

GENERAL CONDITIONS AND TERMS OF USE

1. **Scope of Application of the General Conditions and Terms of Use**
 - 1.1 These General Conditions and Terms of Use (GCT) of Deutsche Doka Schalungstechnik GmbH, Frauenstraße 35, 82216 Maisach (**Doka**) shall apply to the Doka online shop - shop.doka.com/shop-de/en (**Online Shop**) - as well as all subdomains and websites belonging to the domain doka.com. These GCT shall apply to all legal transactions handled via the Online Shop for the purpose of purchasing products, such as formwork accessories, wall and ceiling formwork and system components (**Products**), by commercial customers (B2B).
 - 1.2 These GCT shall also apply to any future transactions between the customer and Doka handled via the Online Shop, even if no further reference is made to these GCT when such future contract is entered into.
 - 1.3 Customers' general terms and conditions or conditions of purchase shall not apply unless Doka has expressly accepted them in writing.
 - 1.4 Doka reserves the right to amend these GCT at any time without stating reasons. Customers shall be notified of such amendment via e-mail. Continued use of the Online Shop shall be deemed as consent to the amendment of the GCT.
2. **Copyright**

Elements of shop.doka.com/shop-de/en and of any and all subdomains and websites belonging to the domain doka.com, such as text, pictures, photographs, graphics are protected under copyright and intellectual and industrial property rights. Such elements must not be copied or edited or used in any other way.
3. **Data protection**

The data protection provisions downloadable from shop.doka.com/shop-de/en/dataprivacy shall apply and form an integral part of these GCT.
4. **Registration of customers, authorisations, identity checks and power of representation**
 - 4.1 All customers must register by entering the mandatory items of information. The data supplied by customers must be accurate, complete, truthful and in compliance with legal provisions.
 - 4.2 Following initial registration, each customer is assigned a user name and password (login data) for subsequent use when logging on to the Online Shop. It is possible to create several users with different authorisations for one customer, with internal approval processes in place at the customer's. Doka accepts no liability whatsoever with regard to the allocation and use of such authorisations and any internal approval processes in place at the customer's.
 - 4.3 Doka shall have the right to verify, at any time, the identity and power of representation of the user logging on to the site and may also request adequate proof to be supplied (business licence, power of attorney, commercial register excerpt, etc.).
 - 4.4 Customers shall be obliged to keep their login data secret and protect it against unauthorised access by third parties. Customers shall notify any misuse or unauthorised use to Doka in writing immediately. Customers shall be liable for any misuse or unauthorised use by third parties and any action or use of services in such context, unless the customer is able to prove that none of the above is attributable to any fault on the customer's part.
 - 4.5 If customers do not perform any operations and do not visit the Online Shop for a year or more, the customer account in question shall be removed. However, it is possible to register anew at any time.
5. **Offers, purchase orders, types of payment, conclusion of contract, billing**
 - 5.1 All offers made by Doka shall be non-binding unless explicitly designated as being binding.
 - 5.2 When ordering products, customers shall, in addition to selecting the Products, also specify the type of delivery (delivery or collection), the preferred delivery date or collection date and the preferred type of payment. By clicking on the SUBMIT ORDER button, the customer makes a binding offer to buy the selected products, including selection of the delivery date ("Purchase Order"). Before submitting the order, the customer can view and change the Products selected and data supplied at any time, by obtaining an overview of all the Products in the shopping basket // cart, including additional information such as delivery date. In this overview, the customer can then still change the Purchase Order by deleting or modifying the data shown there. Before final submission of the Purchase Order, the BACK // RETURN button allows the customer to go back to the shopping basket//cart in order to change the selection of Products once again or completely delete it. Doka shall deliver the Products to the address indicated in the project created by the customer. If no address is available, the customer shall have to create a new project, including an address.
 - 5.3 If the Products are collected by the customer, payment can be made either upon receipt of the invoice or, at the latest, upon collection using an EC or credit card. Payment upon receipt of invoice shall require the approval of Doka.
 - 5.4 If delivery is made by Doka to the agreed place of delivery, payment shall be made either by credit card or upon receipt of the invoice. Payment upon receipt of invoice shall require the approval of Doka. Doka may, at its own discretion, insist on payment by credit card. In the case of payment by credit card, all the relevant credit card information has to be supplied when ordering. It shall be the responsibility of the customer to see to it that the credit card is neither blocked nor expired; any delay in payment for such cause shall be attributable to the customer, and the customer may be liable to pay default interest.

- 5.5 Once a Purchase Order has been submitted, the customer shall receive a preliminary order confirmation. Note, however, that such a preliminary order confirmation is not deemed to constitute an acceptance of the offer by Doka. Doka shall first of all check the submitted offer with respect to Product availability, ability to meet the preferred delivery date / ready for collection date and compliance with any purchase limits that may exist. Customers may view the status of their Purchase Orders online at any time.
- 5.6 Doka may, at any time and without stating reasons, refuse to enter into a contract without any claim for compensation arising therefrom for the customer.
- 5.7 A purchase contract for the Products shall come into being only once the Purchase Order has been expressly accepted by Doka. Should Doka fail to supply an express declaration of acceptance, the contract shall come into being as soon as Doka accepts the customer's Purchase Order by making the Products ready for collection or by delivering the Products.
- 5.8 As a rule, payment shall become due upon acceptance of the offer by Doka. Where payment upon receipt of the invoice was agreed upon, payment shall become due upon receipt of the invoice.
- 5.9 Invoices shall be issued to customers at the billing address specified by the customers.
- 5.10 Customers may conclude the contract either in German or in English. The text of the contract, viz. these GCT, shall be available for customers to inspect at any time via the ONLINE SHOP website, while the contents of each specific purchase order shall be sent to the customer via e-mail in the form of an order confirmation.
- 6. Prices**
- 6.1 All prices in the Online Shop are quoted net, exclusive of VAT or any other import / export duties, ex works under Incoterms 2010.
- 6.2 The price of a Product may vary depending on the chosen delivery address, and the resultant amount shall be communicated to the customer accordingly before the customer submits a Purchase Order.
- 6.3 Prices of delivery and transport depend on the place and type of delivery chosen by the customer and shall be communicated to the customer during before the customer places a Purchase Order via the Online Shop.
- 7. Delivery and payment, passing of risk**
- 7.1 Customers may, at their own discretion, either collect the Products or have them delivered to a specified place of delivery.
- 7.2 **Collection by the customer:** At the agreed date and time, the customer shall collect the Products from the Doka branch establishment closest to the address indicated by the customer or from any other place expressly agreed upon.
The Products shall be handed over to the customer only once the purchase price and all costs have been paid, unless payment upon receipt of invoice was expressly agreed upon.
- 7.3. **Delivery:** Provided the price of delivery, type of payment and place(s) of delivery were expressly agreed upon, Doka shall deliver the Products.
Delivery to the place of delivery (building site) agreed upon shall take place within a reasonable period of time after ordering or within any other delivery periods or at any other delivery dates agreed upon.
Any delivery periods or delivery dates stated shall be approximate periods or dates unless a fixed period or fixed date has been explicitly agreed upon.
Insofar as payment by credit card was agreed with the customer, delivery shall be effected only after the purchase price has been successfully debited to the customer.
Supply and delivery of the purchased Products shall be at the customer's risk. The risk of loss or accidental damage to the Products shall thus pass to the customer upon handover to the carrier.
- 7.4 Should the delivery / ready for collection time be exceeded by more than two weeks, the customer shall, except in cases of force majeure, be entitled to rescind the contract after having set a period of grace of at least two weeks in vain.
- 7.5 Should the customer refuse to take delivery of the delivered Products, the customer shall ensure that the Products are duly unloaded, stored and held at Doka's disposal.
- 7.6 Force majeure or other unforeseeable obstacles occurring within Doka's sphere of influence and obstructing delivery / readiness for collection of the Products within the agreed period / at the agreed date shall result in Doka being entitled to extend the period for making delivery / for making the Products ready for collection, or move the delivery / ready for collection date, in a reasonable extent.
- 7.7 Doka shall have the right to make partial deliveries as long as this is not unacceptable for the customer and does not cause the customer to incur significant extra effort or additional cost.
- 7.8 Receipt on/crediting to Doka's account shall be relevant for payments being deemed made in due time. In cases of doubt, amounts credited shall be counted towards settling the customer's oldest debt.
- 7.9 Invoices shall be made available to customers online and can be viewed online as well as downloaded. Invoices shall be deemed to have been served as soon as they can be accessed or taken note of by the customer under ordinary circumstances (e.g. e-mail receipt). Should customers wish to receive invoices on paper, Doka reserves the right to charge a fee (such as a handling fee) provided this is admissible under applicable law. Where invoices are sent out via e-mail, customers shall be sent such e-mails to the e-mail address indicated by them.

8. Passage of ownership, retention of title

- 8.1 Doka shall deliver all Products subject to retention of title. Doka shall retain title to the Products until the purchase price has been paid in full.
- 8.2 In all other respects, ownership shall pass to the customer upon full payment and collection of the purchased Products or handover of the Products to the carrier.
- 8.3 Retention of title shall also extend to any new items produced through the processing of the delivered Products. Upon processing, combination or commingling of the Products, Doka shall acquire co-ownership of the items thus produced proportionate to the value of the delivered Products in relation to the newly created item.
- 8.4 Customers shall not be allowed to pledge the Products delivered subject to retention of title to third parties or use them as collateral or otherwise dispose of them for the benefit of third parties. The resale of Products delivered subject to retention of title shall be allowed only upon Doka's express written consent. Customers shall assign to Doka, already at this point in time, any and all receivables due from reselling, either in breach of this provision or given Doka's consent, the Products to which Doka has retained title, it being understood that such receivables shall be assigned as an undertaking to pay. The same shall apply mutatis mutandis to new items in which Doka acquires co-ownership. Customers shall include notes to this effect in their books and outstanding receivables lists and shall, upon Doka's request, disclose to Doka the names and addresses of their buyers as well as the number and amount of receivables arising from such resale and notify their buyers of the assignment of such receivables. Any profits made by customers on the resale of Products subject to retention of title by Doka shall be passed on to Doka without delay.
- 8.5 Should the Products subject to retention of title by Doka be seized or otherwise claimed by third parties, customers shall be obliged to assert Doka's right of ownership and to notify Doka in writing without delay. Customers shall reimburse to Doka any and all costs incurred by Doka in protecting its right of ownership. Upon request by Doka, customers shall make any and all documents required for protecting and asserting title to the Products available to Doka.
- 8.6 Should customers default on payment, the Products subject to retention of title by Doka shall be returned to Doka without delay upon its request. Insofar as customers do not comply with such request without delay, Doka shall have the right to collect the Products subject to retention of title by Doka. In any case, the cost and risks associated with transporting the Products to Doka shall be borne by the customer in question. In such a case, returning or collecting the Products shall not be deemed a rescission of contract. Doka shall have the right to sell the Products thus repossessed to another party and to set off the proceeds of such sale against the receivables due from the customer in question, including, without limitation, claims arising from failure to pay on the part of the customer. In such a case, the customer shall be informed of Doka's intention to

resell the Products and of the purchase price and may name other customers to Doka within a period of four weeks.

- 8.7 Doka shall release Products subject to retention of title as well as any items or claims replacing them to the extent that their value exceeds the amount of the receivable thereby secured by more than 50%. The choice of Products, items or claims to be released shall be lie with Doka.

9. Documents, non-disclosure of expertise, ban on reverse engineering, download of documents

- 9.1 Customers shall not have the right to use the documents made available by Doka (user information, operating instructions, user manuals) for any purpose other than the ones provided for in the contract or the document in question.
- 9.2 The expertise contained in the documents is made available to customers for these purposes only. Customers shall treat such expertise as strictly confidential and shall not have the right to use it in any form whatsoever for the purpose of reverse engineering. Customers shall under no circumstances have to right to reverse-engineer the Products.
- 9.3 Responsibility for the documents downloaded from the download section (including, without limitation, user information or documents for which there is an obligation to make them available to customers) shall lie with the customers themselves. In particular, Doka shall accept no liability for customers downloading the correct document in the correct language for the Product in question.

10. Default

- 10.1 If customers are late in collecting the Products or paying the purchase price, Doka may, granting a reasonable period of grace of at least 14 days, rescind the contract in writing.
- 10.2 Otherwise customers shall be obliged to pay default interest in the amount of the relevant base interest rate plus 9 percentage points above the base interest rate p.a. in the event of delayed payment. If in default of payment, the customer shall furthermore have to pay a flat-rate amount of EUR 40 in accordance with section 288(5) of the German Civil Code (BGB). Any claims above and beyond this amount, including, without limitation, claims for damages and reimbursement of costs, shall remain unaffected thereby.
- 10.3 Doka shall be under no obligation to deliver / make ready for collection any further Products for as long as customers are in default of paying invoiced amounts, default interest and/or expenses, unless the outstanding amount is a minor amount only.

11. Rescission

- 11.1 The parties to the contract may rescind the contract in writing for good cause (such as breach of material contractual provisions, default on payment in spite of a grace period of at least 14 days).
- 11.2 Doka may also rescind the contract if performing the contract cannot reasonably be expected of Doka on a not merely temporary basis.

12. Product returns

- 12.1 Upon rescission of contract, any Products already delivered shall be returned to Doka within 14 days, at the customer's risk

	and expense, provided the rescission of contract is not attributable to any fault on Doka's part. Insofar as a customer fails to meet this obligation, Doka shall have the right to collect the Products, or have them collected, at the customer's risk and expense.				liability shall be limited, however, to compensation for such loss or damage as Doka foresaw or should have known or foreseen upon entering into the contract, as potential consequences of a breach of contract. Indirect and consequential loss or damage shall be eligible for compensation only to the extent that such loss or damage is to be typically expected given intended and proper use of the Product.
12.2	If the Products to be returned cannot be unambiguously differentiated from others, Doka shall have the right to select a Product of their choice. In such an event, the customer shall hold Doka harmless and indemnify Doka against any third-party claims.				<ul style="list-style-type: none"> Any liability under applicable product liability legislation shall remain unaffected thereby. The above-mentioned limitation of liability shall apply accordingly for the benefit of officers (company bodies), employees, representatives and vicarious agents of Doka.
13.	Obligation to give notice of defects, warranty, liability, mistake				
13.1	The customer shall be under the obligation to inspect the Products without delay following delivery. The Products shall be deemed accepted by the customer with respect to obvious defects or other defects that would have been identifiable upon immediate careful inspection, unless Doka receives a written notice of defects within seven work days of delivery. In the case of other defects, the Products shall be deemed accepted by the customer unless Doka receives the notice of defect within seven work days from the time the defect is identified.	13.8			Doka does not warrant continuous availability of the Online Shop and draws attention to the fact that Online Shop services may be restricted or temporarily suspended for necessary reasons (such as maintenance, security, capacity or improvement reasons).
13.2	The burden of proving the existence of defects shall lie with the customer.		14.		No offsetting Customers shall not have the right to offset any receivables due to them from Doka against receivables due to Doka, unless the relevant claims are uncontested or have been ascertained with final effect by a court of law.
13.3	In the case of defects, Doka may choose how such defect may be remedied within a reasonable period of time (repair, substitute delivery or subsequent delivery of missing part, or exchange, etc.).		15.		Severability clause If, for any reason whatsoever, one or more provisions of these GCT or of any contract based on these GCT are invalid or unenforceable, this shall not affect the validity of the remaining provisions. Any invalid or unenforceable provision shall be replaced by a provision that comes as close as possible to the intended purpose of the provision. The same shall apply mutatis mutandis to any gaps in the provisions.
13.4	With the exception of claims for damages the customer might have on the grounds of injury to life, limb or health or intentional or grossly negligent breach of duty on the part of Doka or its vicarious agents, any claims of the customer under warranty shall become statute-barred within one year of delivery.		16.		Governing law, place of performance, place of jurisdiction
13.5	The notice of defects does not discharge customers from their payment obligation. For Doka to be liable under warranty, the customer must have given notice of the defect in due time and providing detailed specifications.	16.1			Any and all legal relationships between Doka and customers shall be subject to German law, with the exception of the conflict of law rules under private international law and the UN Convention on Contracts for the International Sale of Goods.
13.6	The fact that Doka may enter into negotiations on defects or complaints shall not imply a waiver of Doka's right to raise the objection that the notice of defects was made too late or lacks adequately detailed specifications.	16.2 16.3			The place of performance shall be Doka's registered address. Exclusive place of jurisdiction for any and all disputes arising from a business relationship with a merchant within the meaning of the German Commercial Code (HGB) is Munich. Doka shall have the right to sue at the general place of jurisdiction competent for the customer in question.
13.7	Doka shall be liable to the customer for damages, regardless on what grounds such claims might be raised, only as follows: <ul style="list-style-type: none"> For loss or damage caused by injury to life, limb or health, or by intentional or grossly negligent breach of duty on the part of Doka or its vicarious agents, or by breach of any guarantee or warranty given by Doka, Doka shall be liable within the statutory limits. In all other respects, Doka shall be liable only for loss or damage caused by slightly negligent breach of duty if such breach concerns a material contractual obligation. A material contractual obligation shall be an obligation the fulfilment of which is pivotal for the contract to be duly performed and on the fulfilment of which the customer relies and has every right to rely. In such a case, Doka's 		17.		Miscellaneous
		17.1			Purchases made in the Online Shop give rise to the usual costs of Internet use.
		17.2			All rights and obligations hereunder shall devolve upon any legal successors (singular or universal legal succession). Customers may not transfer any rights and obligations hereunder to a third party without having obtained the explicit prior written consent of Doka.
		17.3			Any oral agreements, promises and advisements made by Doka employees shall not be valid without a written confirmation by Doka.

- 17.4 There are no oral side agreements. Any amendments or additions to these GCT or the contracts concluded via the Online Shop require written form to be valid; the same applies to any side agreements and warranties and representations as well as to any contractual changes made at a later date, including any waiver of the written form requirement.
- 17.5 E-mail shall be deemed to meet the written form requirement. E-mail shall likewise be sufficient for any other notifications or legally relevant communications unless otherwise provided for in any given case or in these GCT.
- 17.6 In case of any discrepancies between the English and the German version of these GCT of Deutsche Doka Schalungstechnik GmbH, the German version shall prevail.

Date: February 2017