

GENERAL CONDITIONS OF SALE AND DELIVERY

Rollstar AG, CH-5704 Egliswil

(September 2021)



1. GENERAL

1. These terms and conditions shall apply to all our deliveries to the exclusion of the general terms and conditions of the Customer and unless otherwise agreed in writing. Acceptance of the goods shall in any case imply the acceptance of these conditions by the buyer.
2. The contract for a delivery is concluded with our written order confirmation. Offers that do not include a deadline for acceptance are non-binding.
3. All further agreements made between us and the Customer must be in writing.
4. The transmission of agreements and legally relevant declarations by means of electronic media shall be deemed equivalent to the written form if this has been expressly agreed by the parties or is customary between them.
5. Our deliveries and services are listed conclusively in the order confirmation.
6. Brochures and catalogs are not binding unless otherwise agreed.

2. DELIVERY CONDITIONS

1. The delivery period shall commence as soon as the contract has been concluded and all details of execution have been clarified and the Customer has fulfilled all their contractual obligations, including cooperation and ancillary obligations. Compliance with the agreed delivery periods and dates shall be based on the date on which the goods are ready for dispatch at the supplier's works. The delivery period shall be extended appropriately if the Customer subsequently changes their requirements or is late in fulfilling their obligations.
2. Unless another mode of shipment has been agreed upon, we shall deliver "ex works" (INCOTERMS in the version valid at the time of conclusion of the contract).
3. Benefit and risk shall pass to the Customer upon handover to the Customer.
4. We are entitled to make partial deliveries.
5. If the delivery date is exceeded, the Customer must first give us the opportunity in writing to remedy the situation within a reasonable period of time. If this grace period is not met for reasons for which we are responsible, the Customer shall be entitled to refuse acceptance of the delayed part of the delivery. If partial acceptance is economically unreasonable for them, they shall be entitled to withdraw from the contract and to reclaim payments already made against return of deliveries already made. The Customer shall not be entitled to compensation for delay or other compensation if agreed delivery periods are exceeded.
6. Strikes, lockouts, official decrees for which we are not responsible as well as unforeseeable and non-culpable operational disruptions including machine and tool breakage, delivery delays or delivery failures of upstream suppliers, energy or raw material shortages, difficulties and delays in transport, epidemics and cases of force majeure shall release us from the obligation to deliver for the duration of the disruption and to the extent of its effect, and the Customer shall have no claims for damages. If delivery is delayed by more than three months as a result, the Customer shall be entitled to withdraw from the contract with respect to the quantity affected by the disruption in delivery, to the exclusion of all further claims.

3. PRICES, MINIMUM ORDER VALUE, PAYMENT CONDITIONS

1. Unless otherwise agreed in writing, our prices are quoted as "net ex works", excluding packaging; all ancillary costs for freight, insurance, as well as customs duties, levies and fees of all kinds shall be borne by the Customer. Value added tax is not included in our prices; it will be shown separately on the invoice.
2. Payments shall be made by the Customer in the currency specified in the invoice without deductions for rebates, discounts, expenses and costs of any kind to the bank account specified by us; this shall be deemed to be the domicile of payment. Payment shall be deemed to have been made on the value date on which the amount is credited to our account.
3. We are entitled to an appropriate price adjustment if the type or scope of the agreed deliveries or services has been changed by the Customer, or the material or the execution has been changed because the documents supplied by the Customer did not correspond to the actual conditions or were incomplete.
4. The offsetting of our credit balances against any counterclaims requires prior written agreement.
5. The deadlines and dates stated in our invoices are due dates, the exceeding of which puts the Customer in default without a reminder or the setting of a grace period.
6. The minimum order value per order is EUR 200. For orders with a lower order value, we charge a minimum value surcharge of EUR 100.
7. As of the occurrence of default in payment, default interest of 5% above the applicable 3-month CHF-LIBOR shall be owed. The right to compensation for further damages remains reserved.
8. In the event of delay in payment or in the event of justified doubts as to the solvency or creditworthiness of the Customer, we shall be entitled, without prejudice to our other rights, to demand advance payment for deliveries not yet made and to declare all claims arising from the business relationship immediately due and payable. The obligation to deliver shall be suspended as long as the Customer is in default with a due payment.

4. DEFECTS

1. The Customer shall inspect the goods for any defects immediately upon receipt. Recognizable defects are to be reported to us in writing within 10 days, non-recognizable defects immediately after discovery, at the latest before the expiry of the warranty period and with the provision of proof. Recognizable transport damages are to be reported to us – with a confirmation from the carrier – without delay, at the latest 3 days after delivery. Failure to notify defects in due time shall be deemed as approval of the delivery.

5. GUARANTEE, LIABILITY

1. The warranty period is, unless otherwise agreed, 12 months after start of operation or a maximum of 18 months after date of delivery. It begins with the delivery ex works of the goods.

2. Insofar as a defect in the delivered goods caused by us can be proven to exist until the expiry of the warranty period, we shall first be given the opportunity for subsequent performance within a reasonable period of time. In this context, we shall be entitled to choose the type of subsequent performance (e.g. repair or replacement). Replaced parts shall become our property. If the subsequent performance fails, the Customer shall be entitled to refuse acceptance of the defective part or, if partial acceptance is economically unreasonable for them, to withdraw from the contract or to demand a reduction of the purchase price. The Customer shall be entitled to a refund of the amounts already paid for the parts affected by the withdrawal.
3. For deliveries and services of sub-suppliers prescribed by the Customer, we shall assume warranty only within the scope of the warranty obligations of the sub-supplier concerned.
4. Unless otherwise provided for in the following clauses, any further claims of the Customer in connection with defects as to quality shall be excluded, irrespective of the legal basis.
5. All cases of breach of contract and their legal consequences as well as all claims of the Customer, irrespective of the legal grounds on which they are based, are conclusively regulated in these terms and conditions. In particular, all claims for damages, reduction, cancellation of the contract or withdrawal from the contract not expressly mentioned are excluded. Under no circumstances shall the Customer be entitled to claim compensation for damage which has not occurred to the delivery item itself, such as additional expenses, recall costs, loss of production, loss of use, loss of orders, loss of profit and other direct or indirect damage. This exclusion of liability shall not apply insofar as it is contrary to mandatory law.
6. If the cause of damage is based on intent or gross negligence, we shall be liable in accordance with the statutory provisions. The same applies to claims under the Product Liability Act.
7. Our technical advice and recommendations are based on reasonable examination, but are made outside contractual obligations. Our liability is excluded in this respect, unless there is intent or gross negligence.
8. Insofar as our liability is excluded, this shall also apply to the personal liability of our employees, representatives and vicarious agents.
9. If persons are injured or third party property is damaged as a result of actions or omissions on the part of the Customer or their auxiliary persons and if a claim is made against us for this reason, we shall have a right of recourse against the Customer.

6. RETENTION OF TITLE

1. We remain the owner of the goods delivered by us until we have received the payments in full according to the contract.
2. Our ownership shall also extend to the new products created by processing the reserved goods. In the event of processing, combination or mixing with items not belonging to us, we shall acquire co-ownership in the ratio of the invoice value of our reserved goods to that of the other materials used in the new product.
3. Upon conclusion of the contract, we are authorized by the Customer to take all legal measures necessary to secure the reservation of title at the Customer's expense, such as in particular the registration of the reservation of title in public books and registers; the Customer shall support us in all measures to secure our title.
4. The Customer shall maintain the delivered goods at their own expense for the duration of the retention of title and insure them for the benefit of the Supplier against theft, natural hazards and other risks and take all measures to ensure that our title is neither impaired nor cancelled.

7. TRADEMARKS, INDUSTRIAL PROPERTY RIGHTS, MARKS OF ORIGIN, TOOLS

1. Without our written consent, the origin or identification marks affixed to our goods may neither be changed nor removed.
2. Factory and trade marks under which our goods are delivered may not be used by the Customer without our prior consent, neither for the products manufactured therefrom nor for other own purposes, in particular advertising purposes.
3. We reserve the property rights and copyrights to samples, illustrations, drawings and other documents as well as to tools. This shall also apply if the Customer reimburses us for cost shares for such items.
4. If production or delivery is carried out according to drawings or other information provided by the Customer and if this infringes property rights, the Customer shall indemnify us against all claims of third parties.
5. Unless otherwise agreed, tools paid for in whole or in part by the Customer shall only be used for orders placed by the Customer and third parties designated by the Customer. We are entitled to liquidate tools, devices and other aids three years after the last use without special notification of the Customer.

8. PACKAGING

1. Disposable packaging (wood, cardboard, etc.) will be charged and, subject to mandatory legal requirements, not taken back at the domicile of the Customer.
2. Unless otherwise agreed, reusable transport packaging shall be returned to the supplying plant in proper condition, carriage paid, as soon as possible after emptying. If this does not happen, we may charge the Customer with the replacement costs. Reusable transport packaging must be stored properly.

9. PLACE OF FULLFILLMENT, PLACE OF JURISDICTION, APPLICABLE LAW

1. Place of fulfillment and jurisdiction is the place of the seller. However, we are also entitled to assert our claims at the general place of jurisdiction of the Customer.
2. Swiss substantive law shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods. In addition, the INCOTERMS of the International Chamber of Commerce in Paris in the version valid at the time of conclusion of the contract shall apply.

Rollstar AG Schlattweg 2 CH 5704 Egliswil

Phone: +41 62 769 80 40

info@rollstar.com / www.rollstar.com

In case of conflict, the german original of these general conditions is prevailing!