

General Terms and Conditions of Seibold + Comtherm GmbH

Version 03 dated 11.9.2022

General Provisions, Scope

1. Our General Terms and Conditions (GTC) shall apply exclusively. We do not recognize any terms and conditions of the customer that conflict with or deviate from our GTC, unless we have agreed to their validity in writing.
2. Our GTC shall also apply to all future transactions with the client without the need for a renewed reference to our GTC.

Offers

1. We shall be bound by our offers for a period of four weeks from the date of the offer.

This shall also apply if we have provided the customer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents - also in electronic form.

2. If the customer places an order with us, he is bound to his order for two weeks. Acceptance can be declared by us either in writing (e.g. by order confirmation), in text form or by delivery of the goods to the customer.
3. We reserve ownership, copyright and other rights to the documents belonging to our offer. The documents may only be made accessible to third parties with our consent.

Prices – Terms of Payment

1. Our prices are in EURO (€) ex works. Costs for packaging and transport, in the case of foreign deliveries this applies to customs fees and other fees, are borne by the customer.
2. Value added tax at the statutory rate is added to our prices. In the event of a change in the value added tax, we shall be entitled to adjust our prices accordingly.
3. We are entitled to make a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.
4. The purchase price is due and payable without deduction within 30 days of the invoice date.
5. The customer shall only be entitled to offset counterclaims if these are undisputed or have been legally established.
6. If, after conclusion of the contract, we become aware of circumstances that are likely to give rise to justified doubts about the creditworthiness of the customer (dishonor of a check or bill of exchange, individual compulsory enforcement, filing of an insolvency petition, ongoing dunning proceedings), we shall be entitled, at the customer's option, to demand payment of the remuneration or the provision of collateral in the amount of the remuneration to be paid by the customer concurrently with our performance. If the customer is unable to provide security

within 14 days of receipt of a corresponding request, we shall be entitled to withdraw from the contract. Otherwise, we shall only be obliged to provide further services concurrently against payment of the remuneration or the provision of securities in the amount of the remuneration to be provided by the customer.

Delivery

1. Unless otherwise agreed, delivery shall be ex works EXW in accordance with the currently valid Incoterms, which is also the place of performance for the delivery and any subsequent performance. Shipment shall always be made for the account and at the risk of the Customer. If shipment is delayed for reasons for which the Customer is responsible, the risk shall pass to the Customer upon notification of readiness for shipment

2. We shall be entitled to render our performance in partial performances and also to invoice these, insofar as this is reasonable for the customer.

3. If an acceptance is required due to an explicit contractual agreement or due to legal regulations, then the following is agreed:

Our performance shall be deemed accepted at the latest when and insofar as

- a) the parts manufactured or processed by us are sold or transferred for use by the customer to a third party after delivery, or
- b) the parts manufactured or processed by us are processed or mixed or combined with other items with the approval of the customer, or
- c) the parts manufactured or processed by us are used beyond a trial period either by the customer or by third parties with the customer's approval, or
- d) the performance is accepted by the customer's purchaser vis-à-vis the customer.

An earlier acceptance date resulting from statutory provisions or individual agreements shall remain unaffected

4. If our delivery is delayed for reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage, including additional expenses such as storage costs.

Delivery time

1. Our information on the delivery period is non-binding, unless a delivery period is agreed individually or stated by us upon acceptance of the order. An agreed delivery period shall commence after provision of any documents, approvals, releases to be procured by the customer and, if this has been contractually agreed, after receipt of an agreed down payment.

2. If the client requests one of our services within a certain period of time, this requires an explicit agreement. We are not obligated to check material provided to us to determine whether the client is required to meet a deadline or other obligations to third parties.

3. Agreed delivery periods shall be extended, even within a delay in delivery, in the event of force majeure, labor disputes and operational disruptions for which we are not responsible. Agreed delivery periods are subject to the proviso that we ourselves are supplied by our supplier in good time. If this is not the case, they shall be extended accordingly.

4. In the event of changes to the order agreed between the customer and us after conclusion of the contract and which affect the delivery period, an agreed delivery period shall be extended to a reasonable extent.

5. Our statutory rights, in particular in the event of an exclusion of the obligation to perform, e.g. due to impossibility or unreasonableness of performance and/or subsequent performance, shall remain unaffected.

Retention of title

1. We retain title to the goods delivered by us until the purchase price and all ancillary claims have been paid in full.

2. If the customer is an entrepreneur, we retain title to the goods delivered by us until all claims against the customer arising from the business relationship have been settled.

3. In the event of seizure, other interventions by third parties or change of possession of the object of purchase, the customer shall notify us immediately in writing. Enforcement officers or third parties are to be informed of our ownership.

4. Insofar as the third party is not in a position to reimburse us for the judicial and extrajudicial costs of enforcing the cancellation of the access and the recovery of the object of purchase, the customer shall be liable for the loss incurred by us.

5. Insofar as the customer is authorized in individual cases to resell the goods purchased from us in the ordinary course of business, he hereby assigns to us all claims accruing to him from the resale against his customers or third parties in the amount of the final invoice amount of our outstanding claims including value added tax. The customer shall remain authorized to collect these claims even after the assignment. Our authority to collect the claims ourselves shall remain unaffected. However, we undertake not to collect the receivables as long as the customer meets his payment obligations to us from the proceeds collected, in particular as long as he is not in default of payment and no application for the opening of insolvency proceedings has been filed or payments have not been suspended. If this is the case, however, we may demand that the customer discloses to us the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.

6. The processing or transformation of the object of purchase by the customer shall always be carried out for us. If the object of purchase is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the object of purchase to the other processed objects at the time of processing.

7. We undertake to release the securities to which we are entitled at the request of the customer to the extent that the realizable value of our securities exceeds the claims to be secured by more than 50%. The selection of the securities to be released shall be incumbent upon us.

Subcontractor

We are entitled to subcontract orders in whole or in part to third parties. This shall not affect our obligations to the customer.

Warranty

1. We provide warranty in accordance with the statutory provisions, unless otherwise stipulated below.
2. The customer shall immediately inspect the goods deliveries and services provided by us for contractual identity, freedom from defects and completeness and, if deviations or defects become apparent, shall notify us thereof without delay. If the customer fails to notify us, our goods or services shall be deemed to have been approved, unless the defect was not recognizable during the inspection. If such a defect becomes apparent at a later date, the customer shall notify us thereof without undue delay after discovery; otherwise our goods or services shall be deemed to have been approved also with regard to such defect. If our goods or services are deemed to have been approved, the customer shall also be excluded from recourse claims pursuant to §§ 437 et seq. and 478 of the German Civil Code (BGB).
3. We may refuse the type of supplementary performance chosen by the customer without prejudice to § 275 (2) and (3) of the German Civil Code (BGB) if it is only possible at disproportionate cost. In this case, the customer's claim to subsequent performance shall be limited to the other type of subsequent performance; our right to refuse even this shall remain unaffected, if it is only possible at disproportionate cost.
4. Insignificant defects shall in no case entitle the Customer to withdraw from the contract.
5. If we determine that a defect in the item delivered by us claimed by the customer is based on the defectiveness of an item delivered by one of our suppliers, we shall notify the customer of this in writing and assign our warranty and recourse claims against the supplier to the customer. In this case, the client may only assert warranty and recourse claims against us if it can prove that it has previously asserted warranty or recourse claims against our supplier without success.
6. If we establish that a defect claimed by the customer does not actually exist or that the delivery item has been modified in a manner not approved by us and that the damage has arisen as a result or that the damage is due to improper handling or wear and tear, the customer shall be obliged to reimburse us for the costs of the attempt to rectify the defect, in particular costs for working time and materials as well as travel expenses, based on our currently valid price list. We reserve the right to claim higher costs. The customer has the right to prove that we have incurred no damage or less damage.
7. The warranty, unless otherwise agreed in writing, is 12 months.

Compensation - Withdrawal

1. If we violate an obligation arising from the contractual obligation or if we do not perform the due service or do not perform it as owed, the customer may demand compensation for the resulting damage in compliance with the statutory provisions.
2. The customer may not withdraw from the contract if our breach of duty is insignificant.
3. Notwithstanding the statutory provisions, we shall be entitled to withdraw from the contract if
 - a) the customer behaves in breach of contract and the breach of duty is substantial,
 - b) the customer has made false statements about his creditworthiness or

c) the service owed by us is not available. In this case, we undertake to inform the customer immediately of the non-availability and to reimburse the customer's counter-performance without delay.

Third party rights

1. If a third party asserts against the customer that one of our services infringes its rights, the customer shall notify us immediately, comprehensively and in writing and give us the opportunity to defend the asserted claims.

2. If the customer provides us with drawings, models or samples for the manufacture of products, he shall guarantee to us that these are free of third-party property rights. If third parties assert industrial property rights against us, the customer shall indemnify us upon first request. In this case, we shall be further entitled to stop the manufacture and delivery of the products concerned without examining the legal situation.

Liability

1. We are liable for all damages caused by us or our vicarious agents ("Erfüllungsgehilfen") intentionally or through gross negligence.

2. We shall also be liable for the culpable breach of essential contractual obligations, insofar as a breach of these endangers the achievement of the purpose of the contract.

3. We shall also be liable insofar as we have fraudulently concealed a defect or have given the customer a guarantee for the quality of the item or the work.

4. We shall also be liable for damages resulting from injury to life, body or health which are based on a culpable breach of duty by us or on a culpable breach of duty by one of our legal representatives or one of our vicarious agents ("Erfüllungsgehilfen").

5. In all other respects, all claims for damages against us, in particular for delay or breach of duty, as well as non-contractual claims, including claims for lost profits, lost savings, lost benefits of use, failed expenses, indirect damages and consequential damages, are excluded.

6. Any claims for damages shall furthermore be limited in amount to the damage foreseeable at the time of conclusion of the contract; claims arising as a result of the realization of excess risks ("Exzessrisiken") not foreseeable for us cannot be asserted.

This limitation shall not apply if we have fraudulently concealed a defect from the customer or have given a guarantee for the quality of the item or the work.

This limitation shall also not apply in the case of damages resulting from injury to life, body or health caused by a culpable breach of duty by us or by a culpable breach of duty by one of our legal representatives or our vicarious agents ("Erfüllungsgehilfen").

7. Our statutory liability for injury to health or life and under the Act on Liability for Defective Products - Product Liability Act ("Produkthaftungsgesetz") shall remain unaffected by the above clauses.

Software usage

Insofar as software is included in the scope of delivery, the customer is granted a simple, non-exclusive right to use delivered software including its documentation.

This software is provided exclusively for use on the delivery item intended for this purpose. Manufacturer's specifications may not be removed or changed. All other rights to the software and the documentation including the copies remain with Seibold + Comtherm GmbH or with the software supplier. The granting of sublicenses is not permitted.

Confidentiality

The contractual partners mutually undertake to keep all trade secrets obtained within the framework of the contractual relationship confidential without restriction and not to disclose them to third parties. All information about the operational circumstances of the respective other contractual partner shall be deemed to be trade secrets, insofar as the respective other contractual partner does not publish such information itself.

These obligations continue to exist beyond the term of the contract.

Place of jurisdiction - Place of performance - Dispute resolution - Choice of law

1. Schorndorf is the Place of jurisdiction.
2. Schorndorf is the Place of performance.
3. We do not participate in dispute resolution proceedings before a consumer arbitration board and are not obliged to do so.
4. German law shall apply exclusively to all legal relationships between the client and us.

Export control

1. We point out to the Purchaser that the export of goods (goods, software, technology) and the performance of services (assembly, maintenance, servicing, repairs, training, etc.) with an international connection is subject to German and European foreign trade law and that the individual deliveries and services may be subject to the Foreign Trade and Payments Act (Außenwirtschaftsgesetzes AWG), the Foreign Trade and Payments Ordinance (Außenwirtschaftsverordnung AWW) and its annexes, Regulation (EC) No. 428/2009 and its annexes (EC Dual-Use Regulation), the Export Administration Rules of the USA (EAR) and other regulations.

In addition, there are national and international embargo regulations against certain countries and persons, companies and organizations, which may prohibit the delivery, provision, export or sale of goods as well as the performance of services or place them subject to approval.

The Purchaser acknowledges that the aforementioned legal provisions are subject to constant changes and shall always apply to the contract in their currently valid version.

2. The Purchaser undertakes to recognize and comply with the national and international export control regulations and embargo regulations, in particular if the Purchaser is affected by a re-export requirement of a license issued to us by the export control authority. We shall inform the Purchaser of any such requirement at the latest prior to export.

Furthermore, the Purchaser undertakes not to sell, export, re-export, deliver, pass on or otherwise make available the goods delivered by us, either directly or indirectly, to persons, companies, institutions, organizations or countries, if and to the extent that this violates national or international export regulations or embargo regulations.

3. At our request, the purchaser shall be obliged to provide us in text form with complete information on the end use of the goods or services to be delivered, in particular to issue so-called end-use documents and to send them to us in the original so that we can check the end use and the intended purpose of the goods or services to be delivered and prove this to the competent export control authority.

4. The Purchaser is obliged to inform us without being asked and in text form if a "US person" in the sense of the EAR is affected at any point of the business transaction on the part of the customer.

5. The Purchaser shall be fully and unrestrictedly liable to us for any damage incurred by us as a result of the Purchaser's culpable failure to comply with national or international export regulations or embargo provisions.

6. The release or granting of export or shipment licenses or other foreign trade permits by the competent authorities may affect agreed delivery periods. If we are prevented from timely delivery due to the duration of the proper execution of an application or approval procedure under foreign trade law, the delivery period shall be reasonably extended by the duration of the delay caused by the official procedure.

7. If any export or transfer licenses or other foreign trade permits required are not granted by the competent authorities or are not granted in due time, or if other obstacles prevent the performance of the contract due to the foreign trade or embargo regulations to be observed by us as exporter or transferor or by our suppliers, we shall be entitled to withdraw from the contract as a whole or from individual contractual delivery or service obligations.

We shall also be entitled to withdraw from the contract if corresponding obstacles under export control and embargo law only arise between the conclusion of the contract and the delivery or performance of the service or in the event of the assertion of warranty rights, e.g. due to a change in the legal situation, and make the performance of the delivery or service temporarily or permanently impossible, because required export or shipment licenses or other foreign trade permits or clearances are not granted or are revoked by the competent authorities or other legal obstacles due to mandatory foreign trade and embargo regulations prevent the performance of the contract, the delivery or service or the rectification of defects.

The legal consequences of any right of withdrawal exercised by us shall be governed by the provisions of the German Civil Code (Bürgerliches Gesetzbuch BGB).

Miscellaneous - severability clause

1. Verbal collateral agreements have not been made.

2. Should any provision of the contract, any provision incorporated into it in the future or any provision of these Terms and Conditions be invalid or unenforceable in whole or in part, or should it later lose its validity or enforceability, or should a loophole become apparent, this

shall not affect the validity of the remaining provisions. In this case, the contracting parties agree that the statutory provisions shall apply in place of the invalid and unenforceable provision or to fill the gap.

3. Only the German version of these General Terms and Conditions shall be legally binding to the parties.