

Conditions of sale and delivery

§ 1 General

1. Our terms and conditions of business shall apply exclusively: These conditions of supply and payment apply for all deliveries. Any different conditions on the part of the customer only apply in so far as they are expressly recognised by us in writing. A contract is established when Rollex issues the written confirmation of order, unless otherwise agreed.

Written order confirmation of Rollex is decisive in regards to the scope. Changes and additions must be made in writing. This also applies if this requirement for written form is to be waived.

Rollex retains title and copyright in samples, cost estimates, drawings and other information, both tangible and intangible, including in electronic form; such items may not be made accessible to third parties. Rollex will only make information and documents which are marked as confidential by the customer available to third parties with the agreement of the customer.

§ 2 Price and payment

The prices shown in the order confirmation apply ex works in the absence of express agreement to the contrary, without packaging, free on truck or rail, without transport insurance. The valid legal rate of VAT is to be added. In the absence of agreement to the contrary, payment shall be made on account without any deduction, due on delivery. The right to withhold payment or to offset counterclaims is only available to the customer in so far as his counterclaims are undisputed or legally established.

§ 3 Time of delivery, Delay in delivery

The time and period of delivery result from the agreements between the contractual partners. Fulfilment of the agreements on the part of Rollex assume that all commercial and technical questions between the parties have been clarified and the customer has also fulfilled all his obligations, such as for example provision of the necessary official approvals or certificates and payment of a deposit if so agreed. If this is not the case, the delivery period shall be prolonged correspondingly, or alternatively by an appropriate period. This does not apply if the delay is due to the supplier. Fulfilment of the period of delivery is subject to correct and timely supply of goods by the supplier's subcontractors. Any delays which are anticipated must be communicated by Rollex as soon as possible.

The delivery period is considered fulfilled if the object of the delivery has left Rollex's factory by the end of the period. If despatch or acceptance of the object of the delivery is delayed for reasons which are due to the customer any costs accruing from the delay shall be charged to the customer, starting one month after reporting of the readiness for despatch or acceptance.

If non-fulfilment of the delivery period is due to force majeure, labour conflicts or other events outside the sphere of influence of the supplier, the period of delivery shall be prolonged accordingly. Rollex will inform the customer of the start and end of such circumstance. Page The customer can withdraw from the contract if the entire performance becomes impossible for Rollex before transfer of risk.

The customer can also withdraw from the contract in case execution of a part of the delivery becomes impossible, and he has a justified interest in refusing the partial delivery. If this is not the case, the customer must pay the contractual price which is due for the partial delivery. The same applies if Rollex cannot supply the performance.

§ 4 Transfer of risk, acceptance

The risk is transferred to the customer when the object of delivery has left the factory, even if partial deliveries take place or Rollex has taken over other performance, e.g. despatch costs or delivery and erection. If an acceptance procedure has to be implemented, acceptance is decisive for transfer of risk. It must be carried out immediately at the acceptance date or alternatively after report by the supplier that the item is ready for acceptance. The customer may not refuse acceptance in the case of non-serious fault. Partial deliveries are permissible in so far as reasonable for the customer.

§ 5 Retention of title

Rollex retains the title to the object of delivery until all payments arising from the supply contract have been met. The customer may neither sell nor pledge the object of delivery nor offer it as security. The customer must inform the supplier immediately in case of pledge or seizure or other similar actions affecting the goods on the part of third parties.

If the customer behaves in such a way as to infringe the contract, in particular in case of delay of payment, Rollex is entitled to take back the object of delivery after issuing a warning and the customer must return the goods. Based on his retention of title, the supplier can only demand return of the goods when he has withdrawn from the contract. Application for opening of insolvency proceedings on the part of the customer entitles Rollex to withdraw from the contract and to request immediate return of the object of delivery.

§ 6 Claims resulting from defects

Rollex provides warranty for defects as to the quality of the goods or for defect of title, excluding further claims.

Defects in quality:

All parts which prove defective as a result of circumstances lying before the time of acceptance must be repaired or replaced by perfect goods at the discretion of the supplier. Any faults which are discovered must be communicated to Rollex immediately in writing.

The customer must agree on the time needed for repairs and replacement and accord Rollex such time and also opportunity; otherwise Rollex is freed from liability for any resulting consequences. Only in cases where operational safety is at stake or in order to prevent disproportionate damage, has the customer the right to repair defects himself or have them repaired by third parties and to demand compensation for the resulting costs. The supplier must be informed immediately. Any immediate costs resulting from the repair or replacement shall be paid by Rollex, in so far as the complaint proves to be justified, including costs of the replacement and despatch. Rollex shall not bear the cost for dismantling and installing the part or costs for supply of the necessary operators and auxiliary workers, including travel costs.

Within the framework of the legal regulations, the customer has the right to withdraw from the contract if Rollex allows a suitable period for repair or replacement of an item which exhibits quality defects to pass without action, taking legal exceptions into consideration. If only a slight defect is present, the customer only has the right to reduction of the contractual price. The right to reduce the contractual price is otherwise excluded.

In particular, no warranty is accepted in the following cases: unsuitable or improper use, incorrect assembly or commissioning by the customer or a third party, natural wear and tear, incorrect or careless treatment, improper maintenance or repair, use of unsuitable operating materials, unsuitable construction work, unsuitable building land, chemical, electro-chemical or electrical influences in so far as they do not lie within the sphere of responsibility of Rollex. If the customer or third party carries out unsuitable repairs, Rollex shall not be responsible for any consequences which may result. The same applies for changes to the object of delivery carried out without the prior agreement of the supplier.

§ 7 Liability

In case of liability which is legally specified and which does not depend on blame or fault, in particular for liability resulting from guarantee or from product liability law, Rollex shall accept unlimited liability. In the case of other infringements of obligations, Rollex shall only be liable for deliberate intent and gross negligence. This limitation shall also apply for legal representatives, employees, staff and vicarious representatives of Rollex. In so far as any obligation is infringed which is of particular significance for fulfilment of the contractual goals (cardinal duty), Rollex shall also accept liability in cases of slight negligence. However, liability for indirect and unforeseeable damages as well as for damages consequential upon defects and loss of profit, savings which have not been achieved, damage to assets because of claims of third parties or other consequential damage, Rollex shall only be liable for infringement of a cardinal obligation in cases of intent and gross negligence.

The liability of Rollex is limited to three times the net invoiced amount of the goods or services giving rise to the claim.

§ 8 Period of limitation

All claims of the customer based on any legal grounds whatsoever, lapse regarding to statute of limitations according to the laws of the BGB. They also apply for defects in a building or for objects of delivery which are used corresponding to their general use for a building and which have caused defects in the building.

§ 9 Governing law, legal venue

All legal and contractual relationships between Rollex and the Customer shall be regulated by the governing law of the Federal Republic of Germany. The Uniform Law regarding International Sale of Goods of 17.07.1973, BGBII856-EKAG is excluded. The legal venue shall be the court responsible for the registered office of Rollex.

§ 10 Validity of Contract

If any provision of this contract should be currently invalid or incapable of implementation or should prove so in future, the validity of the remaining provisions shall not be affected.