



General Terms and Conditions of Gechter GmbH Werkzeug- und Maschinenbau

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I. General

1. Our General Terms and Conditions are applicable to all contracts arising from the business relationship with the contractual partner even if they have not been explicitly specified as contractual basis for any follow-up transactions. General Terms and Conditions of the contractual partner shall not be accepted.
2. All our offers are subject to change. The contract shall not be concluded until a written order confirmation has been issued.
3. All data given in our brochures or any other descriptions concerning performances, dimensions, weights, consumption data, operating costs etc. shall only be considered as approximate values unless they have been expressly described as legally binding in writing. Any guarantee of quality or durability must be explicitly granted in writing in order to be effective.
4. We retain all property rights and copyrights for all countries with respect to designs, cost estimates, drawings and any other similar information, both tangible and intangible, including information in electronic form. Access to these documents and specifications shall not be granted to third parties.

II. Prices and Terms of Payment

1. All prices are quoted ex works from the premises of Gechter GmbH Werkzeug- und Maschinenbau in Herzogenaurach (unless otherwise indicated in the price list); the relevant statutory value added tax is additional; any packing and shipping costs are excluded.
2. The prices quoted are fixed prices for a period of four months from the conclusion of the contract. After this period has elapsed, we are entitled to charge the list price valid on the day of delivery.
3. Unless otherwise agreed, the purchase price shall be due for payment within 30 days from the invoice date – strictly net without deductions from the invoice value.
4. Offsetting against counterclaims of any type or the assertion of any rights of retention shall be excluded unless the counterclaim is undisputed or has been legally established.
5. If the contractual partner defaults on a payment, we shall charge a default interest at 8 percentage points above the basic interest rate of the European Central Bank without prejudice to the assertion of any other rights. Furthermore, we shall be entitled to refuse to deliver goods from any subsequent orders until all outstanding invoices are fully paid.



6. If we become aware of circumstances that are suited to reduce the creditworthiness of the contractual partner, we shall be entitled to require advance payment or the provision of a security for performing any outstanding deliveries and to withdraw from the contract after granting a reasonable extension period, or to seek damages for non-performance. Furthermore, we shall be entitled to forbid the resale of goods delivered under retention of title, to demand their return or the transfer of indirect possession at the expense of the contractual partner and to revoke any direct debit authorization.

III. Retention of Title

1. We retain title to all delivered goods until all our claims have been fulfilled (goods subject to retention of title) even if payments are made in settlement of separately specified claims.
2. The contractual partner undertakes to sell the goods subject to retention of title only in the normal course of business under his normal business conditions and only as long as he is not in default. He is entitled to resell the goods subject to retention of title only with the provision that any claim deriving from the resale is transferred to us in accordance with subsections 3 to 5 below. The contractual partner is not entitled to make any other dispositions with regard to goods subject to retention of title, including any pledge or transfer of ownership by way of security.
3. The contractual partner shall now assign to us his claims from the resale of goods subject to retention of title, regardless of whether they are sold to one or several purchasers.
4. The contractual partner is entitled to collect such assigned claims from the resale until we revoke such entitlement, which is possible at any time. We shall exercise our right of revocation only in cases specified in section II subsection 6. To the extent that our claims are due, the contractual partner is obligated to immediately forward to us the amounts he has collected. On no account shall the contractual partner be entitled to further assignment of the claim.
5. On our request, the contractual partner shall be obligated – unless we inform his purchaser ourselves – to immediately notify the purchaser of the claims assignment to us and to provide us with documentation of this notification and to send with this notification all information or documents required for collecting the assigned claim.
6. If the contractual partner combines goods delivered by us with other objects into one single item, it shall be agreed that the contractual partner grants us co-ownership proportional to our share in accordance with section 947 subsection 1 of the German Civil Code (BGB) and that he holds the item in safe keeping for us.



7. We are entitled to demand the return of objects owned by us if we become aware of circumstances that cast doubt on the fulfillment of our claims by the contractual partner. Against this claim for return, the right of retention can only be exercised in accordance within the provisions set out in section II subsection 4 above. For this purpose, the contractual partner hereby approves that the persons commissioned by us to collect the goods are granted access – on foot and by vehicle – to the premises where the objects are located.
8. If the value of the existing securities exceeds the amount of the claims to be secured by more than 20 %, we shall be obligated, on request of the contractual partner, to release the securities that go beyond the value of 120 % of our claims. The choice of which securities to release shall rest with us.
9. In case of a default on payment or if an application to open insolvency proceedings has been filed against the assets of the contractual partner, we shall be entitled to demand the immediate return of the goods subject to retention of title. Taking back the goods does not constitute a withdrawal from the contract. At the same time, all fixed-term claims become immediately due for payment. Deposited bills of exchange are to be concurrently redeemed for cash regardless of the due date.

IV. Place of Delivery / Time of Delivery

1. Unless otherwise agreed in the individual case, all deliveries are performed ex works from the premises of Gechter GmbH Werkzeug- und Maschinenbau in Herzogenaurach (EXW as per INCOTERMS 2000).
2. The specified delivery times are approximate unless this has been explicitly agreed otherwise in writing in the individual case.
3. We assume no guarantee for compliance with delivery times. The contractual partner shall have no claims for damages due to late delivery, even if an extension period was granted to us and has elapsed, unless we are guilty of intent or gross negligence. In this case, the claims for damages of the contractual partner shall be limited to 5 % of the net order total at the most. We are not liable for any indirect damage or atypical consequential damage.
4. Agreed delivery periods start on the day of our order confirmation, however not before all details for order execution have been properly clarified.
5. An agreed delivery period shall be extended – without prejudice to our rights from the default of the contractual partner – by the contractual partner's delay in performing his obligations from this or any other contractual relationship between the contractual partners. This shall apply in an analogous way for all agreed delivery dates.



6. If there is a delay on our side, the contractual partner shall grant us a reasonable extension period. After expiry of the extension period, the contractual partner is entitled to withdraw from the contract if he has not yet received a notification of the goods being ready for shipment at this point.
7. Events of force majeure shall entitle us to delay the delivery by the period of obstruction plus a reasonable start-up time, or to withdraw from the contract in respect of the part not yet fulfilled. Strike, lock-out and other circumstances that significantly impede the delivery or make it otherwise impossible shall be deemed equivalent to force majeure, no matter whether they occur at our company or at one of our sub-suppliers. The contractual partner can request a declaration from us as to whether we intend to withdraw from the contract or deliver within a reasonable period of time. If we fail to provide such declaration, the contractual partner is entitled to withdraw from the contract.

V. Deliveries

1. If the goods are shipped, we shall choose the means of transportation and the dispatch route under the exclusion of any liability. This exclusion does not apply if one of our executive staff has acted at least in a grossly negligent way.
2. At the time when the goods are transferred to the forwarder or freight carrier, at the latest, however, when the goods leave the works or warehouse, the risk shall pass to the contractual partner.
3. We are not obligated to take out transportation insurance unless this is expressly requested by the contractual partner. The costs shall be borne by the contractual partner.

VI. Warranty and Liability

1. Complaints about a delivered item shall be reported without delay; the defects shall be described in detail and in writing – obvious defects within one week after receipt of shipment at the latest and hidden defects no later than one week after their detection.
2. If we are responsible for a defect, the contractual partner shall at first only be entitled to supplementary performance, whereby we reserve the choice of the manner of warranty. When discharging our warranty obligations, we shall be entitled to use the services of third parties. In case of amendment measures that can be easily performed, particularly when involving the simple replacement of small parts, we can request that the contractual partner carries out the measures of supplementary performance on his own.



- If the supplementary performance fails twice, the contractual partner is entitled to a reduction in the contract price or he can demand a cancellation of the contract. Parts subject to wear and consumables are not covered by any warranty.
3. Warranty claims shall be excluded if the contractual partner has implemented unauthorized modifications or repair work on the items subject to complaint or if the defect is attributable to natural wear and tear. The same shall apply if the defect occurs after the passing of the risk as a consequence of incorrect or careless handling, improper use / storage, unsuitable operating materials, faulty construction or installation work, excessive strain, knowledge of the fault or due to chemical, electrochemical or electrical influences (as far as such influences are not contractually specified) without any fault on our part.
 4. Any further claims of the contractual partner are excluded unless we have explicitly granted a guarantee of quality or durability in the individual case.
 5. A reshipment of the goods subject to complaint is not allowed without our approval. The freight costs shall be paid in advance by the contractual partner. They will only be reimbursed if the complaint is held to be valid.
 6. Claims for damages and reimbursement of expenses (subsumed below under "claims for damages") of the contractual partner, regardless of their legal basis, in particular on account of breach of duties arising from or in connection with contractual obligations, culpability before or during contract conclusion or unlawful acts, shall be excluded.

This does not apply in cases of intent or gross negligence, if injury to life, body or health is involved, if the claim is based on a warranty for the presence of a quality (guarantee of quality) or in case of a negligent and serious breach of a duty. In case of negligence, our liability shall always be limited to the foreseeable and typical damage. On no account shall our liability exceed the legal requirements. Changes in the burden of proof are not implied by these provisions.

To the extent that our liability has been excluded or limited, this shall also apply to the personal liability of our employees, vicarious agents, representatives and authorized persons.

Should we default on a delivery duty, section IV subsection 3 applies.

VII. Place of Performance, Place of Jurisdiction

For both parties to the contract, the place of performance is Herzogenaurach. If our contractual partner is a merchant, the place of jurisdiction – including proceedings concerning bills of exchange or checks –



is Herzogenaurach. However, we shall also be entitled, at our discretion, to file a suit at the location of our contractual partner.

VIII. Applicable Law, Severability

1. The contractual relationship shall be governed solely by the law of the Federal Republic of Germany. The Vienna United Nations Convention on Contracts for the International Sale of Goods, as of 11 April 1980, shall not apply.
2. Should these provisions be partially invalid or incomplete, the validity of the remaining provisions shall not in any way be affected thereby.

IX. Installation and Repair Services

1. The location of installation / erection shall be prepared according to our instructions in a way that the installation work can be performed as efficiently as possible. If the contractual partner fails to perform his contractually agreed cooperation obligations in due time, all additional costs are at his expense. This applies in particular to additional costs in connection with travel expenses.
2. The required amount of water, gas and electric power shall be made available free of charge. This also applies to the respective connections.
3. We are entitled to outsource all or part of the installation services to third parties at our discretion.
4. The contractual partner is under the obligation to accept the installation / repair service without delay as soon as he has received notification of its completion and – if applicable – the contractually agreed testing of the installed item has been performed. If the contractual partner does not accept the service within 6 work days after this notification, the service shall be deemed as accepted.
5. The preceding provisions, in particular the provisions in section VI, shall apply to installation and repair services in an analogous way.



X. Software

1. If the products delivered by us contain any software, we grant the contractual partner non-exclusive usage rights to install and apply the software in the delivered device.
2. The contractual partner is not entitled to modify, adapt, translate, decompile or disassemble the delivered software or otherwise get access to the source code of the software or to create derivative works of the software.
3. The granting of sub-licenses, even to affiliated companies, or the transfer of licensing rights to third parties shall be permitted only with our previous written consent.

XI. Goods and Services Supplied by the Contractual Partner

With respect to goods and services supplied by the contractual partner, the statutory provisions shall apply in lieu of sections II to VI unless this has been otherwise agreed in the individual contract. For acceptance tests of incoming goods and any subsequent complaints about defects, the provisions in section VI subsection 1 shall apply in an analogous way.