

1. Contractual basis

- 1.1. These payment and delivery terms apply to all of our present and future offers, concluded contracts and deliveries. They are agreed on confirmation of our order, but no later than the acceptance of the goods. Individual agreements always require our written acknowledgement, even with performance of the contract. These conditions apply to business customers, and not to consumers.
- 1.2. We object to the customer's purchasing and/or general terms and conditions. They are not binding for us if we do not object to them again following receipt.
- 1.3. The following apply in the given order to the legal relationship which we have with the customer as the result of this contract:
 - individual agreements;
 - these general payment and delivery terms;
 - statutory regulations under German law.

The application of the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods - CISG is excluded.
- 1.4. The German wording shall prevail for the interpretation of the contract.
- 1.5. Our „Remarks on hydrogen embrittlement“ / DIN EN ISO 4042 with Appendix A (see also 7.2.) must also be taken into consideration.

2. Offers, prices, payment conditions, default and its consequences

- 2.1. Our offers are non-binding if we do not designate them as binding. We can accept orders within a period of four weeks except when otherwise stipulated in individual cases. Orders placed electronically are not deemed to have been received until they are retrieved and opened; customers shall dispense with a confirmation of receipt.
- 2.2. Our prices are understood to be in Euros, ex warehouse or factory and do not include the applicable statutory value nor value added tax, shipment or handling costs.
- 2.3. Our invoices are payable in Euros with a 2 % early payment discount within a period of 14 days or net within 30 days from the invoice date; in the case of later delivery of goods or notification of readiness for delivery, they are payable from the date of delivery or the notification.
- 2.4. If the payment period is exceeded, the customer is in default even without a reminder and we are authorised to charge default interest amounting to 8 percentage points above the basic interest rate applied by the European Central Bank at the time in question.
- 2.5. We can declare all our claims from the business relationship immediately due if payment is in default or when circumstances come into effect which we consider reason to doubt the creditworthiness of the customer.

Where deliveries are outstanding, we can then choose between requesting payment in advance or withdrawing entirely or partially from the contract.
- 2.6. In the event of delayed payment, we are also entitled to prohibit the further sale or processing of the delivered goods. The customer is then obliged to arrange for us to take immediate possession of these goods. The customer shall immediately grant us permission to enter their business premises for the purpose of removing the goods and any transport and storage aids we have made available (e.g. Kanban containers).
- 2.7. Offsetting with a counterclaim is only permitted when the counterclaim is undisputed or when a legally valid title exists.

3. Deliveries, delivery period, delivery in arrears

- 3.1. We are entitled to make partial deliveries, each of which shall be deemed a separate transaction.
- 3.2. The delivery period given in our order confirmation is only considered approximate and is non-binding in the absence of any other written agreement. However, our delivery period does not commence prior to the clarification of all the technical details for the implementation of the contract. This includes but is not limited to special parts we manufacture or procure specifically in accordance with the customer's requirements.
- 3.3. Our delivery period is extended as appropriate, also when delivery is delayed, in the case of unforeseeable and exceptional circumstances, as well as in the case of force majeure, such as natural disasters, accidents or fires or where governmental import and export restrictions are imposed. Under such circumstances, we are also entitled to withdraw entirely or partially from the non-fulfilled contract without an obligation to provide compensation for damages.
- 3.4. In the event of delayed delivery, we can only be held liable by the customer for the amount of foreseeable damage typical for the contract, unless we caused this intentionally or through gross negligence.
- 3.5. If a delivery is delayed due to action by the customer, e.g. default in payment, we shall retain the goods at his risk and expense.

4. Retention of title

- 4.1. The goods supplied remain our property until payment of all of our claims resulting from the business relationship is complete. In the case of an open account, the retained title to the goods supplied by us acts as security for our balance claims.
- 4.2. The customer may process and sell the goods subject to retention of title in the normal course of business. If goods to which we have retained title are processed together with other objects, we acquire co-ownership of the new object in the ratio of the invoice value of the goods to which we have retained title to that of the other objects.
- 4.3. If the customer resells goods to which we have retained title to a third party, irrespective of their condition, he thereby assigns to us the claim arising from this transaction,

including auxiliary rights to the amount of the invoice value of the goods to which we have retained title. The customer is obliged at our request to notify this third party of the assignment and to provide us with the information necessary to assert our rights, and to issue the related documents to us.

We must be notified immediately if third parties access our goods, for attachment, for example (info@ottoroth.de).

- 4.4. When the security to which we are entitled exceeds the claims to be secured by more than 20 %, and not just temporarily, we are prepared to release deliveries that have been paid for in full at our discretion, if the customer requests us to do so.

5. Packaging and shipping

- 5.1. If no loan arrangement has been agreed, special packaging and shipping materials are calculated at the usual prices and are not taken back.
- 5.2. Shipping is at the expense and risk of the customer unless we use our own means.
- 5.3. The choice of the shipping method and the means of conveyance is at our discretion if the customer has not given any instructions regarding shipment.

6. Deviations in quality and delivery quantity

- 6.1. Our goods are subject to the general requirements of the standards DIN 267/ISO 8992, but we reserve the right to customary deviations in dimensions and quality if we have not expressly made any assurances to the contrary. Samples provided by us also only demonstrate the average quality and are not binding.
- 6.2. When we manufacture or procure special parts in accordance with customer specifications, we cannot be held responsible if the rights of third parties are violated. In the event of our making a claim, the customer indemnifies us from all liability for the costs arising for us.
- 6.3. Excess or short deliveries of up to 10% of the ordered amount shall be regarded as being in compliance with the contract.

7. Warranty and notice of defects

- 7.1. We are not obliged to check whether the goods to be supplied are suitable for the purpose intended by the customer. Information in our catalogues, price lists, offers, etc., including drawings and illustrations, only become components of the contract when we have expressly confirmed them as binding.
- 7.2. We are exempted from liability for the consequences of hydrogen-induced brittle fractures (see also 1.5.) in compliance with DIN EN ISO 4042, unless the defect is due to intentional or grossly negligent action on our part, or the damage involves loss of life, physical injury or damage to health. Our liability under the Product Liability Act remains unaffected. With regard to this, we refer to our „Ordering and application instructions concerning the danger of hydrogen-induced brittle fractures of connecting elements made of metal“.
- 7.3. A deficiency due to the quality of the goods or the delivery quantity must be reported to us in writing immediately upon receipt at the destination, but no more than 10 days later.

In the case of a deficiency for which we are responsible, we may choose between replacement delivery or remedy.

In the case of remedy, we shall bear the costs of labour and materials required to correct defects amounting to 3 times the value of the defective goods.

- 7.4. Should the replacement delivery or remedy fail, the customer can demand a corresponding reduction in the price of the goods or withdraw from the contract.
- 7.5. Our liability to provide compensation for damages is limited to foreseeable, typically occurring damage, unless it is caused by intentional or grossly negligent behaviour on the part of our representatives or agents.

The restriction of our liability to provide compensation for damages applies similarly to claims of the customer in other matters such as fault upon conclusion of the contract, other breaches of duty and property damage of all kinds. It applies similarly to our agents', employees' and representatives' personal liability to provide compensation for damages.

8. Place of fulfilment and legal venue

- 8.1. Place of fulfilment is the head office of our company as the contractual partner of the customer.
- 8.2. Legal venue is, at our discretion, either the head office of the customer or the head office of our company.

9. Partial ineffectiveness

Should individual provisions of these terms or of the contract be ineffective, the effectiveness of the other provisions will not be affected.

Otto Roth GmbH & Co KG

We would be happy to send you our ordering and application instructions concerning the danger of hydrogen-induced brittle fractures upon request either by mail, by fax or by e-mail. Please use our contact data:

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