

General terms and conditions – valid from 01.12.2019

PREAMBLE

Our deliveries and services are provided – in the future as well – based exclusively on the following terms. These are recognised by the parties as binding, including for any future business transactions. This also applies even if no reference is made to them particularly in individual cases or they are not explicitly specified.

The client's terms of business, in particular his purchase conditions do not apply. Nor do they impose any obligation on us even if we do not refute them specifically in individual cases; we hereby refute them. By placing an order the client confirms explicitly that he is aware of our rental conditions and/or terms and conditions and agrees to them in their entirety. Our general terms and conditions are deemed accepted no later than when the order is placed. Any agreements differing from this must be made in writing. All offers are subject to change. The contract terms depend essentially on the order confirmation and the rental agreement.

I. SCOPE OF THE OBLIGATION TO SUPPLY

1. Our services are subject to change, even if they are supplied at the customer's request. A legally binding contractual agreement with the customer only exists when we have confirmed the order in writing, which may also occur by fax or computer without a signature; the same applies to modifications or additions to the agreement. Our written order confirmation determines the scope, type and timing of delivery.
2. We reserve the right to make structural changes to the goods implemented. Our website and product information plus the illustrations and visuals they contain are not binding and do not constitute any kind of warranty.
3. The documentation pertaining to the service such as drawings, data sheets, illustrations, plans, etc. are only approximations, unless they are explicitly described as binding.

II. RATES AND BILLING

1. Full service rental, which includes the rent for the entire lease period and costs of transport and installation are – depending on the agreement – to be paid in full in advance without discount deductions on signing the contract but no later than when goods are delivered.
2. Surcharges and billing of charges subsequent to the agreed remuneration in relation to installation and delivery costs are allowed if circumstances result in increased costs for staff, transport etc. such as additional trips to the delivery location if extra goods are ordered or if the quantities ordered fall short as well as partial deliveries approved by the customer, missing or inadequate instructions by the customer at the place of fulfilment or extremely difficult terrain.
3. Rates are quoted in euros. VAT is charged in addition to the amount billed in each case. VAT provisions apply as at the date of delivery or service provision.

III. RENTAL AGREEMENT, EXTENSION AND CANCELLATION

1. Termination of the rental agreement
 - a. Rental agreements cannot be terminated by the tenant (customer) during the fixed lease term. If the tenant wishes to terminate the rental agreement early for financial or other reasons, he makes himself liable for damages to the landlord. A pro rata refund of the flat rate rental is not possible.
 - b. The landlord reserves the right in the case of imminent or already instigated insolvency proceedings against the tenant to terminate the rental agreement immediately and to pick up the goods delivered without complying with the rental agreement.
2. Lease extension
A lease extension occurs after the fixed lease term without further consultation until the tenant (client) announces the fence is available for pickup.

IV. DELIVERY

1. The delivery period commences when the order is dispatched and the delivery date agreed in it but not before all the order completion details have been clarified and not before any agreed advance payment has been received.
2. Force majeure and other events beyond our control that may call smooth completion of the order into question, in particular delivery delays by our carriers, traffic and operational disruptions, industrial action, material or energy shortages, Epidemics and natural disasters, entitle us to withdraw from the agreement wholly or partly or to postpone delivery without giving rise to any claims for compensation by the customer. The customer may request a statement from us as to whether we withdraw or wish to fulfil the contract within a reasonable period. If we fail to make such a statement, the purchaser may withdraw from the contract. We are not responsible for the aforementioned events or circumstances either, if they occur during an existing delay in delivery.
3. In case of a delivery delay that is our fault, we shall be allowed a reasonable grace period in which to comply. After this period the customer may demand compensation or withdraw from the contract if the goods are not reported ready for shipping or already delivered before the deadline.
4. If the customer incurs damages due to our delay, he is entitled to claim compensation. However, this shall not exceed a total amount of 5% of the value of that part of the whole delivery that cannot be used on time or in accordance with the contract due to the delay. The customer is only entitled to claim compensation for non-fulfilment if the damages are caused by intent or gross negligence. This does not apply if a firm deal as been agreed.
5. Delivery obligations and deadlines are suspended as long as the customer delays in accepting the goods or with other obligations without this affecting our rights arising from the customer's delay, or he has exceeded the credit limit we have granted. In this case the risk of accidental damage or theft or deterioration is transferred to the purchaser at the date at which he is in default.
6. The originally agreed delivery date is cancelled if a change to the order is made with our written consent.

7. Partial deliveries are permissible as long as they are acceptable to the customer while considering his interests.

V. PAYMENT TERMS

1. The payment terms stated in our order confirmation apply. Deliveries to other countries must be paid in advance (cheque, bank transfer, etc.).
2. If an order issued for the performance of service is cancelled upon the receipt of the order confirmation, also a cancelation due to force majeure,
 - a. no later than 12 weeks before the scheduled delivery, a compensation payment of 30% of the agreed contract sum will be due.
 - b. no later than 2 weeks before the scheduled delivery, a compensation payment of 60% of the agreed contract sum will be due.
 - c. no later than 1 week before the scheduled delivery, a compensation payment of 80% of the agreed contract sum will be due.
 - d. within 1 week of the scheduled delivery, a compensation payment of 100% of the agreed contract sum will be due.
- e. the customer's offset rights and rights of retention are excluded, if the customer's counterclaims have not been legally established or are undisputed.
3. Cheques are only accepted under the usual reservations. With payments of any kind the fulfilment date is the date at which we have access to the funds.
4. If payments are deferred or rendered later than agreed, interest shall be charged for the intermediate period of 8% above the ECB's base rate without requiring a reminder. We reserve the right to make further claims for damages due to delay. The customer is entitled to provide evidence of lower damages caused by delay.
5. The customer is not entitled to offset with counterclaims, unless his claims have been recognised by us, are undisputed or legally binding. In the case of disputed counterclaims the customer is not entitled to any right of retention.
6. Payments are normally allocated to the oldest due invoice.

VI. COMPLAINTS AND NOTIFICATION OF DEFECTS

1. Complaints due to incomplete or incorrect delivery or notification of identifiable defects must be submitted to us in writing without delay but no later than within two weeks of receiving the goods. Other defects should be notified immediately in writing but no later than within two weeks of being discovered. If complaints or defects of the aforementioned kind are not notified promptly warranty claims are excluded. If notified promptly we are obliged to provide a warranty in accordance with section VII.
2. With shipping damage the purchaser shall obtain a damage assessment from the carrier.
3. Defects in part of the delivered goods do not entitle the purchaser to object to the entire shipment.

VII. WARRANTY

1. In case the delivered items are defective we are entitled to remedy the defects or replace the goods at our discretion within a warranty period of six months. In the event of remedying the defects we are obliged to bear all expenses required to do so, in particular the transport, labour and material costs, provided they are not increased by the fact that the supplied items were delivered to a location other than the place of fulfilment.
2. For remedial action the purchaser shall grant us the time and opportunity required at our discretion. Replacement parts become our property.
3. If the repair or replacement fails, a reasonable grace period granted to us shall expire without us having to make a new delivery or remedy the defects or if we are unable or refuse to repair or replace, the customer has the right to withdraw or to a reduction equivalent to our inability to repair or replace.
4. The warranty does not cover damage as a result of regular wear and tear or damage due to incorrect or negligent treatment, overuse, improper use, mishandling, etc. and effects that occur that are not provided for in the contract, as long as the damage is not our fault.
5. The warranty is not transferable to third parties without our consent.
6. If modifications or repairs are improperly undertaken by the customer or third parties we are not liable for any defects resulting from this.
7. For essential third party products our liability is restricted to the assignment of warranty claims we are entitled to make against the supplier of the third party product, unless satisfaction arising from the assigned right is not provided or the assigned claim cannot be asserted for other reasons.
8. Further customer claims against us – for whatever legal reasons – if not otherwise provided for below, are excluded. In particular, a claim to compensate for damages that do not occur and/or exist with the supplied goods themselves (e.g. lost profits, consequential damages, other financial losses). This warranty disclaimer does not apply if we are liable due to intent, gross negligence or where guaranteed features are missing. If we have breached essential contractual obligations negligently but not with gross negligence, our liability is restricted to replacement of the usual, predictable damage.
9. The above terms apply to items supplied other than the contract goods.

VIII. LIABILITY, STATUTE OF LIMITATIONS

1. The exclusion and limitation of our liability for damages, as defined in section VII. 8 also apply in cases of our contractual or extra-contractual liability, especially on signing the contract, default, breach of obligations and wrongdoing. Claims as per §§ 1, 4 of the Produkthaftungsgesetz (Product Liability Act) and due to initial inability or attributable impossibility are unaffected.
2. If our liability for damages is excluded or limited, this applies equally to the personal liability of our staff as well as agents and assistants.
3. The customer's claims referred to in paragraph 1 are time-barred in 24 months, calculated from the end of the year of transfer of risk. If the statutory limitation period is less than 24 months, this



time limit applies to the purchaser's relevant outstanding accounts. Shortening the limitation period does not apply to claims arising from wrongdoing or product liability.

IX. LIABILITY FOR INSTALLATION AND MAINTENANCE, RETENTION OF TITLE

1. rentES is not responsible for any maintenance work. Traffic safety is also the customer's responsibility. The tenant (customer) is responsible for supervision and maintenance for the entire lease period. In case of storm damage or damage caused by third parties, etc. the customer is liable for maintenance.
2. As an amendment to §536 ff BGB the customer is obliged to compensate for any damage that occurs to the supplied fence units, regardless of what type caused or by whom. The client is furthermore obliged to replace in their entirety any fence units, concrete blocks, etc. that are missing or cannot be located when picked up, in line with current list prices.
3. All the items supplied are the property of RentES Mobile Sicherheitstechnik and cannot be disposed of in the event of the client's bankruptcy or garnishment. When placing the order, the client gives us permission in the aforementioned circumstances (threat of bankruptcy, garnishment, etc.) to enter his business premises and retrieve our goods immediately, without adhering to the rental period stated in the lease agreement.

X. MISCELLANEOUS TERMS

1. The place of fulfilment and jurisdiction for both parties is Esslingen, including for bills of exchange and cheques. We are also entitled to sue the client at his general place of jurisdiction.
2. For all legal relations between us and the purchaser, the law of the Federal Republic of Germany applies exclusively.
3. Should any of these conditions and the contractual terms be or become invalid, this does not affect the validity of the remaining terms. The invalid terms shall be revised in such a way that the intended legal and business purpose is achieved. The same applies if a contractual omission becomes apparent when implementing the agreement. The parties are obliged to replace the invalid terms immediately by legally binding agreements or to close the loophole.