

1. General information

All our deliveries, services and offers are based exclusively on these Terms and Conditions. They also apply to all future contracts, orders and other services, even if they are not explicitly agreed anew. Deviating terms – also in other general terms and conditions – only apply if they are legally mandatory or have been explicitly agreed with us. Any objection by our contracting partner in reference to their own terms and conditions is hereby refuted.

2. Offer, order and contract conclusion

2.1 We are bound to our offers for 2 weeks, unless a different period is stated or the offer is indicated as "non-binding".
2.2 Spoken or telephone orders, agreements, addendums, amendments and/or subsidiary agreements are only valid if confirmed in writing.
2.3 The contract content is in the following order: (1) the content of an individual contract signed by both contracting parties, (2) the spoken agreements confirmed in writing made during or before contract conclusion, (3) our written order confirmation, (4) our offer/order letter with all documents (e.g. service descriptions, drawings, sketches), (5) these general contract conditions, (6) the specifications in our latest sales documents regarding material descriptions, raw materials, aids, equipment, production processes etc.
2.4 Our stated measurements and specification descriptions are binding. Later changes entitle us to extend the delivery periods accordingly and to request additional recompense for any extra costs incurred by the changes.

3. Prices

Our prices are fixed prices. Freight, packaging and freight insurance premiums are additional. If the VAT rate changes, we are entitled to adjust the price accordingly.

4. Delivery and services

4.1 Delivery periods or schedules that are not explicitly stated as binding or confirmed are approximate periods and schedules. Binding/fixed schedules are extended appropriately under the conditions of clause 2.4.
4.2 If we cannot perform on time for reasons for which we are not responsible, we are free from our fulfilment obligations for as long as these circumstances last. This applies in particular for faulty supplies of raw materials, aids and equipment, machine damage, operational or transport disruptions, force majeure, strikes and official measures. The delivery periods are extended accordingly, unless a later delivery is not feasible for our contracting partner or they entitle us to withdraw from the contract.

5. Payments

5.1 Our invoices are due for payment within 30 days (net without deductions), for payments within 8 days from the invoice date a 2% discount can be deducted. Any supplementary transaction charges are borne by the payer.
5.2 As from the due date, the amount in arrears shall be charged with standard bank interest.
5.3 It is only possible to offset against our claims or for the right of retention to be exerted in case of undisputed or legally confirmed counterclaims.

6. Deliveries

6.1 If the contractor has taken over the shipment (obligation to send), the risk of coincidental damage or destruction passes over to the contractee as soon as the delivery leaves the plant/warehouse, even if freight paid delivery is agreed.
6.2 If delivery items cannot be sent or not in time after manufacturing due to circumstances for which the contractee is responsible, the risk of coincidental damage or destruction passes over to the contractee from the point in time when the notice of dispatch readiness was sent.
6.3 With the arrival of the delivery vehicle at the destination and readiness for unloading, the shipment duty of the contractor is fulfilled; the goods are unloaded and stored at the expense and risk of the contractee.

7. Reservation of title

7.1 Supplied goods remain our property until they are paid for in full – for deliveries to fully-qualified traders until the fulfilment of all obligations pertaining to the business relationship. If the goods are resold in line with proper business management, the following extended reservation of title applies: with the resale, our contractee assigns all claims including all claims from their extended reservation of title towards their customers/buyers to us. We accept this assignment.
7.2 In case of payment arrears, we are entitled to demand the return of the goods. If the contractee does not return the goods to us within a reasonable deadline, we are entitled to seize the goods and to access the warehouse or other premises of the contractee. The same applies if the contractee interferes impermissibly with the goods supplied under reservation of title and especially does not sell them through legitimate business channels.
7.3 The contractee is obliged not to dispose elsewhere of the assigned claims – including through the extended reservation of title. In case of seizures, confiscations or other disposals/access by third parties regarding the supplied goods or the assigned claims, the contractor must inform us immediately.

8. Obligation to inspect and give notice of defects

8.1 The contractee shall inspect the goods supplied by us as soon as possible after delivery
8.1.1 and give immediate written notice of evident defects and transport damage, at the latest within a limitation period of 3 working days
8.1.2 as well as notify concealed defects in writing within the limitation period.
8.2 Before the contractee process the supplied/manufactured goods further, especially installs them in other products, they must test a suitable number of items as to whether they conform to the properties agreed in the contract and, in case there is any doubt, inform us immediately in writing. We must be given the opportunity to check the test result in order to take suitable measures. The purpose is to prevent consequential damages and/or product liability claims from customers or the customers of contractee customers.
8.3 If the supplied goods or those in which the supplied goods are installed are to be exported abroad – especially outside of the EU – the obligation to inspect and give notice of defects of the contractee also extends to all properties and regulations that could trigger product liability abroad.
8.4 After expiry of the limitation period of 6 months, notification of defects is excluded.

9. Warranty

9.1 We offer a warranty through repair or a replacement, at our discretion. If we fail to provide a repair or replacement, the contractee can request the annulment of the contract.
9.2 Further claims, especially damage compensation due to non-fulfilment or consequential damages, are excluded, unless they are caused by the intent or gross negligence of the contractor.
9.3 Consequential damages are excluded in particular if the contractee processes supplied parts further or has installed them in other machines/products without checking beforehand whether the supplied items are suitable to be installed/processed further or have the properties set out in the contract, or without informing us in case of doubt, cf. clause 8.3.
9.4 We are entitled to refuse any warranty or damage compensation claims if the contractee or third parties have modified the supplied items of their own accord, repaired them or otherwise interfered with them. This does not apply if we have not met our obligations for repair or replacement after expiry of a suitable deadline.
9.5 If operating instructions are supplied, the warranty conditions stated therein apply.

10. Indemnity against liability

In our internal relationship, the contractee indemnifies us as the contractor against any third-party claims, also and especially damage compensation claims by end users or customers regarding the supplied, resold and/or installed products in relation to product liability. This also applies to consequential damages that a customer of the contractee or a customer of a customer of the contractee claims.

11. Severability clause

If individual clauses are or become invalid, this does not affect the validity of the remaining clauses. The General Terms and Conditions of the company Ingenieur-Büro Kötter GmbH otherwise remain in effect and the invalid clause is to be replaced with a permissible clause that comes the closest to the purpose of the contract.

12. Place of fulfilment, place of jurisdiction

12.1 The place of fulfilment is 45549 Sprockhövel.
12.2 The place of jurisdiction, depending on the dispute, is the District Court Hattingen/Regional Court Essen. The law of the Federal Republic of Germany applies.