

Confirmed prices apply only when the confirmed quantity is officially accepted. Assembly, statistical calculations or similar services are calculated at our customary rates according to labour costs and materials used. If the erection and assembly of a prefabricated reinforced concrete garage exceeds one hour, the extra time for the use of the special truck and labour is calculated separately. The purchaser is liable for the fees of inspecting engineers.

9. If more than four months elapse between the award of the contract and the scheduled delivery date for the entire delivery or for parts of it and if, following the award of the contract, the cost of the delivery item rises by more than 5%, especially due to price increases by our suppliers and/or carriers, we are entitled to increase the price appropriately (i.e. to the extent of the increase in our purchase costs) for the parts of the total delivery which are scheduled for delivery after four months. If the price increase claimed by us amounts to more than 5% of the price of the total delivery, the purchaser is entitled to withdraw from the contract within two weeks of receiving our notification of the price rise.

III. SHIPPING, PASSING OF RISK, DAMAGE IN TRANSIT

1. Unless agreed otherwise in writing, our deliveries are made from the supplier. The purchaser is liable for packaging and shipping costs. We decide the method of packaging and shipping. The purchaser's liability for costs extends to any additional transport costs due to delivery difficulties, unloading costs and costs arising from any holding time.
2. The risk of ruin or of deterioration is transferred to the purchaser when the goods are handed over to the haulier, carrier, or any other - even our own - freight agent. This also applies to deliveries carriage paid. Goods are not insured for damage while in transit. If however insurance cover is taken out by us for goods in transit at the express written request of the purchaser, the purchaser is liable for all the costs arising.
3. If dispatch is delayed due to circumstances for which we are not responsible, the risk of ruin or of deterioration is transferred to the purchaser when readiness for dispatch is notified.
4. If the purchaser does not have the goods unloaded immediately, we are entitled to unload the goods or have them unloaded, provided appropriate, at the risk of the purchaser or to charge the purchaser with the costs of the failed delivery attempt.
5. Delivery is regarded as completed when the particular carrier or the particular driver sends us written confirmation of delivery, unless the purchaser proves that delivery did not actually take place.
6. The purchaser should indicate any damage, missing or incorrect delivery immediately.
7. Plans and other documents handed to the seller for processing remain with him.

IV. DELIVERY DATES, DELIVERY, PERFORMANCE, CANCELLATION

1. Delivery dates confirmed by us are not binding unless they are expressly described as binding (firm deal).
2. The contractual obligations of the purchaser must be fulfilled on time in order for delivery times and dates to be observed. Delivery time begins after all the details of the performance of the contract have been clarified and receipt of all the documents necessary for the contract to be performed and of any information to be provided by the purchaser as well as after receipt of any agreed advance. Delivery time is also considered to be complied with if the goods leave our factory or the stated dispatch point at the agreed time or the purchaser is notified of readiness for dispatch yet the goods cannot be sent in time without it being our fault. This applies accordingly to the delivery dates.
3. Even when a deadline has been agreed as defined by § 271 para. 2 BGB, delay only arises after receipt by us of a written reminder. If our delivery is delayed, the purchaser has to allow us reasonable additional time to complete the delivery. This period must be at least four weeks.
4. Once the reasonable additional period allowed following delayed delivery has elapsed, the purchaser is entitled to withdraw from the contract if, when allowing the additional period, he referred to rejecting the service. The right to withdraw lapses if the goods were sent or ready for dispatch when the time had elapsed and this was indicated to the purchaser.
5. Unforeseen events beyond our control such as war, risk of war, revolt, use of force by third parties against people or property, sovereign intervention including measures relating to monetary or commercial policy, industrial action at our company or our suppliers or transport companies, interruption of scheduled transport links, fire, shortage of raw materials, power failures and other breakdowns in our plants or at our suppliers for which we are not responsible extend firmly agreed delivery times and dates by the period of the hindrance. This also applies if delivery is already delayed or if the hindrances listed above already existed prior to the awarding of the contract but were unknown to us. We will notify the purchaser immediately of hindrances of the kind described above. If delivery delays attributable to this exceed two months, both sides are entitled to withdraw from the contract. The purchaser can however only withdraw if, upon his request, we do not declare within a week whether we are withdrawing or want to deliver within a reasonable time. The same right to withdraw arises, irrespective of the aforementioned time limit, if performing the contract has become unacceptable for one of the parties due to the delay which has arisen.
6. If the purchaser is not entitled to a statutory or contractual right to withdraw and yet we have accepted in writing the return shipment of the goods, we will make an administrative charge of 20% of the gross value of the goods. It is up to the contractual parties to prove that the claim is greater or less than the one-off administration charge.
7. We are entitled to withdraw from concluded contracts if as a result of catastrophe, war or other reasons procuring the goods is significantly more difficult than at the time the contract was concluded. In any case if the market price of the goods to be procured rises by 25% between the awarding of the particular sales contract and the intended delivery date, this is regarded as making performance significantly more difficult.
8. If the purchaser falls into arrears by more than two weeks with payment of an invoice, if an application is made to open bankruptcy, conciliation or full enforcement proceedings into the assets of the purchaser, if the purchaser has introduced out-of-court proceedings aimed at controlling debt or stopped his payments or if we are aware of other circumstances which significantly reduce the creditworthiness of the purchaser and through which the claim on the consideration owed to us is threatened, we are entitled to demand security through prepayment or through bank guarantee (at the purchaser's choice) for outstanding deliveries with a time limit of at least one week and to withhold our service until security is provided. Once a reasonable additional period set by us has elapsed with no result, we are furthermore entitled to withdraw from this and other contracts or to demand compensation due to non-performance. Under the same conditions we are also entitled to demand security for outstanding part deliveries.

V. OFFICIAL ACCEPTANCE AND TAKE-OVER

1. The purchaser is obliged to also accept part deliveries of a reasonable size.
2. The purchaser is also in default of acceptance if the delivery is merely offered to him by us in writing. § 294 BGB is therefore waived. The remaining statutory conditions of default of acceptance remain unaffected.
3. In the case of delivery on call, the call by the purchaser within the agreed period represents a main obligation as defined by § 323 BGB. IV no. 6 of these terms and conditions applies analogously as regards a claim for compensation on our part.

VI. RETENTION OF TITLE

1. The goods delivered remain our property until payment in full of our purchase price claim and all other claims to which we are entitled against the purchaser. Retention of title still remains, thereby securing the balance, if individual claims by us are included in a running account and the balance is drawn and acknowledged. In the event of resale, the purchaser is obliged to supply the summonable name and address of his purchaser immediately and relinquish the invoices.
2. If the goods with retained title delivered by us are worked on or treated by the purchaser, then the working or treatment takes place for us as "manufacturer" as defined by § 950 BGB.
3. If our goods with retained title are connected or mixed with the purchaser's own goods or with other goods with retained title or are treated together with these goods, we acquire joint ownership of the new object or of the mixed stock in the ratio of the value of our goods with retained title to the other goods at the time they were connected, mixed or treated. We do not make any claim to the increase in value resulting from the connection, mixing or treatment.
4. The goods in our ownership under no. 2 or in our joint ownership under no. 3 secure our claims in the same way as the goods with retained title we originally delivered. We are entitled to revoke the authority of the purchaser to connect, mix or treat our goods with retained title if the purchaser's payments fall into arrears.
5. a) The purchaser now cedes to us his claim with all ancillary rights from the resale of our goods with retained title as well as the goods in our ownership under no. 2 for good measure for all the claims to which we are entitled against the purchaser at the time of the resale. In the same way the purchaser cedes to us claims against third parties with all ancillary rights arising from the fact that our goods with retained title are connected to substantial elements of the property of a third party.
5. b) In the event of resale of the goods in our joint ownership under no. 3, only that part of the claim is regarded as ceded which relates to the value of our share of the joint ownership.
5. c) The purchaser is entitled to cede the claim from the resale as part of genuine factoring providing we are notified of this cession in advance and the factoring proceeds attain at least the value of our goods with retained title, of the goods in our ownership under no. 2 or in our joint ownership under no. 3, from whose sale this claim arises. The purchaser now cedes to us the claims and any claims against the factor from the sale of the claims ceded to us for safety's sake; they serve, as do these, to safeguard our claims.
5. d) We hereby accept existing cessions.
5. e) If the value of the claims ceded to us for good measure exceeds our claims against the purchaser by more than 10%, we are obliged to release security in excess of this at the request of the purchaser.
5. f) The purchaser is entitled to collect the ceded claims for us. This authority is revoked however if the purchaser falls into arrears with his payments to us. In this case we are authorised, in the name of the purchaser, to inform his buyer of the cession. The purchaser is obliged, to enforce our rights against his buyer, to give us the necessary information, especially to name the buyer, and to hand over the necessary certificates and documents.

6. The purchaser is entitled to resell our goods with retained title and the goods in our ownership under no. 2 and in our joint ownership under no. 3 only as part of his customary business dealings and only under the condition that the purchase price claim from the resale devolves to us under no. 5. This authority is revoked however if the purchaser falls into arrears with his payments to us. The purchaser is not entitled to other provisions over the goods with retained title or the goods in our ownership under no. 2, especially to a pledging or transfer by way of security.
7. The purchaser is obliged to take out adequate insurance against loss and damage as a result of fire, theft, water or other risks for our goods with retained title and the goods in our ownership under no. 2 and in our joint ownership under no. 3 and, on request, to provide proof of insurance cover. The purchaser herewith cedes to us, if necessary proportionally, his claim for compensation to which he is entitled against insurance companies or other parties liable to substitute.
8. We should also be informed of any damage or access by third parties to our goods with retained title and to goods in our ownership under no. 2 and goods in our joint ownership under no. 3.
9. If the authority to resell is revoked, the purchaser is obliged to provide information at our request on the stock of goods with retained title and on the goods in our ownership under no. 2 and in our joint ownership under no. 3 and to hand over the goods with retained title on request. To implement our claim for the goods to be returned, we are also entitled, after prior notice and a time period, to enter the purchaser's business and remove the goods with retained title and/or to identify them to our property. In addition we are entitled to liquidate the returned goods with retained title to satisfy our claims as soon as we either withdraw from the contract or the conditions for enforcing compensation due to non-performance are met. Enforcement of retention of title, especially the redemption or distraint or liquidation of objects, is only considered to be withdrawal from the contract if we expressly declare this in writing.

VII. PAYMENT

1. Unless agreed otherwise, claims from our invoices are due net immediately upon receipt of the invoice.
2. Despite provisions from the purchaser stating otherwise, we are entitled first to credit payments against his earlier debt; § 367 para. 2 BGB is waived. If costs and interest have already accrued, we are entitled to credit payment first against costs, then interest and finally the principal service.
3. In the event of delay in payment, we calculate statutory interest on arrears according to § 288 BGB. We reserve the right to enforce more extensive rights, especially as regards compensation for delay.
4. If the purchaser does not meet his obligations to pay in accordance with the contract or if he stops paying or if we become aware of other circumstances which call into question the creditworthiness of the purchaser, we are entitled to call in the remainder of the debt. In this case we are also entitled to offset prepayments already made for further deliveries in accordance with nos. 2 and 4 of this order and to apply the right to retention of goods.
5. It is not permissible to offset payment against our claims unless the counterclaim is undisputed, has been legally determined or acknowledged by us. It is also not permissible to exercise a right of retention of goods unless the counterclaim is undisputed or legally determined. In non-commercial dealings it is however permissible to exercise the right of retention of goods if the counter claim is based on the same contractual relationship.
6. We are not obliged to accept bills or cheques. If we accept these nonetheless, they are only accepted subject to the possibility of discounting against payment of all charges on account of payment. We are also not obliged to submit bills and cheques on time or to make protests.
7. In the event of collection of claims by direct debit (authorised collection procedure), the debit is considered approved if not cancelled at the debtor bank within 10 days of the debit being entered on the books.

VIII. WARRANTY

1. Details of our goods are merely indications of their nature, unless they are expressly described as promised attributes. This also applies to samples, contrary to § 494 BGB.
2. Slight variations in material strength, weight, load-carrying capacity and resistance to wear, dimensions, seepage properties and variations in colour and natural wear do not represent defects. This also applies to the separation of individual pebbles, to calcification ("bloom") and also - with reinforced concrete garages - to the formation of condensation, to cracks due to shrinkage, to hairline and settling cracks, to unevenness of the roof not affecting its imperviousness as well as to damage arising through not following the maintenance instructions (yellow sign in the garage). The relevant standards for the particular product also apply (see above II no. 6).
3. Nor do impairments which lie within the standard commercial limits for the goods or are based on incorrect use of the goods do not represent a defect.
4. We only guarantee the frost and de-icing salt resistance of exposed aggregate concrete goods if this attribute is promised by us or is agreed in writing to be an attribute.
5. a) The provisions of §§ 377, 378 HGB [German Code of Commercial Law] apply to claims in commercial dealings.
5. b) In non-commercial dealings guarantee claims based on obvious defects are not permissible unless the purchaser complains about the defect in writing within 14 days of delivery.
5. c) In addition, in both commercial and non-commercial dealings, guarantee claims are not permissible if we can no longer check the goods properly and establish whether they actually are defective because the goods we delivered have been forwarded on or worked on or treated or due to other circumstances.
6. Where claims or complaints are justified, the guarantee takes the form, excluding all other guarantee claims, of rectification or supply of a replacement, unless we indicate to the purchaser within 14 days of receipt of the claim or complaint that we will not rectify the defect or supply a replacement. In this case the guarantee is limited to reduction in the price (reduction) or cancellation of the contract (revocation). If the option chosen by us of rectification or supply of a replacement fails, the purchaser is solely entitled to the rights to a reduction or revocation. The claim for rectification and replacement part does not include expenses arising from alterations to the product by the customer, especially here with prefabricated garages, the putting up of fences, signs, and covers of all kinds. The right to a reduction or revocation can only be exercised if we have twice been given the opportunity to rectify the situation with an appropriate deadline; this does not apply if rectification is unreasonable.
7. No. 6 does not apply to guarantee claims in connection with promised attributes.
8. In commercial dealings guarantee claims against us become time-barred six months from delivery and apply only to the immediate purchaser. They are not transferable. With consumers as defined by § 13 BGB, the shortest statutory period of limitation applies.

IX. LIABILITY

- Claims for compensation by the customer for whatever legal reason are not permissible; this exclusion does not apply if the claim exclusion is inadmissible under § 309 no. 7 BGB.
2. These restrictions on liability do not apply in non-commercial dealings if claims for compensation due to delay or impossibility of performance are enforced. In these cases, however, our liability is limited to immediate damage and to three times the purchase price of the goods in question.
 3. Numbers 1. to 3. do not apply to claims for compensation due to omission of promised attributes or initial inability.
 4. Insofar as we are liable for compensation, our liability is limited in any case to the loss which we foresaw on conclusion of the contract as the possible consequence of violation of the contract or, considering the circumstances which we were aware of or should have been aware of, which we should have foreseen.
 5. If the purchaser/buyer does not meet his obligations under this contract, he is liable to the user without further proof for compensation to the extent of 25% of the total order plus any turnover tax due and other costs. It is up to the purchaser/buyer to submit and prove a lesser claim, just as it is up to the user to submit and prove a higher claim.
 6. The preceding limitations to liability in favour of the user also apply in favour of our staff.
 7. Insofar as we are absolutely liable under the Product Liability Act of 15 December 1989 for damage to property or persons caused by a product defect, the provisions of the Product Liability Act take priority. For an internal adjustment under § 5 clause 2 Product Liability Act the existing rules still hold, with the restriction however that, in the internal relationship, we are in any case only liable for product liability claims up to the gross value of the goods in the order in question. This maximum amount for liability includes all claims enforced against us by the purchaser or third parties (e.g. customers of the purchaser) from product liability or appropriate right of recourse. If we are claimed against directly by third parties due to defective deliveries, the purchaser consequently has to exempt us from all liability which would lead to a liability in excess of the maximum amount mentioned.

X. TECHNICAL REGULATIONS

1. Reference is made to II. no. 6.
2. Prefabricated reinforced concrete garages: follow-up for the supply and removal of prefabricated reinforced concrete garages does not form part of our service. Unless agreed otherwise, it is the responsibility of the purchaser to clarify the following conditions before issuing the order:
 - obtaining the necessary building permits and clarifying that no actual or legal grounds conflict with the erection of the garage;
 - protecting the paving, reinforcements and underground installations in the access and manoeuvring area to withstand a wheel load of 5 t as well as laying the foundations in accordance with the building permit;
 - preparing the site so that it is level with no banks and accessible to a special truck (at least 3.20 m clearance, at least 4 m headroom and length of clear approach area, measured from the planned front edge of the garage at least 11.0 m) and, between the foundation points, lies at least 5 cm lower than the upper edge of the foundations.
 - revealing the boundary stones if we are responsible for laying the foundations;
 - laying the foundations according to our guidelines.
4. Chimneys: delivery takes place according to the relevant factory regulations which the purchaser should observe when working on or commissioning the chimney.