

General Terms and Conditions (GTC)

of dmp Sondermaschinenbau GmbH
Schürmannstrasse 44
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Germany

Section 1 General information, scope

1. These General Terms and Conditions (hereinafter referred to as "GTC") apply to all of the contracts that we have concluded with our customers for the sale and/or supply of goods to the customer, including contracts for work and services and work and delivery contracts, regardless of the goods being manufactured by us directly or purchased by us from suppliers (Sections 433, 650 of the German Commercial Code (Bürgerliches Gesetzbuch - BGB)).
2. The GTC only apply if the customer is a business person (Section 14 BGB), legal entity under public law or special fund under public law.
3. Our GTC shall apply exclusively. Deviating, contrary or supplementary general terms and conditions of the customer shall only form part of the contract if we have explicitly approved their applicability. This approval requirement shall apply in all cases, even if we supply goods or services to the customer without reservations in knowledge of the customer's general terms and conditions.

Section 2 Offer, documents

1. Our offer is non-binding, unless stated otherwise in the order confirmation.
2. We reserve the right to retain the property rights and copyright in images, cost estimates, calculations, samples, drawings, electrical and pneumatic plans and other documents. This also applies to written documents that are labelled as "confidential". Customers shall not provide third parties with access or knowledge of such documents, unless we have explicitly approved such transfer in writing.

Section 3 Prices and payment conditions, customer's ability to pay

1. Unless otherwise agreed or stated, our prices apply ex work, including loading at the plant, but excluding packaging and unloading. Our prices do not include statutory VAT. The latter is stated separately in the invoice at the statutory rate applicable on the date of invoice.
2. The purchase price and/or agreed works compensation shall bear the respective applicable default interest during the default period. We reserve the right to claim compensation for further-reaching default damages. Our claim for default interest at business rates shall not be affected in the event of the customer being a business person (Section 353 of the German Commercial Code (Handelsgesetzbuch - HGB)).
3. The customer may only offset or retain counterclaims that are legally binding, undisputed or have been acknowledged by us. The customer's counterclaims remain unaffected if the goods supplied are defective.
4. If after the conclusion of the contract it becomes discernible (e.g. through an application to commence insolvency proceedings) that our receivables are endangered by the customer's inability to pay, we may withdraw from the contract in accordance with the legal provisions on the refusal to provide services and, if applicable, after granting a period of grace to make payment (Section 321 BGB). For contracts on the manufacture of untenable goods (one-off productions), we may declare our withdrawal immediately. This shall not affect the statutory provisions on the dispensability of granting a period of grace.

Section 4 Delivery and delivery period

1. Goods are delivered ex works. Unless otherwise and separately agreed, we shall state the delivery period when accepting the order. The delivery period stated by us only starts once all business and technical queries have been clarified and the customer has properly fulfilled their obligations, such as providing the official authorisations and confirmations required or the payment of an agreed advance payment. If these requirements have not been met, the delivery period shall be extended accordingly as long as we are not responsible for such delay. We reserve the right to object to the unfulfilled contract.

2. The delivery period shall be deemed to have been complied with if the customer was notified that the goods are ready for collection prior to the expiry date of the delivery period. If a sale by delivery to a place other than the place of performance has been agreed, the delivery period shall be deemed to have been complied with if the goods have left the plant, or a notification has been issued that the goods are ready for dispatch, prior to the expiry date of the delivery period. If the goods must be inspected and approved and the customer is not entitled to reject the goods, compliance with the delivery deadline shall be based on the date of inspection and approval, or alternatively, the notification that the goods are ready for dispatch.

Section 5 Place of fulfilment, dispatch, packaging, risk transfer, inspection and approval, delayed approval

1. Goods are delivered ex works, which is also the place of fulfilment and subsequent fulfilment. The goods may also be sent to another destination by request and at the cost of the customer (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we may determine the type of dispatch (particularly the transport company, transport path and packaging).

2. The risk of accidental destruction and deterioration of the goods shall be transferred to the customer no later than upon handover to the customer. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental destruction and deterioration of the goods as well as the risk of delay is transferred to the customer as soon as the goods are handed over to the freight forwarder, carrier or other person or institution engaged with their dispatch. Any inspection and approval that has been agreed shall form the basis for the risk transfer. As for the rest, the legal provisions of the law applicable to works and services apply accordingly to an agreed inspection and approval. The handover and/or inspection and approval are irrelevant if the customer has defaulted on the inspection and approval.

3. If the customer defaults on the inspection and approval, fails to cooperate or if our delivery is delayed for any other reason caused by the customer, we may claim compensation for the resulting damages, including additional costs (e.g. storage costs). We charge a flat fee of 0.25% of the invoice amount for the goods to be delivered that now have to be stored, starting on the first day of the delivery period or, if no delivery period has been agreed, on the date of the notification that the goods are ready for dispatch. This shall not affect the proof of greater damages and our legal claims (particularly the reimbursement of additional costs, reasonable compensation, termination). However, the flat fee shall be offset against any further-reaching monetary claims. The customer may provide proof that we did not incur any damages, or that our damages incurred are significantly less than the above flat fee.

4. We shall only insure the delivery against theft, breakage, transport, fire and water damage or other insurable risks if explicitly requested to do so by the customer and at the customer's own cost.

5. If an inspection and approval is to be performed, the goods shall be deemed to have been approved if

- the delivery and assembly, if we have been engaged to perform the latter, has been completed,
- we have notified the customer of the completion with reference to the approval requirement in accordance with this Section 5 Paragraph 5 and have requested for the customer to carry out this process,

- 12 working days have passed since the delivery or assembly or the customer has started using the goods (e.g. the delivered system has been started up) and in this case six working days have passed since delivery or assembly,
- the customer has failed to inspect and approve the goods within this period for any reason other than a defect reported to us that makes it impossible to, or severely impairs the use the goods.

Section 6 Retention of title

1. We reserve the title to the sold and delivered goods until full payment has been received for all of our current and future receivables from the contract and current business relationship (secured receivables), including any refinancing or reverse bills of exchange.
2. The goods subject to retention of title shall not be pledged to third parties nor assigned as securities prior to full payment for the secured receivables being received. The customer shall notify us immediately and in writing of any application to commence insolvency proceedings or any third-party access (e.g. seizures of goods) to the goods owned by us.
3. In the event of the customer violating the contract, particularly in the event of non-payment of any payments due, we may withdraw from the contract and/or request that the goods be returned to us on the grounds of our retention of their title, in accordance with the legal provisions. The request to return goods does not simultaneously contain the withdrawal notification. We rather may request the return of the goods only and reserve the right to withdraw from the contract at a later date. If the customer fails to pay the purchase price due, we may only assert these rights if we have granted the customer a reasonable period of grace and the customer has failed to act during this period or the law states that we do not have to grant such period of grace.
4. The customer may sell and/or process the goods subject to retention of title within the scope of their ordinary business activities until a revocation in accordance with lit. c) below has been issued. In such case, the following provisions shall also apply.
 - a) The retention of title applies to the full value of all products that are created by processing, mixing or combining our goods, with us being classed as the manufacturer. In the event of our goods being processed, mixed or combined with third-party goods that remain subject to retention of title by the third party, we shall acquire proportionate co-ownership rights based on the values of the processed, mixed or combined goods. As for the rest, the product created shall be subject to the same rules as the goods delivered by us subject to retention of title.
 - b) The customer shall at this point already assign the receivables from third parties generated from the sale of the goods or products to us, either in full or in the amount of our co-ownership share, as a security in accordance with the above paragraph. We herewith accept the assignment of such receivables. The customer's obligations stated in Paragraph 2 shall also apply to the assigned receivables.
 - c) The customer remains entitled to collect the receivables. This does not affect our right to collect them. We undertake not to collect the receivables as long as the customer meets their payment obligations to us, is not unable to make payment and we have not asserted our retention of title by exercising a right in accordance with Paragraph 3. However, if this is the case, we may request for the customer to notify us of the assigned receivables and their debtors, provides all information required for collecting the receivables, hands over all of the related documents and notifies the debtor (third party) of the assignment. In such case, we may further revoke the customer's authorisation to continue selling and processing the goods subject to retention of title.
 - d) If the recoverable amount of the securities exceeds our receivables by more than 10%, we shall release securities of our choice if requested to do so by the customer.

Section 7 Defects

1. Unless stated otherwise below, the legal provisions shall apply to the customer's rights in the event of material or legal defects (including incorrect or short deliveries as well as unprofessional assembly or poor assembly instructions). In any case, the special legal provisions for the delivery to

a consumer as a final destination shall not be affected (Supplier's recourse in accordance with Sections 445a, 445b, 478 BGB).

2. The customer's rights arising from product defects are based on the customer having properly fulfilled their legal inspection and complaint notification obligations (Sections 377, 381 HGB).

3. If the delivered goods are defective, we may initially choose whether to subsequently rectify the defect (subsequent repairs) or deliver non-defective goods (replacement delivery). This shall not affect our right to refuse to subsequently rectify the defect in accordance with the legal provisions.

4. We may base the subsequent rectification of defect owed by us on the customer paying the purchase price and/or payment due. However, the customer may retain a proportion of the purchase price and/or payment that is reasonable in relation to the defect.

5. The customer shall grant us the time and opportunity required for the subsequent rectification, and in particular transfer the goods reported as defective to us for inspection purposes. In the event of a replacement delivery, the customer shall return the defective goods to us in accordance with the legal provisions.

6. If the customer has asserted a claim against us on the grounds of defective goods and it is found that no such defects exist or the asserted defect is caused by circumstances that are not covered by our warranty, the customer shall compensate us for all costs incurred by us through such actions, if the customer has asserted such claim with malicious intent or out of an act of gross negligence.

7. If the subsequent repairs have been unsuccessful or a reasonable period of grace to be granted by the customer for the subsequent repairs expires without any repairs having been completed, or such period of grace does not have to be granted by law, the customer may withdraw from the contract or reduce the price. However, this right to withdraw from the contract does not apply to immaterial defects.

8. We shall not assume any liability of the customer uses, assembles or starts up the goods improperly, fails to follow the operating or maintenance instructions, modifies the goods and products, replaces parts or uses consumables that do not meet the original specifications, without such actions falling within the scope of our responsibility.

9. Even in the event of the goods being defective, the customer may only claim for the compensation and/or reimbursement of unnecessary expenses in accordance with Section 8. All other claims of such nature shall be excluded.

Section 8 Liability

1. Unless otherwise stated in these GTC, including the following provisions, we shall assume liability in accordance with the legal provisions for violations of contractual and non-contractual obligations.

2. We shall assume liability for damages, for whatever legal reason, within the scope of the liability for acts of malicious intent and gross negligence. In the event of simple negligence, we shall only assume liability in accordance with the legal provision, subject to a lower liability limit (e.g. for due diligence in our own matters)

a) for injuries to life, limb and health,

b) for damages arising from serious violations of a material contractual obligations (obligations whose fulfilment are crucial for the proper performance of the contract and in whose compliance the contracting partner does and may regularly trust); in such case, however, our liability shall be limited to the reimbursement of the discernible, typical damage.

3. The limitations of liability stated in Paragraph 2 shall also apply to violations of obligations by, or to the benefit of, persons whose liability we must assume in accordance with the legal provisions. They shall not apply if we have fraudulently concealed a defect or assumed a guarantee for the quality of the goods nor for claims by the customer under product liability law.

4. The customer may only withdraw or terminate the contract on the grounds of a violation of obligations that is not a defect, but for which we are responsible. The unrestricted right of the customer to terminate the agreement (particularly in accordance with Sections 650, 648 BGB) shall be excluded. The legal requirements and consequences shall apply as for the rest.

Section 9 Statutes of limitation

1. In deviation to Section 438 Paragraph 1 No. 3 BGB, the general statutes of limitation for claims arising from material and legal damages shall be one year from delivery of the goods. The same shall apply to statutes of limitation in accordance with Section 445b Paragraph 1 BGB if the last contract in the supply chain does not pertain to the purchase of consumables. This shall not affect Section 445b paragraph 2 BGB. If an inspection and approval has been agreed, the statutes of limitation shall start on the date of the approval.
2. However, if the goods are a building or an item that has been used for a building according to its standard use and has caused the building's defect (building material), the statutes of limitation are five years from delivery in accordance with the legal provisions (Section 438 Paragraph 1 No. 2 BGB). Additional special legal provisions regarding statutes of limitation shall also not be affected (particularly Section 438 Paragraph 1 No. 1, Paragraph 3, Sections 444 and 445b BGB).
3. The above statutes of limitation under the sale of goods law also apply to contractual and non-contractual claims for damages of the customer on the grounds of defective goods, unless the application of the regular legal statutes of limitation (Sections 195, 199 BGB) would result in shorter statutes of limitation in individual cases. However, claims for damages of the customer in accordance with Section 8 Paragraph 2 Sentences 1 and 2 a) and product liability law and claims in the event of us fraudulently concealing a defect shall exclusively expire by limitation at the end of the legal statutes of limitation.

Section 10 Governing law, place of jurisdiction

1. These GTC and the contractual relationship between us and the customer are governed by the laws of the Federal Republic of Germany under exclusion of international standardised law, particularly the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. If the customer is a business person within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive, including international, place of jurisdiction for all disputes directly and indirectly arising from the contractual relationship shall be our head office in Lohne, Germany. However, we also may, in all cases, initiate proceedings at the place of fulfilment of the delivery obligations in accordance with these GTC and/or an overriding individual agreement or at the customer's general place of jurisdiction. Overriding legal provisions, particularly those regarding exclusive responsibilities, shall not be affected.