

Terms and Conditions for Deliveries and Services including Subcontracts

1. General Provisions

- (1) These Terms and Conditions apply exclusively to any and all contracts concluded by Drahtbiegeteile Nolte GmbH.
- (2) The applicable version of these Terms and Conditions also applies to follow-up business, without this having to be expressly mentioned or agreed upon the conclusion thereof.
- (3) Deviating, contradictory or supplementary conditions of purchase of the Purchaser are only valid if we have expressly agreed to their validity in writing.
- (4) Our Terms and Conditions only apply to entrepreneurs in accordance with section 14 (1) of the German Civil Code (BGB) as well as to legal entities under public law.

2. Offers, Orders

- (1) Any offers, as well as any prices, delivery options and delivery times provided by email, in other printed matter or in another manner, are always subject to change and non-binding.
- (2) Documents related to the offer, such as images, drawings and measurements, are simple performance specifications and in particular do not represent an assurance of characteristics.
- (3) The contract will not come into effect until the Purchaser has received our written confirmation of the order.
- (4) If the order is to be qualified as a request to conclude a contract, Drahtbiegeteile Nolte GmbH reserves the right to accept the order within a period of four weeks.
- (5) Orders placed by the Purchaser are not considered to have been accepted until Drahtbiegeteile Nolte GmbH has confirmed them in writing. If Drahtbiegeteile Nolte GmbH does not confirm a contract that has been concluded verbally or by phone in writing, the delivery of the goods by Drahtbiegeteile Nolte GmbH is considered confirmation.
- (6) The rights of the Purchaser arising from the contract may only be transferred with our prior agreement.

3. Prices and Terms of Payment

- (1) Our prices are in euro, ex works, net, plus applicable VAT, excluding packaging, carriage, freight charges, insurance, which are charged separately.
- (2) For all orders – including call orders and multi-delivery contracts – for which a delivery period of more than four months as of conclusion of the contract has been agreed, the prices and ancillary costs valid on the day of delivery may be charged.
- (3) If additional or increased fees or taxes – in particular customs duty, sales tax – are incurred between the conclusion of the contract and delivery due to changes in legal rules, Drahtbiegeteile Nolte GmbH is entitled to invoice said fees and taxes.
- (4) If new orders are placed by the same Purchaser, Drahtbiegeteile Nolte GmbH is not bound to prices granted previously. The prices and conditions stated in the respective order confirmation are authoritative.

4. Delivery Times and Delivery Periods

- (1) Specified delivery dates are non-binding, unless expressly otherwise stipulated in the order of confirmation.
- (2) If a delivery period has been agreed, the adherence thereto requires that any documents to be provided by the Purchaser are received in time; that any deposits which become due upon the conclusion of the contract have been paid; and that any other obligations have been met. If these requirements are not met in time, the delivery period will be extended appropriately.
- (3) As a rule, our obligation to deliver is subject to our being supplied with goods in a punctual and proper manner.
- (4) Delivery periods are considered met if the delivery item has been shipped before said delivery period has lapsed or, if the Purchaser is collecting the delivery item, said item is ready for shipping and the Purchaser has been informed thereof. The Purchaser may not reject partial deliveries unless these are unreasonable for the Purchaser.
- (5) Obstacles to delivery which are attributable to acts of God (force majeure) or unforeseeable events Drahtbiegeteile Nolte GmbH is not responsible for, such as strikes; lockouts; the occurrence of unforeseen events such as bans on imports and exports; specific legal or government regulations; a shortage of raw materials or fuels; fire; traffic closures; as well as our reservation that we are supplied by goods in accordance with Item 4 (3), release Drahtbiegeteile Nolte GmbH from the obligation to adhere to agreed delivery periods for the duration and extent of their impact.
- (6) If an agreed delivery period is exceeded without there being an obstacle to delivery in accordance with the above paragraph, the Purchaser will grant Drahtbiegeteile Nolte GmbH a grace period of at least four weeks; this grace period will be granted in writing. If Drahtbiegeteile Nolte GmbH culpably fails to meet this deadline as well, the Purchaser is entitled to cancel the contract. The Purchaser is not, however, entitled to assert claims for damages arising from non-fulfilment or delay, unless Drahtbiegeteile Nolte GmbH has acted with intent or gross negligence.

5. Dispatch

- (1) As a rule, our deliveries are ex works for the account and at the risk of the Purchaser. This also applies to prepaid deliveries as well as in dependence of the means of transport employed.
- (2) Transport insurance will only be taken out upon the express request of the Purchaser. Costs arising from said insurance will be solely borne by the Purchaser.
- (3) In the absence of a differing agreement in writing, we will choose the place of dispatch, the route and the means of transport to the best of our knowledge without assuming any liability for the cheapest and fastest carriage.
- (4) If the delivery is ready for dispatch, and if dispatch is delayed due to circumstances for which the Purchaser is responsible and/or if the Purchaser is in default of acceptance or culpably violates other obligations to cooperate, the risk of accidental loss or of accidental degradation of the delivery passes to the Purchaser upon receipt of our written notification that the delivery is ready for dispatch and/or at the time at which the Purchaser entered into the state of default of acceptance or debtor's delay.

In this case, we will store the goods at the request and expense of the Purchaser. The Purchaser will also bear the risk of storage and safekeeping.

(5) If dispatch is delayed upon the request of the Purchaser or for reasons for which the Purchaser is responsible, we will invoice the costs arising from storage, starting one month after notification that the delivery is ready for dispatch. If goods are stored at our plant, we will charge the Purchaser at least 0.5% of the invoiced amount for each month that has started. Storage fees will not exceed 5% unless higher costs can be proven. The assertion of other rights arising from default remain unaffected.

6. Obligation to Inspect and Issue Complaints

(1) The Purchaser agrees to inspect the goods with regard to amount, condition and warranted characteristics immediately after receipt. Complaints must be issued by the end of the business day following delivery of goods and/or their acceptance. A different time limit applies to complaints on hidden defects that initially went undetected, despite having conducted a proper initial inspection. According to this time limit, complaints must be issued by the end of the fifth business day following detection of the defect.

(2) Complaints must be made in writing and sent to Drahtbiegeteile Nolte GmbH within the periods mentioned above. Complaints must unambiguously state the type and scope of the asserted defect. The Purchaser agrees to have rejected goods ready for inspection by us, our supplier or an expert we have commissioned.

(3) Goods for which we do not receive a complaint in due time and form are considered approved and accepted.

7. Payment

(1) Outstanding payments to Drahtbiegeteile Nolte GmbH are due within 30 days after receipt of an invoice without any deduction, unless different payment conditions have expressly been granted in writing.

(2) The deduction of a discount is only permissible if specifically agreed in writing. Discount agreements do not apply to surcharges for materials and/or alloy surcharges listed on the invoice. Partial payments and carriage and packaging costs charged separately are not eligible for a discount. If a discount has been agreed, this agreement applies if the monies have been paid into the account of Drahtbiegeteile Nolte GmbH by the due date. Drahtbiegeteile Nolte GmbH is entitled to invoice the Client for any discounts that have been improperly deducted; to send the Client a reminder for the same; or to charge said discounts to the Client with the next invoice.

(3) Checks will only be accepted on the basis of specific agreements and always solely on account of performance. Any associated costs, in particular collection and discount charges, will be borne by the Purchaser. Bills of exchange will not be considered means of payment.

(4) The Purchaser will be in default at the latest if an invoiced amount is not settled within 30 days as of the invoice date or any other due date. Upon delay of payment, Drahtbiegeteile Nolte GmbH is entitled to demand default interest of the amount shown to have been incurred, but of at least 8% over the basic rate of interest, without the necessity for a specific reminder.

(5) If the Purchaser is in default with payments to Drahtbiegeteile Nolte GmbH or if the Purchaser's financial situation worsens considerably, Drahtbiegeteile Nolte GmbH is entitled to declare all claims due, including if Drahtbiegeteile Nolte GmbH has accepted checks. The same applies if the Purchaser is no longer able to guarantee proper business operations, in particular if Purchaser assets are attached; if there are bill of exchange protests or check protests; if there are temporary delays in payment or payments are suspended; or if insolvency proceedings are opened. In this case, Drahtbiegeteile Nolte GmbH is furthermore entitled to demand payments in advance or purchaser securities and to cancel the contract. Drahtbiegeteile Nolte GmbH expressly reserves the right to assert further claims.

(6) The Purchaser is only entitled to offset, retain or reduce payments if the counterclaims the Purchaser has asserted in this matter have been validated by due legal process or expressly recognised by Drahtbiegeteile Nolte GmbH. The Purchaser is only authorised to exercise its right of retention to the extent that its counterclaim is based on the same contractual relationship.

8. Reservation of Title

(1) The goods delivered by Drahtbiegeteile Nolte GmbH remain the property of Drahtbiegeteile Nolte GmbH until the Client has settled all claims arising from the business relation.

(2) The Client is entitled to sell goods delivered by Drahtbiegeteile Nolte GmbH in the proper course of business. However, this authority expires in the cases mentioned in Item 8 (5) below. Drahtbiegeteile Nolte GmbH is furthermore entitled to revoke the Purchaser's authority to sell said goods by written declaration if the Purchaser defaults on the fulfilment of its obligations to Drahtbiegeteile Nolte GmbH and in particular on its payments or if Drahtbiegeteile Nolte GmbH learns of any other circumstances that cast doubt on the Purchaser's creditworthiness.

(3) The provisions of Item 8 (2) apply accordingly to the Client's right to process goods delivered by Drahtbiegeteile Nolte GmbH. By processing said goods, the Client does not acquire ownership of the goods it has manufactured in whole or in part; processing will be conducted free of charge exclusively for Drahtbiegeteile Nolte GmbH as the manufacturer within the meaning of Section 960 BGB. However, should the reservation of title of Drahtbiegeteile Nolte GmbH expire by any circumstances, the Client and Drahtbiegeteile Nolte GmbH hereby agree that the ownership of the objects will be transferred to Drahtbiegeteile Nolte GmbH upon processing; that Drahtbiegeteile Nolte GmbH will accept this conveyance; and that the Purchaser remains the custodian of the goods at no extra charge.

(4) If the reserved goods of Drahtbiegeteile Nolte GmbH are processed with goods that are still in the ownership of a third party or combined with said goods in a manner that they cannot be separated, Drahtbiegeteile Nolte GmbH will acquire co-ownership of the new goods or mixed goods. The extent of co-ownership arises from the ratio of the invoiced amount of the reserved goods delivered by Drahtbiegeteile Nolte GmbH to the invoiced amount of the remaining goods.

(5) Goods to which Drahtbiegeteile Nolte GmbH has acquired ownership or co-ownership in accordance with the above Item 8 (3) and (4) are considered reserved goods within the meaning of the following provisions, as are the goods delivered by Drahtbiegeteile Nolte GmbH that are subject to reservation of title in accordance with the above Item 8 (1).

(6) The Client hereby assigns its claims arising from a resale of reserved goods to Drahtbiegeteile Nolte GmbH. Drahtbiegeteile Nolte GmbH herewith accepts the assignment. If the reserved goods are processed products or mixed goods that, in addition to the goods delivered by Drahtbiegeteile Nolte GmbH, only contain objects that either belonged to the Purchaser or had been delivered to the Purchaser by third parties subject to what is known as a simple reservation of title, the Client will assign the entire claim arising from the resale of the goods to Drahtbiegeteile Nolte GmbH. In the event of a conflict between advance assignments to Drahtbiegeteile Nolte GmbH and other suppliers, Drahtbiegeteile Nolte GmbH is entitled to a fraction of the sales proceeds. Said fraction corresponds to the ratio of the invoiced amount of the goods supplied by Drahtbiegeteile Nolte GmbH to the invoiced amount of the other processed or mixed goods.

(7) If the claims of Drahtbiegeteile Nolte GmbH are undoubtedly secured by more than 120% through the assignments and reservations described above, any surplus of receivables and/or reserved goods will be released upon the Client's request in accordance with the choice of Drahtbiegeteile Nolte GmbH.

(8) The Client is authorised to collect receivables from the resale of the goods. This authority to collect is not applicable if the Client can no longer guarantee proper business operations within the meaning of the regulation determined in Item 8 (5). Drahtbiegeteile Nolte GmbH can furthermore revoke the Client's authority to collect if the Client defaults on the fulfilment of its obligations to Drahtbiegeteile Nolte GmbH, in particular on payments, or if Drahtbiegeteile Nolte GmbH learns of any other circumstances that cast doubt on the Client's creditworthiness. If the authority to collect is not applicable or if it is revoked by Drahtbiegeteile Nolte GmbH, upon the request of Drahtbiegeteile Nolte GmbH the Client will inform the debtors of the assigned claims immediately and hand over the information and documents required to collect to Drahtbiegeteile Nolte GmbH.

(9) If third parties have access to the reserved goods of Drahtbiegeteile Nolte GmbH or the receivables assigned to Drahtbiegeteile Nolte GmbH, the Client agrees to inform said third parties of the ownership/rights of Drahtbiegeteile Nolte GmbH and to inform Drahtbiegeteile Nolte GmbH immediately. The costs of the intervention will be borne by the Client.

(10) In the event of breaches of contract, in particular delays of payment, the Client agrees to return any reserved goods upon first request of Drahtbiegeteile Nolte GmbH and to assign any claims for surrender against third parties related to the reserved goods to Drahtbiegeteile Nolte GmbH. The reclaiming or attachment of the reserved goods by Drahtbiegeteile Nolte GmbH does not constitute a cancellation of the contract.

(11) In the cases listed under Item 8 (5), Drahtbiegeteile Nolte GmbH may demand that the Client disclose claims arising from the resale and assigned to Drahtbiegeteile Nolte GmbH in accordance with Item 8 (6) and the debtors thereof. Drahtbiegeteile Nolte GmbH is then entitled to disclose the assignment in accordance with the choice of Drahtbiegeteile Nolte GmbH.

(12) If payments have been made by bill of exchange or check, the delivered goods remain the property of Drahtbiegeteile Nolte GmbH until it has been assured that they have been deposited and credited to the account of Drahtbiegeteile Nolte GmbH.

9. Warranty, Limitation of Liability

(1) In the event of justified notices of defect, Drahtbiegeteile Nolte GmbH is entitled to a cure (repair or replacement) in accordance with its choice.

Should the cure fail or be justifiably refused by Drahtbiegeteile Nolte GmbH, the Client may request the undoing of the contract (cancellation) or a decrease in remuneration (reduction). In the event of an insignificant breach of contract, in particular of insignificant defects, the Purchaser will not have the right to cancel the contract.

(2) Drahtbiegeteile Nolte GmbH will not be liable for anything else. In particular, Drahtbiegeteile Nolte GmbH will not be liable for lost profits; for consequential damages that did not occur to the delivered goods themselves; nor for any other property damages suffered by the Client.

(3) The above limitations of liability do not apply to damages resulting from injury to health, life or limb; for damages based on grossly negligent or wilful violations of obligations, if and to the extent the violated obligation is of key importance to achieving the purpose of the contract (cardinal obligation) and the damage was foreseeable; if we have maliciously concealed a defect or assumed warranty for the quality of the goods; and in the event of liability in accordance with product liability law.

(4) Liability is excluded for damages that have occurred as a result of incorrect or careless operation and assembly; excessive use; unsuitable equipment; electronic impact; and similar offences.

The warranty expires if the delivered object is processed or changed by the Purchaser or a third party.

10. Limitation

(1) The general limitation period for claims of the Client arising from defects is one year as of transfer of risk.

(2) The aforementioned limitation periods of sales law also apply to the Purchaser's contractual and non-contractual claims for damages that are based on defective goods, provided the application of the regular legal limitation period (section 195; section 199 BGB) does not result in a shorter limitation period in individual cases. Claims for defects asserted by consumers as well as claims asserted by the Client for damages arising from injury to health, life and limb and/or for damages that are based on wilful or grossly negligent violations of obligation come exclusively under legal limitation periods. The same applies to claims for damages in accordance with product liability law.

11. Intellectual and Industrial Property Rights

(1) Drahtbiegeteile Nolte GmbH reserves its intellectual and industrial property rights to all documents, which include images, drawings, calculations, models, data and other documents. Said rights remain unaffected by the transfer of such documents. Documents are not to be made available to third parties.

(2) The obligation to confidentiality applies in particular to such written documents that have been designated "confidential". Before disclosing these to third parties, the Client requires the express approval of Drahtbiegeteile Nolte GmbH in writing.

(3) Without the express approval of Drahtbiegeteile Nolte GmbH, the Client is not entitled to reproduce and copy documents and/or technical information; to make documents and/or technical information available to third parties or disclose them in any other manner; and/or to use these documents and/or this information in a manner that conflicts with the interests of Drahtbiegeteile Nolte GmbH.

(4) Documents may, however, be made available to such third parties whom Drahtbiegeteile Nolte GmbH has rightfully subcontracted to perform any deliveries or services. Drawings and other documents related to offers are to be returned immediately upon request if Drahtbiegeteile Nolte GmbH is not awarded the contract.

(5) The Client will ensure that any goods manufactured by Drahtbiegeteile Nolte GmbH in accordance with the Client's working materials or other requirements and instructions do not violate the rights of third parties, in particular intellectual and industrial property rights. The Client will ensure that this is continuously reviewed.

(6) The Client agrees to exempt Drahtbiegeteile Nolte GmbH upon first request from any claims asserted by third parties against Drahtbiegeteile Nolte GmbH for alleged or actual violations of intellectual and industrial property rights, provided Drahtbiegeteile Nolte GmbH manufactured the goods in accordance with the Client's working materials or other requirements and/or instructions.

12. Privacy Clause

We herewith inform the Purchaser that we collect, store and process personal data to the extent permitted by law. For more details, we refer to our privacy policy, which can be found online at www.nolte-metall.com and which can also be requested from the Data Protection Officer at Drahtbiegeteile Nolte GmbH.

13. Final Provisions

(1) The place of performance is our registered office in Kamen.

(2) The exclusive place of jurisdiction for all legal disputes is the court of jurisdiction for the registered office of Drahtbiegeteile Nolte GmbH.

(3) The relations between ourselves and the Client are governed exclusively by German law. The application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.