1 Our deliveries are effected exclusively, subject to the reservation of title to the delivered merchandise until the complete payment of all claims, including secondary claims from the entire business relations.

4.2 The customer is permitted the resale, subject to the owner's reservation within the framework of a proper business operation.

The customer shall assign to us the amount of the price invoiced by us with respect to the claims against its customers from sales of our retention of title by seller.

The processing of the merchandise supplied by us shall be on our behalf, that is, free of charge and without obligation on our part. In the case of processing, combination or mixing of the merchandise supplied by us with other merchandise, we shall acquire a joint ownership in the resulting new merchandise in proportion to the invoice amount of the merchandise supplied by us to the other merchandise at the time of processing, combination or mixing. The subsequently resulting joint ownership items are deemed to be subject to retention of title within the meaning of § 1. If our title expires as a result of combining or mixing, the customer already at this time shall transfer to us the titles in the new merchandise to which we are entitled, which are in the priority of the new invoice value of our delivered merchandise and preserves this free of charge for us. The thus resulting joint ownership is deemed to be subject to retention of title, within the meaning of § 1.

4.3 If the customer is in breach of contract, especially in the case of payment default, the customer is obligated to surrender the merchandise, which is our property. The assertion of the reservation of title and the attachment of supplied merchandise is not deemed to be a withdrawal from the contract. Upon request, the customer shall send a list immediately of claims, which are assigned to us according to the above provisions.

4.4 Any costs of interventions shall be borne by the customer. We agree to release collaterals upon the customer's request subject to selection, provided the value of the collateral of the claims to be secured does not exceed 20%.

5. Defects

5.1 The merchandise is delivered free of manufacturing and material defects. The time limit for asserting claims arising from a defect is one year as of the date of delivery of the merchandise. The sale of used merchandise is subject to the exclusion of any warranty.

5.2 If our operating and maintenance instructions are not observed, changes are made to the merchandise, parts are replaced, expandable items are used that are not in keeping with the original specifications, claims arising from defects do not apply, if the customer is unable to disprove a corresponding substantiated claim that one of these circumstances produced the defect.

5.3 The customer must itemise defects of the merchandise on the delivery note and notify us in writing immediately, at the latest, however, within one week upon receipt of the delivered merchandise, otherwise the merchandise is considered to have been approved. Defects, which cannot be detected, even upon careful examination within this time limit, must be reported in writing immediately upon their discovery, otherwise, the merchandise is considered to have been approved.

5.4 In the case of the customer reporting a defect, we shall request at our option and our own costs that

- a) the defective merchandise be sent for repair and subsequently be returned to us;
- b) the customer keeps the defective merchandise in readiness and we will perform the repair at the customer's premises.

If the customer requests that repairs be performed in a specific location, we may meet this request, in which replaced parts are not charged, while working hours and travelling expenses will be charged at standard rates.

5.5 Should the repair fail after a reasonable time limit, the customer has the option either to reduce the payment or withdraw from the contract.

5.6 Liability for regular wear and tear shall be excluded.

5.7 Only the direct customer will be entitled to claims against us.

6. Liability

6.1 Damage claims shall be excluded irrespective of the type of breach of duty, including tortious acts, unless these are acts of intent or gross negligence.

6.2 In the case of breach of major contractual obligations, we shall be liable for negligence, but only in the amount of up to the foreseeable damage. Claims for loss of profits, saved expenditures, third-party damage claims, as well as other indirect and consequential damages cannot be claimed unless a quality characteristic guaranteed by us has the purpose of safeguarding the customer against such damage.

6.3 The liability, limitations and exclusions in paragraphs 1 and 2 do not apply to claims that were incurred due to malicious conduct on our part, and in the case of a liability for guaranteed quality features, mandatory liability according to the Product Liability Act, as well as damage from injury to life, body or health.

6.4 Should our liability be excluded or limited, this shall apply also to employees, employers, representatives and vicarious agents.

C. Leasing conditions

For lease agreements, the following conditions shall have priority with respect to the above general conditions and the sales and delivery conditions.





1. Leased object and leasing period

- 1.1 The items and materials leased by us – hereinafter referred to as leased object – basically are in a used condition. There is no entitlement to new material, unless otherwise expressly stipulated.
- 1.2 The minimum rental period is 30 successive calendar days; this also is calculated in the case of premature return. The lease is for an indefinite period, starting at the time of surrender by the forwarder, carrier and/or the lessee and terminates upon return in the warehouse specified in the contract. The dates of delivery and return are leasing dates, the delivery and receipt in our factory shall be relevant. In the case of necessary putting into operation or cleaning of the leasing item after its return, the rental period will be extended by the number of days necessary for cleaning.
- 1.3 Each month is charged with 30 days.

2. Leasing charge

The leasing charge is calculated monthly retroactively at the end of the respective month.

3. Defects

- 3.1 The lessee must note defects on the delivery note and notify us immediately in writing, at the latest however within one week upon receipt of the leased object, otherwise the leased object is deemed to have been approved.
- 3.2 We shall warrant defects of quality subject to the following requirements and within the following scope:

All those parts are to be repaired and replaced free of charge according to our option, which prove to be defective as a consequence of a circumstance prior to the passing of a risk.
- 3.3 Should repair and delivery of spare parts fail, the lessee shall be released from the payment of rent, if the defect cancels the suitability of the contractual use of the equipment. For the period, during which the suitability is reduced, the lessee shall pay a reasonably reduced rent. A negligible reduction of suitability shall not be taken into consideration.

4. Liability

The regulations of section B. item 6 shall apply. In derogation hereof, claims for damages or self-participation and replacement of the necessary expenditures according to Sec. 536a German Civil Code shall be excluded, unless we carry the burden of intent or gross negligence.

5. Lessee's obligations

- 5.1 The lessee is not authorised without written approval to move, use or sublease the leased object in a different location. The lessee shall bear the risk of use of the leased object.
- 5.2 The lessee shall return the leased object upon termination of the lease at its own cost and risk to the address stated in the contract, unless expressly otherwise stipulated in the contract.

A pick up by us or a commissioned third party shall be effected only upon express agreement, and only upon the lessee's costs and risks; the leased object shall be ready for pick up and proper loading onto the means of transportation.

- 5.3 The lessee is obligated to return the leased object in full, cleaned and functional – as delivered – without damage beyond regular wear, in particular after measuring – BKS supports corresponding to delivery information – bundled, inserted and palletted, upon delivery in barrels and to be suitable for unloading with stackers; otherwise, we are authorised to charge an additional hourly rate of at least € 50.00/hour.
- 5.4 The lessee must prove that the leased object was returned according to contract.

6. Lessees liability

- 6.1 In the case of a leased object having become lost, unusable or damaged during the rental period, the lessee becomes liable according to the statutory provisions.

The costs for disposal of leased objects, which have become unusable shall be borne by the lessee. Unusable leased objects are considered to be those objects, which can no longer be repaired at reasonable expenditure.

If the lessee must pay damages for legal or contractual reasons on account of not having returned the leased object, in particular due to total loss or loss of the leased object, the damage is calculated according to the new value of the product, depending on the applicable price list at the time of the conclusion of contract, less the reduction of value for use of 15% of the list price.

The lessee is permitted the proof of a higher varying value reduction.

This shall not affect the rent claims incurred until the time of the damaging event.

7. Right of cancellation

This shall not affect the right of cancellation without notice for an important reason.

An important reason to cancel without notice is justified if the lessee is in default with its rent payment for more than 14 days, treats the leased object improperly or is in violation of the above item 5.

ROBUSTA-GAUKEL GMBH & CO. KG
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