

General Terms and Conditions of Sale

§ 1 General and Scope of Application:

1. Our Terms and Conditions of Sale apply exclusively; we do not acknowledge any conflicting terms and conditions or any terms or conditions of the Customer that differ to our own, unless we have explicitly agreed to them in written form. Our Terms and Conditions of Sale will also apply when we are aware of the conflicting or differing conditions of the Customer and effect delivery of the Customer's order without reservation.
2. All agreements between us and the Customer in respect of fulfilling the present contract are to be set down in written form in this contract.
3. Our Terms and Conditions of Sale will only apply to enterprises as defined in Sections 310,14 BGB [German Civil Code].

§ 2 Materialization of Contract and Documents:

1. The offers we make are subject to change. A contract will only materialize when we have confirmed the order placement in written form. Failing our written confirmation, the contract will materialize at the latest upon delivery of the order. In this case the delivery note will be deemed to be an order confirmation. The type and scope of our delivery will only be determined by our written order confirmation.
2. We retain title and copyright to all illustrations, drawings, calculations and other documents: without our explicit written consent these will not be rendered accessible to third parties or forwarded on to third parties. This applies particularly for those written documents marked as confidential. The Customer will be subject to our explicit **written** consent for any on-forwarding to third parties.

§ 3 Prices and Conditions of Payment:

1. Unless otherwise detailed in the order confirmation, our prices will apply "ex works" and will not include packaging; this will be billed separately in an invoice.
2. The value added tax required by law is not included in our prices. On the day of billing, it will be shown separately in the invoice.
3. The deduction of discount will be subject to specific written agreement.
4. Unless otherwise obvious from the order confirmation, the purchase price will be due for payment (without deduction) within 30 (thirty) days as from the date of invoice. Should the Customer default in payment, we will be entitled to charge penalty interest of 8% p.a. in excess of the respective basic interest rate of the European Central Bank. If we are able to provide evidence of greater damages due to default in payment, we will be duly entitled to claim for such damages. The Customer, however, will be entitled to provide evidence that we have suffered no damages, or significantly less damages, as a result of said default in payment.
5. The Customer will only be entitled to offset or retain payment if its counterclaim is undisputed by us or has been established by declaratory judgement. The Customer will not be entitled to retain money for disputed counterclaims.
6. All fees, taxes and costs incurred in fulfilling the contract will be borne by the Customer.

§ 4 Delivery Period:

1. The beginning of the delivery period we specify will be subject to the prior clarification of all technical issues.
2. Compliance with our duty to deliver will be subject to the proper and timely fulfilment of the duties of the Customer.
3. Should the Customer default in acceptance or violate other duties relating to its own involvement, we will be entitled to call for compensation for the damages, including any additional expenses caused. In this case, the risk of incidental loss or deterioration of the item purchased will pass to the Customer as from the moment the Customer defaults in acceptance.
4. Our deliveries will fundamentally only be made in full package units.

§ 5 Transfer of Risk and Packaging Costs:

1. Unless otherwise specified in the order confirmation, the agreed delivery will be "ex works".
2. The return of transport and other packaging will not be accepted; pallets will be an exception. The Customer undertakes to ensure disposal of the packaging at its own expense.
3. Should the Customer so wish, we will provide insurance cover for the transport of the consignment, any costs thus incurred being borne by the Customer.

§ 6 Warranty for Defects:

1. The Customer's warranty rights will depend on the Customer having properly met its responsibilities owed in inspecting the consignment and filing objection subject to Sections 377, 378 HGB [German Commercial Code].
2. In the event the defect is eliminated, we will only bear the costs of material, transport and labour, and integration and installation to one half.
3. The warranty deed lasts for 1 (one) year. The Customer will only be entitled to claim compensation for damages for a characteristic that has been guaranteed if the warranty assumed was precisely meant to protect the Customer against those damages that have in fact occurred. Other claims to compensation for damages based on warranty will be ruled out if they are attributable to slight negligence on our part, or on the part of our legal representatives or vicarious agents, unless these are foreseeable, typical damages from the violation of major contractual duties; claims to compensation for damages will not be ruled out if these are attributable to the wilful intent or gross negligence of us, our legal representatives or vicarious agents. Claims to compensation of damages derived from injury to life and limb, for which we, our legal representatives or vicarious agents are responsible, will remain unaffected by this exclusion of liability.

§ 7 Liability:

1. Contractual and out-of-contract claims to compensation filed by the Customer against us, our legal representatives, vicarious agents and employees, irrespective of their nature and legal foundation, e.g. derived from unlawful action, will in any case be ruled out, unless these are foreseeable, typical damages derived from the violation of major contractual duties or if the damages are attributable to intentional and/or grossly negligent violations of duty on our part, on the part of our legal representatives or vicarious agents.
2. This ruling on liability will also apply to the consultation we provide, both written and verbal, as well as during the course of trials or otherwise; the Customer will in particular not be discharged from checking itself the suitability of the delivery for its intended use.
3. Claims subject to the Product Liability Act will be unaffected by the present exclusion of liability.

§ 8 Retention of title

1. We retain title to the items delivered and purchased (the goods) until all payments due through business relations with the Customer have been received. In the case of a breach of contract on the part of the Customer, particularly if the Customer defaults in payment, we will be entitled to take back the purchased goods. In taking back the purchased goods, we are not revoking the contract, unless we have explicitly declared such revocation. After taking back the item purchased and after threatening to make use thereof, we will be authorized to offset the proceeds from said use against the Customer's liabilities and deduct the corresponding costs of use.
2. The Customer undertakes to handle the purchased item carefully. In particular, the Customer undertakes to insure it adequately, at its own expense, against fire, water and theft at reinstatement value. Where maintenance and inspection work is required, the Customer will have this carried out in good time at its own expense.
3. In cases of attachment or other third-party intervention, the Customer will inform us thereof immediately in written form so that we are able to take legal action subject to Section 771 ZPO [German Code of Civil Procedure]. Where the third party is not in a position to refund the court or out-of-court costs of legal action subject to Section 771 ZPO, the Customer will be liable for the loss we sustained.
4. The Customer will be entitled to resell the item purchased in the course of conventional business practice. However, the Customer will now herewith assign all claims in the amount of the final invoice (including value added tax) to which it is due from the resale from its own customer or third parties, irrespective of whether the item purchased has been sold without or after further workmanship. The Customer will remain authorized to collect the amount due, even after assignment. Our own authority to collect the amount due will not be affected hereby. Nevertheless, we undertake not to collect the amount due for as long as the Customer satisfies its own payment commitments from the proceeds from the resale, does not default in payment and, in particular providing no petition is filed for insolvency or if payments cease. Should this be the case, however, we will be able to require the Customer to provide us with the details of the assigned claims and their debtors, and all information needed for collection purposes, to hand over the relevant documentation and notify the (third party) debtors of the assignment.
5. The reworking or reshaping of the purchased item by the Customer will always be undertaken on our behalf. Should the purchased item be worked together with other items that do not belong to us, we will acquire co-ownership of the new item in the ratio of the value of the purchased item to the other worked items at the time of said processing. In all other respects the same will apply for the item created from the reworking as for the item purchased and conditionally delivered.
6. If the item purchased is mixed so as to be inseparable from the items that do not belong to us, we will acquire co-ownership of the new item in the ratio of the value of the purchased item to the other items intermixed therewith at the time of said mixing. Should the mixing process be such that the item of the Customer is to be considered the main part, it is deemed agreed that the Customer transfers proportional co-ownership thereof to us. The Customer will safe keep the exclusive or co-ownership on our behalf.
7. The Customer will also assign to us all claims accrued in respect of a third party through the combining of the item purchased with real estate, in order to secure our claims against the Customer.
8. At the request of the Customer, we undertake to release any securities to which we are entitled, providing the realisable value of our securities is more than 10% in excess of the claims to be secured. We will be responsible for selecting the securities to be released.

§ 9 Place of Jurisdiction/ Place of Performance:

1. In the event the Customer is a businessperson, the place of jurisdiction will be our registered seat of business. We are, however, also entitled to bring action against the Customer at the Customer's place of residence.
2. Unless otherwise stipulated in our order confirmation, the place of performance will be our registered seat of business.
3. The law of the Federal Republic of Germany will exclusively apply, to the exclusion of the United Nations' Convention of Contracts for the International Sale of Goods).

General Terms and Conditions of Purchase

§ 1 General and Scope of Application:

1. Our Terms and Conditions of Purchase apply exclusively; we do not acknowledge any conflicting terms and conditions or any terms or conditions of the Customer that differ to our own, unless we have explicitly agreed to them in written form. Our Terms and Conditions of Purchase will also apply when we are aware of the conflicting or differing conditions of the Customer and without reservation accept delivery from the Supplier.
2. All agreements between us and the Supplier in respect of fulfilling the present contract are to be set down in written form in this contract.
3. Our Terms and Conditions of Purchase will only apply to enterprises as defined in Sections 310,14 BGB [German Civil Code].
4. Our Terms and Conditions of Purchase will also apply to all future business with the Supplier.

§ 2 Offers and the Documents that are Integral Parts thereof:

1. Should the Supplier fail to accept our order within 2 (two) weeks of its receipt, we will be entitled to revoke our order placement.
2. We retain title and copyright to all illustrations, drawings, calculations and other documents: without our explicit written consent these and any other documents handed over with the order placement will not be rendered accessible to third parties or forwarded on to third parties. The afore-mentioned documents are solely intended for the manufacture based on our order; after completion of the order, these documents will be returned to us immediately and without any specific request from us. The documents and information transmitted in connection with the handling of the order will be kept secret in respect of third parties.

§ 3 Prices and Conditions of Payment:

1. The price given in the order is binding. Lacking any written agreement, the price will include "free house" delivery including packaging. The return of the packaging will be subject to a separate, written agreement.
2. We will only be able to handle invoices if these feature the order number or other handling reference corresponding to the specifications of our order. The Supplier will be responsible for any consequences of a failure to comply with this commitment.
3. We will be entitled to offset and retain to the extent stipulated by the law.
4. Unless otherwise agreed in written form, we will pay the purchase price with 3% discount within a period of 14 (fourteen) days following delivery and the receipt of the invoice.

§ 4 Delivery Period and Default in Delivery:

1. The delivery period featured in the order will be binding.
2. The Supplier undertakes to inform us immediately in written form of any circumstances that have occurred or of which he becomes aware that could prevent compliance with the contracted delivery period.
3. Partial and premature deliveries will only be permissible if we have explicitly declared our agreement thereto. This will not provide any grounds for the agreed due date for payment.
4. In the event of default in delivery, we will be entitled to claim in accordance with the law. In particular we will be entitled to call for compensation for non-performance if the appropriate period of grace that was set for remedy has expired fruitlessly.
5. The assignment of claims to which the Supplier is entitled from business relations with us will be ruled out without our prior written consent.

§ 5 Transfer of Risk and Delivery Documents:

1. Unless otherwise agreed in written form, the delivery will be "free house".
2. The Supplier undertakes to specify our order number exactly on all despatch papers and delivery notes. The Supplier's failure to do so will cause delays in handling, for which we are not responsible.

§ 6 Guarantee:

1. We undertake to check delivery for any defects within an appropriate period of time.
2. The Supplier will continuously check the quality of the items it is to deliver. The technical details and descriptions of the items to be delivered in the documents and instructions of the Supplier will be deemed quality data as defined in Section 434 BGB [German Civil Code].
3. For its delivery the Supplier will provide guarantee and compensation for damages as laid down by the law, without this liability being restricted or ruled out in terms of reason or amount.
4. Unless otherwise agreed or if the law provides for longer periods of time, the Supplier will guarantee the delivery for 3 (three) years as from inspection and acceptance of said delivery. Notwithstanding this and unless the law prescribes longer statutory periods of limitation, the period of limitation for claims to guarantee will by law be 2 (two) years.

5. In urgent cases, particularly in order to avert acute danger or to avoid excessive damages, we will be entitled to eliminate the defects ourselves at the expense of the Supplier.

§ 7 Product Liability, Release by Supplier, General Liability Insurance:

1. Where the Supplier is responsible for product damages, the Supplier undertakes to release us from any third-party claims to compensation to the extent that said damages originate within the Supplier's own domain and organisational area and the Supplier itself is liable in relation to third parties.
2. In this respect the Supplier also undertakes to refund any expense incurred by us pursuant to Sections 683, 670 BGB [German Civil Code] in connection with a product recall campaign. As far as possible and reasonable, we will inform the Supplier of the content and scope of the recall measures to be conducted and will give the Supplier the opportunity to comment.
3. The Supplier undertakes to maintain product liability insurance cover - flat coverage - to the order of € 2.5 million per injury to persons/ damage to property. Should we be entitled to further claims to compensation, these will not be affected hereby.

§ 8 Industrial Property Rights:

1. The Supplier gives its assurance that its delivery violates no third-party rights in the Federal Republic of Germany.
2. Should a third party file action against us, the Supplier undertakes to release us upon our first written request from said claims. We will be entitled to reach agreement with the third party – without the consent of the Supplier – particularly in respect of reaching a settlement.
3. The duty of the Supplier to release us in this respect relates to all expenses that we are compelled to incur from or in connection with the third-party action against us.

§ 9 Retention of Title, Provision, Tools, Secrecy:

1. Where we supply the Supplier with parts, we will retain title thereto. Any reworking or reshaping undertaken by the Supplier will always be undertaken on our behalf. Should our reserved goods be worked together with other items that do not belong to us, we will acquire co-ownership of the new item in the ratio of the value of our item to the other worked items at the time of said processing.
2. If the item we have provided is mixed so as to be inseparable from items that do not belong to us, we will acquire co-ownership of the new item in the ratio of the value of the reserved goods to the other items intermixed therewith at the time of said mixing. Should the mixing process be such that the item of the Supplier is to be considered the main part, it is deemed agreed that the Supplier will transfer proportional co-ownership thereof to us. The Supplier will safe keep the exclusive or co-ownership on our behalf.
3. We retain title to tools. The Supplier undertakes to use the tools exclusively for the manufacture of the goods we order. The Supplier undertakes to insure our tools at reinstatement value at its own expense against fire, water and theft. The Supplier undertakes to have any maintenance and inspection work that might be required carried out in due time at its own expense. Any problems will be notified to us immediately; failure to do so, for which the Supplier is responsible, will result in the claims to compensation for damages being unaffected hereby.
4. If the Supplier manufactures tools in line with the drawings, we will have exclusive title thereto after payment of the price contracted for said manufacture. The Supplier will safe keep the tools on our behalf. In this case we will be able to call for the surrender of the tools at any time, without giving our reasons, without the Supplier being entitled to the retention thereof, unless said rights of retention are based on undisputed claims, explicitly acknowledged by us or established by declaratory judgement. If the agreed price of the tools has not yet been paid, the surrender of the tools may be called for at the same time as performance, unless said rights of retention are founded on undisputed claims that have been explicitly acknowledged by us or established by declaratory judgement. In all other respects, Clause 3 will apply analogously in terms of the use, insurance and maintenance/inspection and in respect of the duties to supply information.
5. The Supplier undertakes to maintain strict secrecy about all illustrations, drawings, calculations and other documents as well as information. Third-party disclosure will be subject to our explicit written consent. The agreement to secrecy will continue to apply even after the present contract has terminated; it will lapse if and to the extent the manufacturing know-how featured in the illustrations, drawings, calculations and other documents becomes general public knowledge.

§ 10 Place of Jurisdiction/ Place of Performance:

1. In the event the Customer is a businessperson, the place of jurisdiction will be our registered seat of business. We are, however, also entitled to bring action against the Customer at the Customer's place of residence.
2. Unless otherwise stipulated in our order placement, the place of performance will be our registered seat of business.
3. The law of the Federal Republic of Germany will apply exclusively, to the exclusion of the United Nations' Convention of Contracts for the International Sale of Goods).