



**General Terms and Conditions GTCs
DELIVERY AND PAYMENT TERMS**

Page 1/5

1. SCOPE OF THE CONDITIONS

OPTITEK's deliveries, services and offers are exclusively subject to these General Terms and Conditions. Written confirmation by OPTITEK GmbH is required and decisive for the content of all agreements between the customer and the supplier outside of these General Terms and Conditions. If any one of these General Terms and Conditions is overridden by a written agreement between the supplier and the customer, the validity of the remaining conditions is not affected. Other provisions, in particular the General Terms and Conditions of the business partner or customer, do not apply even if they have not been expressly rejected by OPTITEK GmbH or if the supplier accepts or performs a service without being aware of them.

2. OFFER AND CONTRACT CONCLUSION

2.1. All offers made by OPTITEK GmbH are subject to change and non-binding. Orders must be confirmed in writing or by telex/fax. The same applies to supplements, modifications or subsidiary agreements.

2.2. Drawings, illustrations, dimensions, weights or other performance data are only binding if this is agreed in writing.

2.3. OPTITEK GmbH reserves the property rights and copyrights to its cost estimates, drawings, illustrations, samples, weights and measurements as well as other documents – also in electronic format. These documents may only be made available to third parties with the consent of OPTITEK GmbH.

3. PRICES

3.1. Unless otherwise stated, OPTITEK GmbH is committed to the prices stipulated in its offers for 30 days from the date of the offer. The prices stated in the contractor's contract confirmation plus the respective statutory VAT are decisive. Additional deliveries and services will be charged separately.

3.2. Prices do not include costs for packaging, freight and customs clearance. Unless otherwise agreed, the prices for EXW deliveries (Incoterms 2010) apply, ex works from the supplier or from another address specified by the supplier, excluding packaging. Any applicable sales tax is calculated separately at the applicable statutory rate and is to be paid by the customer.

3.3. In the event that the customer requests changes, OPTITEK GmbH can also invoice the customer if the supplier agrees to such changes and has previously informed the customer of the costs.

4. DELIVERY AND PERFORMANCE TIMES

4.1. The specified delivery times are non-binding unless they have been expressly agreed as binding in writing. The supplier's compliance with a binding delivery period presupposes that all commercial and technical questions between the parties were conclusively clarified when the delivery date was agreed, and that the customer has fulfilled all of their obligations within the applicable timescale. If this is not the case or if subsequent changes to the delivery item are agreed, the delivery time will be extended accordingly. This does not apply if the delay is solely caused by OPTITEK GmbH. In the case of non-binding delivery deadlines, OPTITEK GmbH shall not be in default unless delivery is not successfully achieved before a reasonable deadline set by the customer. The customer may not set such a deadline for sooner than four weeks after the non-binding delivery date.



**General Terms and Conditions GTCs
DELIVERY AND PAYMENT TERMS**

Page 2/5

4.2. In its role as a supplier, OPTITEK GmbH is not in default if its suppliers do not supply it correctly or within the agreed timeframe for reasons that are not the responsibility of OPTITEK GmbH.

4.3. If the delivery or service owed to OPTITEK is delayed due to force majeure, lawful strike, unintentional inability on the part of the contractor or one of its suppliers, OPTITEK GmbH shall be entitled to postpone the performance of its delivery or service for the duration of the hindrance, but at the longest for up to six weeks, unless the customer's legitimate interest precludes this.

The contractor may only rely on this extension of the service and delivery deadline if it immediately notifies the customer of the aforementioned circumstances of the delivery delay. If the hindrance lasts longer than six weeks, the customer is entitled, after setting a reasonable grace period, to withdraw from the contract with regard to the part not yet fulfilled.

4.4. OPTITEK GmbH is entitled to offer partial deliveries and partial services insofar as this can be reasonably expected of the customer.

4.5 If the delivery is delayed at the request of the customer or if the customer is in default of acceptance, they will be charged for storage costs incurred. If stored at the OPTITEK GmbH plant, these costs shall be invoiced to the value of at least 1% of the invoice amount for each commenced month of storage, unless the customer can prove lower damages. After the expiry of a reasonable grace period, the supplier may dispose of the delivery item elsewhere.

4.6. If OPTITEK GmbH's supplier is in default and the customer suffers damages as a result, the customer may demand a lump-sum compensation to satisfy all claims for compensation based on delayed delivery. For each full week of delay, this amounts to 0.5% of the value of that part of the total delivery that was delivered late, up to a total of not more than 5% of the value. No compensation for delay applies to delays lasting less than ten working days. The right to prove lower damages is reserved.

4.7. If, after the supplier is significantly delayed, the customer grants the supplier a reasonable performance deadline and the deadline is not insignificantly exceeded, taking the legal exceptions into account, the customer is entitled to withdraw from the contract within the scope of the statutory provisions. The customer must notify the supplier in writing of their intention to exercise this right within 30 calendar days of the end of the grace period.

5. PAYMENT

5.1. Unless otherwise agreed in writing, payment must be made in full within 14 days of the invoice date. In certain cases, payment upon delivery or advance payment may be required.

5.2. If the payment deadline is exceeded, OPTITEK GmbH is entitled to charge interest on arrears in the amount of 9 percentage points above the base rate. OPTITEK GmbH reserves the right to make additional claims for compensation. If the customer is in default of payment, OPTITEK GmbH is entitled to demand immediate cash payment on all due claims from the business relationship. In such cases, OPTITEK GmbH is further entitled to make outstanding deliveries only against advance payment or against provision of security.

6. OFFSETTING

Offsetting against claims is excluded, except for undisputed or legally established claims.



General Terms and Conditions GTCs

DELIVERY AND PAYMENT TERMS

Page 3/5

7. RETENTION OF TITLE

7.1. Delivered items remain the property of OPTITEK GmbH until payment has been made in full.

7.2. In the event of delayed payment, OPTITEK GmbH may decommission technical items until all payments have been received in accordance with Section 5.1. The right to take back the delivery items in accordance with Section 7.3 remains unaffected.

7.3. In the event of behaviour contrary to the contract, in particular in the event of delayed payment, OPTITEK GmbH may take back items delivered under retention of title ("**goods subject to retention of title**") after rescinding the contract. In the event of late payment, a prior deadline is not required. For the purpose of taking back goods subject to retention of title, the supplier may enter the customer's business premises during normal business hours. Further claims of the supplier shall remain unaffected.

7.4. After taking back goods subject to retention of title, OPTITEK GmbH is authorised to use them appropriately; the sales proceeds are to be offset against the customer's liabilities, minus reasonable sales costs.

7.5. The customer is obliged to notify the contractor immediately in the event of the seizure of goods subject to retention of title, and to inform the bailee of the retention of title.

7.6. If the delivery is made for a business maintained by the customer, the items may be resold within the framework of regular business management. In such cases, the customer's claims against the purchaser from the sale are already assigned to OPTITEK GmbH to the amount of the invoice value of the delivered goods subject to retention of title.

If the goods are resold on credit, the customer must reserve ownership of them against the purchaser. The customer hereby assigns the rights and claims arising from this retention of title vis-a-vis the purchaser to OPTITEK GmbH.

7.7. If the goods to which OPTITEK GmbH has retained title are processed, combined or mixed with other goods by the customer, OPTITEK is entitled to co-ownership of the new goods in proportion to the invoice value of the goods to which it retained title in relation to the invoice value of the other goods used.

7.8. If the value of the existing collateral exceeds the receivables by more than 20%, OPTITEK GmbH is obliged to release it at the request of the purchaser.

8. WARRANTY

8.1. Obvious defects must be reported in writing at the latest two weeks after delivery of the goods or upon acceptance of the service. After this period, warranty claims due to obvious defects can no longer be asserted.

8.2. If the order is a fully commercial transaction for both contractual parties, the provisions of § 377 HGB (*Handelsgesetzbuch*, the German Commercial Code) apply accordingly.

8.3. OPTITEK GmbH shall, at its discretion, provide rectification of defective delivery items by remedying the defect (rectification) or delivering a defect-free item (subsequent delivery). The rectification shall take place without recognition of a legal obligation. In the event of rectification, the remaining part of the original warranty period begins when the rectified delivery item is returned. The same applies in the case of subsequent delivery.

8.4. For rectification, the customer shall, after agreement with the supplier, give the supplier the necessary time and opportunity, and shall allow unhindered access to the delivery item; otherwise the supplier is released from liability for the resulting consequences.



**General Terms and Conditions GTCs
DELIVERY AND PAYMENT TERMS**

Page 4/5

8.5. The place of performance for rectification is the OPTITEK GmbH plant from which the delivery item came. The supplier does not assume costs related to rectification, such as shipping, travel, transport and material costs, insofar as these increase because the delivery item has been moved to a different delivery location than the one agreed. The supplier also does not assume the costs of disassembling and reassembling or removing and attaching the delivery item. The customer can only assert these costs in the context of compensation pursuant to section 9. The supplier may invoice the customer for rectification costs that are not to be borne by the supplier. The customer must provide the supplier with existing tools and hoists as well as fitters and auxiliary staff free of charge for the purpose of rectification.

As long as OPTITEK GmbH complies with its obligations to remedy the defects, the customer is not entitled to demand a reduction in the invoice amount or to cancel the contract unless the rectification is unsuccessful. If OPTITEK refuses to offer rectification or a replacement delivery, or if they are impossible or if they fail, the customer can choose between a corresponding price reduction or cancellation of the contract.

8.6. There are no rights to rectification of defects in the following cases in particular:

- Unsuitable or improper use
- Incorrect assembly or commissioning by the customer or third parties
- Natural wear and tear
- Incorrect or negligent handling
- Improper maintenance
- Unsuitable equipment
- Poor construction work
- Unsuitable foundations
- Chemical, electrochemical or electrical influences (insofar as they are not the responsibility of the supplier)
- Defects in parts subject to wear.

If the customer or a third party improperly undertakes remedial action on the delivery item, the supplier is not liable for the resulting consequences. The same applies to changes made to the delivery item without the prior written consent of OPTITEK GmbH as the supplier.

8.7. Insignificant and reasonable deviations in dimensions and designs are reserved insofar as these are common and in the nature of the materials used.

8.8. Deviations in the dimensions and/or designs must be revised by the customer before further processing or further use. OPTITEK GmbH is not liable for consequential damage resulting from a breach of this obligation by the customer.



**General Terms and Conditions GTCs
DELIVERY AND PAYMENT TERMS**

Page 5/5

9. LIABILITY

9.1. OPTITEK GmbH is only liable for damages and reimbursement of wasted expenses (hereinafter "compensation") within the meaning of § 284 BGB (*Bürgerliches Gesetzbuch*, German Civil Code) due to violation of contractual or non-contractual obligations

- In the event of intentional acts or gross negligence,
- In the event of negligent or wilful injury to life, limb or health,
- Due to the assumption of a guarantee of quality or durability
- In the event of negligent or wilful breach of essential contractual obligations.

9.2. Compensation for negligent breach of essential contractual obligations is, however, limited to the foreseeable damages for contracts of this type, unless there is wilful intent or gross negligence or liability for injury to life, limb or health or the assumption of a quality guarantee. Flat-rate claims for compensation shall not be accepted unless provided for by law.

9.3. Further liability for compensation other than as described in section 9 is excluded, regardless of the legal nature of the asserted claim. This applies in particular to claims for compensation arising from fault on conclusion of the contract, due to other breaches of duty, or due to tortious claims for compensation for property damage pursuant to § 823 BGB.

9.4. This limitation of liability applies equally to damage caused by gross negligence on the part of OPTITEK GmbH's employees and to agents who are not organs or executive employees of the supplier. Claims for compensation for damages that did not occur to the delivery item or the work itself (consequential damage) expire after 6 months. The limitation period begins with the acceptance of the work.

10. FLAT-RATE CLAIMS FOR COMPENSATION

If the customer cancels the contract before execution, OPTITEK GmbH is entitled to claim 5% of the total invoice amount as compensation. The customer expressly reserves the right to prove lesser damages.

11. OWNERSHIP AND COPYRIGHT

OPTITEK GmbH reserves the ownership and copyright to cost estimates, drafts, drawings and calculations. They may not be used, reproduced or made accessible to third parties without written consent.

If an order is not placed, they must be returned immediately.

12. CONFIDENTIALITY

Unless expressly agreed otherwise in writing, the information submitted to OPTITEK GmbH in relation to orders is not considered confidential.

13. SEVERABILITY CLAUSE

Should individual provisions of these general delivery conditions be or become ineffective, the effectiveness of the remaining provisions shall not be affected.

14. PLACE OF JURISDICTION

If both contractual parties are registered traders, the exclusive place of jurisdiction is the registered office of OPTITEK GmbH.