

General Usage, Delivery and Payment Terms and Conditions (T&C)

Sect. 1 Scope of Application, Form

- (1) These general terms and conditions (T&C) apply to all our business relationships with our contractual partners, insofar as they are entrepreneurs (Sect. 14 German Civil Code, BGB), a legal person under public law or a special fund under public law.
- (2) The T&C apply in particular to contracts about the sale and/or delivery of moveable goods regardless of whether we manufacture the goods ourselves or purchase them from suppliers (Sect. 433, 651 BGB). Provided that nothing else has been agreed, the T&C apply, in the version valid at the time of the contractual partner's order, also as a framework agreement for similar future contracts, and we are not required to reference them in all individual cases.
- (3) Our T&C apply exclusively. Deviating, conflicting or supplementary terms and conditions of the contractual partner are included in the agreement only if and insofar as we have expressly agreed to their application. This consent requirement applies in any case, for example even if we, knowing the contractual partner's general terms and conditions, accept their services unreservedly.
- (4) Special agreements made in individual cases with the contractual partner (including supplementary agreements, additions and changes) always take precedence over these T&C. A contract in text form and/or our confirmation in text form is, subject to counter-evidence, authoritative for the contents of such agreements.
- (5) The contractual partner's legally relevant declarations and notices regarding the contract (e.g., deadlines, notice of defects, withdrawal or reductions) are to be made in writing, i.e., in written form or text form (e.g., letter, e-mail, fax). Statutory form regulations and further evidence, in particular in case of doubts about the declaring party's authority, remain unaffected.
- (6) Notices about the application of statutory regulations have only clarifying significance. Even without such clarification, the statutory regulations therefore apply, insofar as they are not directly modified or expressly excluded by these T&C.

Sect. 2 Contract Conclusion

- (1) Our offers are subject to confirmation and are non-binding. This also applies if we have entrusted the contractual partner with catalogues, technical documentation (e.g., drawings, plans, computations, calculations, references to DIN/EN standards), other product descriptions or documents—also in electronic form—whose property and copyrights we reserve.
- (2) When the contractual partner orders the goods we consider this to be a binding contract proposal. Unless the order specifies something else, we are entitled to accept this contract proposal within 2 weeks after we have received it.
- (3) Acceptance may be declared either in writing (e.g., by order confirmation) or by delivering the goods to the contractual partner.

Sect. 3 Delivery Period and Delivery Delay

- (1) The delivery period is agreed in each single case and/or specified by us during acceptance of the order.
- (2) If we are unable to keep binding delivery periods for reasons we are not responsible for (unavailability of the service), we will inform the contractual partner immediately about it while informing them about the expected, new delivery period. If the service is still not available within the new delivery period, we are entitled to withdraw from the contract in full or in part; we will compensate any return service already rendered by the buyer. What will be considered an instance of unavailability of the performance in this sense is, in particular, (i) the non-timely delivery by our supplier; (ii) if we have closed a congruent covering transaction; (iii) if neither we nor our supplier are at fault; or (iv) if we are, in individual cases, not obligated to procure.
- (3) The occurrence of our delivery delay is determined by statutory regulations. However, a reminder by the contractual partner is required in any case.
- (4) The contractual partner's rights according to Sect. 8 of these T&C and our statutory rights, in particular in case of an exclusion of the duty to perform (e.g., because of impossibility or unreasonableness of the service and/or subsequent fulfilment), remain unaffected.

Sect. 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

- (1) Delivery is ex works / warehouse, which is also the place of fulfilment for the delivery and any subsequent fulfilment. On request and at the expense of the contractual partner, the goods are shipped to another destination (sales shipment). Insofar as nothing else is agreed, we are entitled to determine the type of shipment (in particular transport company, dispatch route, packaging) ourselves. If the goods are shipped on reusable and/or disposable pallets, we charge the customary purchase price for them. The amount is reimbursed when the reusable pallets are returned to our factory.
- (2) The risk of accidental loss and accidental degradation of the goods is transferred to the contractual partner no later than at the time of handing-over. In case of sales shipment, however, the risk of accidental loss and accidental degradation of the goods as well as the risk of delay is transferred, at the time of dispatch of the goods, to the forwarding agent / freight carrier / other individual or institution designated to perform the shipment. Otherwise, statutory regulations of the contract law for work and labour also apply to an agreed acceptance. The same is true of handing-over and/or acceptance if the contractual partner is in default of acceptance.

- (3) If the contractual partner is in default of acceptance; ceases to act in cooperation; or if our delivery is delayed for other reasons the contractual partner is responsible for, we are entitled to demand compensation for damage resulting from this, including additional expenses (e.g., warehouse costs). Our statutory claims (in particular compensation for additional expenses, adequate remuneration, cancellation) remain unaffected.

Sect. 5 Pricing and Payment Terms

- (1) Provided that nothing else has been agreed in individual cases, our prices current at the time of contract conclusion apply, that is, ex works and/or warehouse, excl. statutory sales tax.
- (2) In case of sales shipment (Sect. 4 Para. 1), the contractual partner bears the transport costs ex works and/or warehouse and the costs of a transport insurance, if required by the contractual partner. The buyer bears any customs duties, fees, taxes and other public expenses.
- (3) The purchase price is due and to be paid no later than within 14 days from invoicing date and date of delivery and/or date of acceptance of the goods. We are, however, also within the scope of an ongoing business relationship, entitled to perform a delivery in full or in part against prepayment. We declare a corresponding reservation no later than during order confirmation.
- (4) If the above payment period lapses, the contractual partner is in default. During default, the applicable statutory interest rate is to be added to the purchase price. We reserve the right to assert further damage caused by delay. Against merchants, our claim for commercial interest on maturity (Sect. 353 German Commercial Code, HGB) remains unaffected.
- (5) The contractual partner enjoys the right to offsetting or retention only insofar as their claim has been legally determined or is undisputed. In case of delivery defects, the contractual partner's opposing rights, in particular according to Sect. 7 Para. 6 Sentence 2 of these T&C, remain unaffected.
- (6) If it becomes apparent after conclusion of the contract (e.g., by filing for insolvency proceedings), that our claim for the purchase price is at risk because of the contractual partner's lack of performance, we are entitled, according to statutory regulations, to refuse performance and—if necessary, following a deadline—to withdraw from the contract (Sect. 321 BGB). In case of contracts about the manufacturing of unacceptable goods (unique products), we may declare our withdrawal immediately; statutory regulations about the dispensability of the deadline remain unaffected.

Sect. 6 Retention of Title

- (1) Until full payment of all our current and future demands from the purchase contract and from an ongoing business relationship (secured demands), we reserve the right of ownership to the sold goods.
- (2) The goods under retention of title may only be pledged to third parties or assigned as collateral security after full payment of the secured demands. The contractual partner is to inform us immediately in writing if an application for insolvency proceedings has been filed or insofar as accesses by third parties (e.g., pledges) have been made on goods that are our property.
- (3) If the contractual partner behaves contrary to the contract, in particular in case the due sales price is not paid, we are entitled, according to statutory regulations, to withdraw from the contract and/or to demand the return of the goods on the basis of retention of title. The demand for return does not include a declaration of withdrawal; rather, we are entitled to only demand the return of the goods while reserving the right of withdrawal. If the contractual partner fails to pay the due purchase price, we may only exercise these rights if we have previously set the contractual partner an adequate period for payment, which lapsed fruitlessly, or if such a deadline is dispensable according to statutory regulations.
- (4) Until further notice according to (c) below, the contractual partner is authorised to resell and/or process the goods under retention of title during proper course of business. In this case, the following provisions apply additionally.
 - (a) The retention of title covers the full value of the products resulting from processing, mixing or combining our goods, and we count as the manufacturer. If a third-party property right remains in force in case of processing, mixing or combining with third-party goods, we assume co-ownership at the ratio of the invoice values of the processed, mixed or combined goods. Otherwise, the same applies to the resulting product as to the goods delivered under retention of title.
 - (b) According to the above paragraph, the contractual partner herewith assigns to us as a security, in total or amounting to a co-ownership share we may have, the demands against third parties arising from the resale of the goods or of the product. We accept the assignment. The buyer's duties specified in Para. 2 also apply in consideration of the assigned demands.
 - (c) In order to collect the demand, the contractual partner remains authorised besides us. We undertake not to collect the demand as long as (i) the contractual partner fulfils their payment obligations against us; (ii) there is no defect of their performance; and (iii) we do not assert the retention of title by exercising a right according to Para. 3. If this is the case however, we may demand that the contractual partner state the assigned demands and their debtors, provide all required information for collection, hand over the associated documents and inform the debtors (third parties) about the assignment. In addition, we are entitled in this case to revoke the contractual partner's authorisation of resale and further processing of the goods under retention of title.
 - (d) If the achievable value of the securities exceeds our demands by more than 10% we will, on the contractual partner's request, release securities of our choosing.

Sect. 7 The Buyer's Demands for Defects

(1) Statutory regulations apply to the rights of the contractual partner in case of property defects and defects of title (including wrong delivery and short delivery or poor installation instructions), insofar as nothing else is defined in the following. Special statutory regulations of supplier regress remain unaffected in all cases. (2) Our liability for defects is mainly based on the agreement concluded about the composition of the goods. All product descriptions that form the object of an individual contract or that we went public with (in particular in catalogues or on our website) are considered an agreement about the composition of the goods. (3) Insofar as no composition was agreed, the assessment of whether there is a defect or not is to be based on statutory regulations (Sect. 434 Para. 1 P. 2 and 3 BGB). However, we assume no liability for public utterances of the manufacturer or other third-parties (e.g., advertising statements). (4) The contractual partner's claims for defects suppose that they have fulfilled their statutory obligations for examination and reporting (Sect. 377, 381 HGB). If a defect is discovered during delivery, examination or at any later stage, we must be notified of it immediately in writing. In any case, obvious defects are to be reported in writing no later than within 3 working days from the date of delivery, and defects not detectable during the examination are to be reported in writing within the same period from the date of detection. If the contractual partner fails proper examination and/or notice of defects, our liability for the defect not reported and/or not reported in a timely manner or not properly reported, is excluded according to statutory regulations. (5) In case the delivered object is defective, we may first choose whether we perform subsequent fulfilment by rectifying the defect (rework) or by delivering a faultless object (replacement delivery). Our right to refuse rework in keeping with statutory requirements remains unaffected. (6) We are entitled to make the owed subsequent fulfilment dependent on the contractual partner's paying the due purchase price. The contractual partner is, however, entitled to retain an appropriate portion of the purchase price. (7) The contractual partner is to give us the time and opportunity required for this owed subsequent fulfilment; in particular, to hand over the criticised goods for testing purposes. In the event of a replacement delivery, the purchaser is to return the defective object to us according to statutory provisions. (8) We bear the expenses, in particular, transport, road, labour and material costs required for testing and subsequent fulfilment if there is an actual defect. Otherwise, we are entitled to demand the costs (in particular, testing and transport costs) arising from an unjustified rectification of defects from the contractual partner unless the lack of defectiveness was not recognisable to the contractual partner.

If the goods are defective and if the contractual partner has installed or attached the goods according to their type and purpose into or to other goods or had them installed or attached, we may, if the contractual partner makes use of subsequent fulfilment, choose within a suitable period whether we reimburse the contractual partner the required expenses for removing the defective and installing or attaching the subsequently fulfilled or delivered defect-free replacement product or instead perform this work at our own expense or have it performed. This right to choose lapses if we fail to exercise it within an adequate period. If we choose self-remedy, the contractual partner may set an adequate deadline for fulfilment. After a fruitless lapse of this period, the contractual partner is entitled to perform the work themselves or have it performed. We are then obligated to reimburse the required expenses arising to the contractual partner from the performed work. Our right to refuse the type of subsequent fulfilment according to Sect. 439 Para. 4 BGB due to disproportion remains unaffected. (9) In urgent cases, e.g., in case of risks to operational safety or to avert disproportionate damage, the contractual partner is entitled to remedy the defect themselves and to demand from us compensation for the expenses objectively required for it. We are to be notified of such self-remedy immediately; if possible, beforehand. The right of self-remedy does not exist if we were entitled to refuse a corresponding subsequent fulfilment according to statutory regulations. (10) If subsequent fulfilment has failed or if an adequate deadline specified by the contractual partner for subsequent fulfilment has lapsed fruitlessly or is obsolete according to statutory regulations, the contractual partner may withdraw from the purchase contract or reduce the purchase price. In case of an irrelevant defect, however, there is no right of withdrawal. (11) In case of DIN/EN standard goods, DIN/EN tolerances apply. Otherwise, a thickness tolerance of +/- 2mm, length and width tolerance of +/- 3mm and warping tolerance of +/- 3mm/m per running metre apply. For production reasons we cannot guarantee a smooth, level surface for insulation panels. Unevenness is no ground for complaints. (12) The contractual partner's claims for damages and/or compensation for futile expenses exist, even in case of defects, only according to Sect. 8 and are excluded otherwise. (13) Insofar as we provide technical information or consultancy and this information or consultancy is not part of the contractually agreed scope of services we owe, this is performed free of charge and excluding any liability.

Sect. 8 Other Liability

(1) Insofar as nothing else arises from these T&C, including the following provisions, we assume liability according to statutory regulations in case of a violation of contractual and extra-contractual duties. (2) We assume liability for damages—regardless of their legal cause—within the scope of fault-based liability in case of intent and gross negligence. In case of ordinary negligence, we assume liability, subject to a milder standard of liability, according to statutory regulations (e.g., for diligence in our own matters) only a) for damage from injury to life, body or health; b) for damage from a non-irrelevant violation of a substantial contractual duty (a duty that needs to be fulfilled to enable proper execution of the contract and the contractual partner regularly trusts and may trust the compliance with that duty); in that case, however, our liability is limited to compensation of the foreseeable, typically occurring damage. (3) The limitations of liability arising from Para. 2 also apply in case of breaches of duty by and/or in favour of individuals whose fault we are responsible for according to statutory regulations. They do not apply insofar as we have maliciously concealed a defect or assumed a guarantee for the composition of the goods, and for demands of the buyer according to the product liability law. (4) The contractual partner may only withdraw or cancel because of a violation of duty if we are responsible for the violation of duty. The contractual partner's free right of cancellation (in particular according to Sect. 651, 649 BGB) is excluded. Otherwise, the statutory requirements and legal consequences apply.

Sect. 9 Assignment

The assignment of claims conceded to the contractual partner from the business relationship with us is excluded.

Sect. 10 Limitation

(1) Contrary to Sect. 438 Para. 1 No. 3 BGB, the general limitation period for claims from property defects and defects of title is one year from the date of delivery. Insofar as acceptance has been agreed, limitation commences on the date of acceptance. (2) If, however, the goods are a building or an object that was used according to its customary purpose for a building and has caused its defectiveness (building material), the limitation period according to statutory regulations is 5 years from the date of delivery (Sect. 438 Para. 1 No. 2 BGB). Further statutory special regulations for limitation (in particular Sect. 438 Para. 1 No. 1, Para. 3, Sect. 444, 479 BGB) also remain unaffected. (3) The above limitation periods of the purchase right also apply to the contractual partner's contractual and extra-contractual claims for damages based on a defect of the goods, unless the application of the regular statutory limitation (Sect. 195, 199 BGB) would lead to a shorter limitation in individual cases. The contractual partner's claims for damages according to Sect. 8 Para. 2 Sentence 1 and Sentence 2(a) as well as according to the product liability law lapse, however, exclusively according to statutory limitation periods.

Sect. 11 Renewal of Limitation

As an entrepreneur, our contractual partner undertakes for their part, in the case of a delivery of a component, to refrain from an objection to a limitation for a further six months after the respective warranty period has lapsed, to grant us the possibility of regress.

Sect. 12 Choice of Law and Place of Jurisdiction

(1) The right of the Federal Republic of Germany, under exclusion of the international uniform law, in particular the regulations of the United Nations Convention on Contracts for the International Sale of Goods, applies to these T&C and the contractual relationship between us and the contractual partner. (2) If the contractual partner is a merchant according to the Commercial Code, a legal person under public law or a special fund under public law, exclusive—and international—place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is our headquarters in Riedlingen, Germany. We are, however, also entitled in all cases to file a suit at the delivery obligation's place of fulfilment, according to these T&C and/or an overriding separate agreement, or at the buyer's general place of jurisdiction. Overriding statutory regulations, in particular about exclusive responsibilities, remain unaffected. (3) The contract remains binding even if individual items become legally ineffective. Statutory regulations replace ineffective provisions, if they exist. Insofar as this would constitute undue hardship for either of the contractual parties, the contract as a whole becomes ineffective.