

General Terms and Conditions for Spare Parts Deliveries

For use against:

1. a person who, when concluding the contract, is acting in the exercise of their commercial or independent professional activity (entrepreneur)
2. legal entities under public law or a special fund under public law.

I. Delivery of spare parts and replacement parts with or without assembly

For spare and replacement parts ("Parts") to be delivered and, if applicable, installed by the supplier outside of a repair / service order on the basis of a special order, the following conditions shall apply with regard to delivery time, delivery delay, claims for defects and transfer of risk:

1. The customer is responsible for the correct specification and technical description of a spare or replacement part. Any information or advice given by the supplier regarding the suitability of the spare or replacement parts selected by the Purchaser shall not be binding, as the supplier accepts the order for the spare or replacement part without having inspected the object/machine into which the part is to be installed.
2. the delivery time shall be determined by the agreements between the contracting parties. Compliance with the delivery time by the supplier presupposes that all commercial and technical questions between the contracting parties have been clarified and that the Purchaser has fulfilled all obligations incumbent upon it. If this is not the case, the delivery time shall be extended accordingly. This shall not apply if the supplier is responsible for the delay.
3. compliance with an agreed delivery time for a part is subject to the correct and timely delivery to the supplier by its upstream suppliers or manufacturers of the parts. The delivery time shall be deemed to have been met if the part has left the supplier's factory / sales outlet or its upstream supplier (in the case of direct delivery) by the time it expires or if readiness for dispatch has been notified. If non-compliance with the delivery time is due to force majeure, labor disputes or other events beyond the Supplier's control, the delivery time shall be extended accordingly. The Supplier shall notify the Purchaser of the beginning and end of such circumstances as soon as possible.
4. if the supplier is in default with the delivery of the parts and the customer suffers damage as a result, he shall be entitled to claim a lump-sum compensation for delay. This shall amount to 0.5% for each full week of delay, but no more than a total of 5% of the value of the parts affected by the delay in delivery. If the customer sets the supplier a reasonable deadline for delivery after the due date - taking into account the statutory exceptions - and if the deadline is not met, the customer is entitled to withdraw from the contract within the framework of the statutory provisions. At the Supplier's request, the Purchaser undertakes to declare within a reasonable period of time whether it will exercise its right of withdrawal. Further claims due to delayed delivery shall be determined exclusively in accordance with Section VIII. 3 of these terms and conditions.
5. the risk shall pass to the customer when the parts have left the supplier's warehouse or factory, even if partial deliveries are made or the supplier has assumed other services, e.g. shipping costs or delivery of the parts.

II. Liability for material defects for new parts

1. all new parts which prove to be defective as a result of a circumstance prior to the transfer of risk shall be repaired or replaced free of charge at the discretion of the supplier. The discovery of such defects must be notified to the supplier in writing without delay. Replaced parts shall become the property of the supplier.
2. the Purchaser shall give the supplier the necessary time and opportunity to carry out all repairs and subsequent deliveries which the Supplier deems necessary; otherwise the Supplier shall be released from liability for any consequences arising therefrom.
3. in the event of a justified complaint, the supplier shall bear the costs necessary to remedy the defect, provided that this does not result in a disproportionate burden on the supplier.
4. within the framework of the statutory provisions, the purchaser has the right to withdraw from the contract if the supplier - taking into account the statutory exceptions - allows a reasonable deadline set for the rectification or replacement delivery due to a material defect to expire fruitlessly. If there is only an insignificant defect, the customer shall only be entitled to a reduction of the contract price. The right to reduce the contract price is otherwise excluded. Further claims shall be determined exclusively in accordance with Section VIII. 3 of these Terms and Conditions.
5. No liability is accepted in the following cases in particular: Unsuitable or improper use, faulty assembly or installation or commissioning by the customer or by third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences, insofar as the supplier is not responsible for them.
6. if the customer or a third party carries out improper repairs, the supplier shall not be liable for the resulting consequences. The same applies to changes made to the spare or replacement parts supplied without the supplier's consent.
7. The warranty period for new parts is 12 months and begins with acceptance or commissioning, immediately after delivery.

III. Liability for material defects for used spare parts/replacement parts

1. the warranty for material defects of used spare parts / replacement parts is excluded.

IV. Defects of title

If the use of parts leads to an infringement of industrial property rights or copyrights in Germany, the supplier shall, at its own expense, procure the right for the Purchaser to continue using the goods or modify the delivered goods in a manner reasonable for the Purchaser so that the infringement of property rights no longer exists. If this is not

possible under economically reasonable conditions or within a reasonable period of time, the Purchaser shall be entitled to withdraw from the contract. Under the aforementioned conditions, the supplier shall also be entitled to withdraw from the contract. In addition, the supplier shall indemnify the Purchaser against undisputed or legally established claims of the owners of the industrial property rights concerned. Subject to Section VIII, the aforementioned obligations are conclusive in the event of an infringement of industrial property rights or copyrights. They shall only apply if the Purchaser informs the Supplier immediately of any asserted infringements of industrial property rights or copyrights, the Purchaser supports the Supplier to a reasonable extent in the defense against the asserted claims or enables the Supplier to carry out the modification measures in accordance with the provisions of this paragraph, the Supplier reserves the right to take all defensive measures including out-of-court settlements, the defect of title is not based on an instruction of the Purchaser and the infringement of rights was not caused by the fact that the Purchaser has modified the part without authorization or used it in a manner not in accordance with the contract.

V. Retention of title

1. the supplier retains title to all accessories, spare and replacement parts used or supplied until receipt of all payments under the respective supply contract or service contract.
2. in the event of breach of contract by the customer, in particular default of payment, the supplier shall be entitled to take back the delivery item after issuing a reminder and the customer shall be obliged to surrender it. The assertion of the retention of title and the seizure of the delivery item by the supplier shall not be deemed a withdrawal from the contract.
3. the customer may resell the parts delivered to him in the ordinary course of business; however, he hereby assigns to the supplier all claims in the amount of the final invoice amount (including VAT) which accrue to him from the resale or use of the parts within the scope of a repair/service order against his customer or third parties, irrespective of whether the parts have been resold before or after their processing. The customer shall remain authorized to collect this claim even after the assignment. The authority of the supplier to collect the claim himself remains unaffected by this. However, the supplier undertakes not to collect the claim as long as the Purchaser meets its payment obligations, does not default on payment, no application for the opening of insolvency proceedings has been filed and payments have not been suspended. If this is the case, however, the supplier may demand that the Purchaser informs him of the assigned claims and their debtors, provides all information necessary for collection and hands over the associated documents and informs the debtors (third parties) of the assignment.
4. to secure the Supplier's claims against the Purchaser, the Purchaser assigns to the supplier those claims which accrue to a third party in favor of the Purchaser through the connection of the parts with a property or a movable object.
5. the supplier undertakes to release the securities to which he is entitled at the request of the purchaser to the extent that the value of the securities exceeds the claims to be secured by more than 20%. The selection of the securities to be released is incumbent on the supplier.

6. the application for the opening of insolvency proceedings entitles the supplier to withdraw from the contract and to demand the immediate return of the delivery item.

VI. Processing of exchange parts

1. prices quoted by the supplier for replacement parts shall only apply on condition that the supplier is provided with a corresponding repairable used part as an exchange part and that it is transferred to the supplier. If the exchange part is not received by the supplier within 2 weeks of the transfer of risk of the exchange part to the Customer, the supplier shall be entitled to charge the price for a corresponding new part instead of the price for an exchange part. Replacement parts shall in principle be sent to the supplier by the Purchaser carriage paid insured (CIP Incoterms 2010) from within Germany or delivered duty paid (DDP Incoterms 2010) from abroad.
2. if the return delivery bill is missing, the exchange parts will be returned to the ordering party unidentified. The supplier shall charge inspection costs of EUR 50 for exchange parts without a description of the fault.

VII. Return delivery of unused spare parts by the customer

1. if the customer has ordered various spare parts from the supplier for the purpose of reducing the repair / service time because it was not clear at the time the order was placed which spare part would ultimately be required, the customer must return the spare parts not required to the supplier within 2 weeks of completion of the repair at his own expense and risk (carriage paid insured to the supplier's storage location - CIP Incoterms 2010). The Purchaser shall compensate the supplier for any reduction in value of the returned spare part (e.g. signs of wear due to installation and/or removal).
2. the supplier reserves the right to charge the purchaser for the costs incurred for incoming goods, inspection and restocking. These amount to 20% (max. EUR 175) per item value. Spare parts with a value of less than EUR 50 shall be excluded from return; no credit notes shall be issued for these.

VIII. Liability of the supplier, exclusion of liability

1. if parts of the repair/service item are damaged through the fault of the contractor, the supplier shall, at his discretion, repair or replace them at his own expense. The obligation to pay compensation shall be limited to the contractual repair price. Otherwise, Section VIII. 3 shall apply.
2. if the deliveries or services provided by the supplier cannot be used by the customer in accordance with the contract due to his fault as a result of omitted or faulty execution, suggestions and advice made before or after conclusion of the contract or due to the breach of other contractual secondary obligations - in particular instructions for the operation and maintenance of the service item or the spare parts supplied by the supplier - the following provisions shall apply to the exclusion of further claims by the customer.

3. for damages that have not occurred to the delivery item itself, the supplier is liable - for whatever legal reasons – only
 - a. in the event of intent and gross negligence
 - b. in the event of culpable injury to life, limb or health
 - c. in the case of defects which he has fraudulently concealed
 - d. within the framework of a guarantee commitment
 - e. in the event of defects in the delivery item, insofar as liability is imposed under the Product Liability Act for personal injury or property damage to privately used items.

In the event of a culpable violation of essential contractual obligations, the supplier is also liable in the event of simple negligence, but limited to the contract-typical and reasonably foreseeable damage. Further claims are excluded.

IX. Statute of limitations

Subject to Section III. the purchaser's claims – for whatever legal reason – are time-barred in 12 months; this also applies to the limitation of recourse claims in the supply chain pursuant to Section III. Section 445b para. 1 BGB, provided that the last contract in this supply chain is not a sale of consumer goods. The sequestration in accordance with § 445b para. 2 BGB remains unaffected. For claims for damages under Section VIII. 3 a. – d. and e. the statutory deadlines apply. They also apply to defects in a building or to items of delivery that were used for a building in accordance with their usual manner of use and have caused its defectiveness.

X. Applicable law, place of jurisdiction

1. The law of the Federal Republic of Germany governing the legal relations of domestic parties between each other shall apply exclusively to all legal relations between the supplier and the Purchaser.
2. Place of jurisdiction shall be the court competent for the place of business of the supplier. The supplier is nevertheless entitled to file a claim at the principal place of business of the purchaser.