

General terms and conditions

Applicable in relation to:

1. a person who is concluding the contract whilst exercising his or her commercial or self-employed professional activities (entrepreneur);
2. legal persons under public law or a public law special fund

I. General

1. These terms and conditions of business apply to all deliveries and services, as well as to any separate contractual agreements. Deviating terms and conditions of purchase of the customer will not become part of the contract, even if the order is accepted.

In the absence of a separate agreement, a contract will come into existence at the time of the written order confirmation of the supplier.

2. The supplier reserves ownership rights and copyright in relation to samples, cost quotations, drawings and information of a tangible and non-tangible nature, also in electronic form; these may not be made accessible to third parties. The supplier shall be obliged to only make information and documents designated as confidential by the customer accessible to third parties with the agreement of the customer.

II. Price and payment

1. In the absence of a separate agreement, the prices apply ex-works including loading at the factory, however exclusive of packaging and loading. The prices are subject to value added tax to the respective statutory amount.

2. In the absence of a separate agreement, payments must be made to the bank account of the supplier without any discount as follows:

^{1/2} advance payment after receipt of the order confirmation,

^{1/2} once the customer has been informed that the products are available for dispatch

3. The customer only has the right to withhold payments if its counterclaims are undisputed or have been recognised by a court.
4. The customer only has the right to set off with counterclaims from other legal relationships if these are undisputed or have been recognised by a court.

III. Delivery time, delivery delay

1. The delivery time is determined by the agreement between the contracting parties. Compliance with the delivery time by the supplier is subject to all commercial and technical queries between the contracting parties having been clarified and the customer having complied with all obligations to which it is subject, for example provision of the necessary official certifications or permits or the making of an advance payment. Should this not be the case, the delivery time shall be reasonably extended. This does not apply if the supplier is responsible for the delay.

2. Compliance with the delivery time is subject to correct and timely self-supply. The supplier shall provide notification of any delays as quickly as possible.

3. The delivery time shall be deemed to have been complied with if the object of delivery has left the factory of the supplier prior to its expiry or should notification of readiness for dispatch have taken place. Should acceptance be required to take place, the acceptance date or alternatively the notification of readiness for acceptance shall be decisive, except in justified cases of refusal to carry out acceptance.

4. Should the shipping or acceptance of the object of delivery be delayed for reasons for which the customer is responsible, then beginning one month following the notification of readiness for dispatch or acceptance, the costs incurred due to the delay will be charged to the customer.

5. Should the non-compliance with the delivery time be due to force majeure, labour disputes or other events which are outside the control of the supplier, the delivery time shall be reasonably extended. The supplier will notify the customer of the start and end of such events as soon as possible.

6. The customer can rescind the contract without the setting of a deadline, should the provision of the entire service become finally impossible for the supplier prior to the transfer of risk. The customer can also rescind the contract if in the case of an order the performance of part of the delivery becomes impossible and the customer has a legitimate interest in the rejection of the partial delivery. Should this not be the case, the customer must pay the contractual price which is due on the partial delivery. The same

applies in case of inability on the part of the supplier. Otherwise, section VII.2 applies.

Should the impossibility or inability occur during acceptance default or should the customer be solely or primarily responsible for these circumstances, the customer shall remain obliged to provide consideration.

7. Should the supplier enter default and should a loss be incurred by the customer as a result, the customer shall be entitled to demand fixed default compensation. For each full week of delay, this amounts to 0.5% of the value of the respective part of the overall delivery which cannot be used on time or in accordance with the contract as a result of this delay, however this shall be limited to a total of 5%.

Should the customer set the supplier a reasonable deadline to provide performance following the due date, taking the statutory exemption cases into account, and should the deadline not be complied with, the customer shall be entitled to rescind the contract within the framework of the statutory regulations. Following a request by the supplier, the customer shall be obliged to declare within a reasonable deadline as to whether it intends to exercise the right of rescission.

Further claims in connection with delivery delays shall be determined exclusively in accordance with Section VII.2 of these terms and conditions.

IV. Transfer of risk

1. The risk shall be transferred to the customer once the object of delivery has left the factory, also if partial deliveries take place or if the supplier has assumed additional services, such as shipping costs or delivery and assembly. Should acceptance be required to take place, this shall be decisive when determining the transfer of risk. This must take place immediately on the acceptance date or alternatively following the readiness for acceptance notification of the supplier. The customer is not entitled to refuse acceptance due to the presence of minor defects.

2. Should the shipping or acceptance be delayed or should these not take place due to circumstances for which the supplier is not responsible, the risk shall be transferred to the customer from the day of notification or readiness for dispatch or acceptance. The supplier shall be obliged to take insurance out at the expense of the customer, should the customer so request.

3. Partial deliveries are permitted, provided that these are reasonable for the customer.

V. Reservation of ownership

1. The supplier reserves ownership of the object of delivery until receipt of all payments under the supply contract, also for any ancillary services which are owed.

2. The supplier is entitled to insure the object of delivery against theft, breakage, fire and water damage and other damage at the expense of the customer, unless the customer can prove that it has taken the insurance out itself.

3. The customer may not resell, pledge or provide the object of delivery as security. In case of attachments or seizures or other third party measures, the customer must inform the supplier of such immediately.

4. In case of behaviour by the customer which is in breach of contract, in particular in case of payment default, the supplier is entitled to retake possession of the object of delivery following a warning and the customer shall be obliged to surrender it.

5. The supplier can only demand the surrender of the object of delivery under reservation of ownership if it has rescinded the contract.

VI. Defect claims

For material defects and defects of title in relation to the delivery, the supplier shall incur liability to the exclusion of further claims and in reservation of Section VII as follows:

Material defects

1. All such parts which are shown to be defective for reasons present prior to the transfer of risk must be improved or replaced with a defect-free delivery, depending on the choice of the supplier. Should such defects be observed, the supplier must be notified immediately in writing. Replaced parts shall become the property of the supplier.

1. 2. By agreement with the supplier, the customer must provide the supplier with the necessary time and opportunity to carry out all improvements and replacement deliveries which the supplier considers to be necessary; otherwise, the supplier shall be released from liability for the resulting consequences. Only in urgent cases of endangerment of operational security or in order to defend against disproportionately severe damage, where the supplier must be informed immediately, does the customer have the right to correct the defect itself or to have it corrected by third parties and to request reimbursement of the necessary costs by the supplier.

3. Should the objection be shown to be justified, the supplier shall bear the expenses which are necessary for the purpose of supplementary performance, unless a disproportionate burden is incurred by the supplier. In case of the purchase of a newly created object and also within the scope of its legal obligations, the supplier shall reimburse the costs incurred by the customer within the framework of recourse claims in the supply chain.

4. Within the framework of the statutory regulations, the customer shall have the right to rescind the contract, should the supplier allow a reasonable deadline set to it for improvement or the provision of a replacement delivery due to material defects to expire, taking the statutory exemption cases into account. Should merely a minor defect be present, the customer only has the right to reduce the contractual price. Otherwise, the right to reduce the contractual price shall remain excluded.
5. Further claims shall be determined exclusively in accordance with Section VII. 2 of these terms and conditions.
6. In particular, no liability will be assumed in the following cases:
Unsuitable or improper use, defective assembly or putting into operation by the customer or third parties, natural wear and tear, defective or negligent treatment, incorrect maintenance, unsuitable operating materials, defective construction work, unsuitable land, chemical, electro-chemical or electrical influences, unless the supplier is responsible for these.
7. Should the customer or a third party carry out unsuitable corrections, the supplier shall not incur any liability for the resulting consequences. The same applies to any alterations to the object of delivery which are carried out without the prior agreement of the supplier.

Defects of title

8. Should the use of the object of delivery lead to a breach of commercial property rights or copyright domestically, the supplier shall, as a rule, obtain the right of further use for the customer at its own expense or modify the object of delivery for the customer in such a reasonable way that the property right breach no longer exists.

Should this not be possible under reasonable economic conditions or within a reasonable deadline, the customer shall be entitled to rescind the contract, should the named prerequisites be present, the supplier shall also have the right to rescind the contract.

In addition, the supplier shall release the customer from undisputed claims of the property right holder concerned or claims of the property right holder which have been recognised by a court.

9. The obligations of the supplier named in Section VI. 8 are full and final in case of breaches of property rights or copyright, in reservation of Section VII.2

These only exist if:

- the customer immediately informs the supplier of the breaches of property rights or copyright which are being claimed
- the customer supports the supplier to a reasonable extent in the defence of the claims which are being brought or enables the supplier to carry out the modification measures in accordance with Section VI. 8
- the supplier remains authorised to carry out all defensive measures, including out of court regulations
- the defect of title is not due to an instruction of the customer and
- the defect of title was not caused by the customer unilaterally altering the object of delivery or having used it in a manner which is in breach of contract.

VII. Liability of the supplier, exclusion of liability

1. Should the object of delivery not be able to be used in accordance with the contract due to proposals which were culpably omitted by the supplier or which were defective or due to advice which took place prior to or following conclusion of the contract or due to a culpable breach of other contractual ancillary obligations, in particular operating and maintenance instructions for the object of delivery by the customer, then to the exclusion of further claims of the customer, the provisions of Sections VI and VII 2 shall apply.

1. 2. For losses which did not occur in relation to the object of delivery itself the supplier shall only incur liability in the following cases, regardless of legal reasons:

- a. in case of intent
- b. in case of gross negligence on the part of the owner / organs / management employees
- c. in case of culpable injury to life, body or health
- d. in case of defects which the supplier has fraudulently concealed
- e. in the course of a guarantee undertaking
- f. in case of defects to the object of delivery where liability is incurred under the German Product Liability Act (Produkthaftungsgesetz) for personal injury or damage to privately used property

In case of a capable breach of essential contractual obligations, the supplier shall incur liability should gross negligence be present on the part of non-management employees and in case of simple negligence, limited in the latter cases to losses which

are typical of the contract and reasonably foreseeable.

Further claims shall be excluded.

2. In no cases will the supplier guarantee a scheduled production start or productivity, as this always depends on the conditions at the premises of the end customer. Liability for any delays to the start of production or liability for delays until the attainment of the service parameters stated in the order confirmation shall be excluded.

VIII. Limitation

Regardless of legal reasons, all claims of the customer shall be time barred in 12 months. This also applies to the time barring of recourse claims in the supply chain in accordance with § 445b Paragraph 1 of the German Civil Code (BGB), unless the most recent contract in this supply chain is the purchase of consumables. The suspension of the limitation period under § 445b Paragraph 2 BGB shall remain unaffected. For damages claims under Section VII. 2 a-d and f, the statutory periods shall apply. These all apply to defects to a construction object or delivery objects which were used for a construction object in accordance with their customary manner of use and caused the said defects.

IX. Use of software

Should software be included in the scope of delivery, the customer shall be granted a non-exclusive right to use the delivered software including its documentation. It is being handed over for use with the intended object of delivery. Use of the software on multiple systems is prohibited.

The customer may only duplicate, alter, translate or convert the object code to the source code to the extent permitted by law (§§ 69 a ff. of the German Copyright Act - UrhG). The customer shall be obliged not to remove manufacturer information, in particular copyright notices or to alter these without the express prior agreement of the supplier.

All other rights in relation to the software and the documentation, including the copies shall remain with the supplier or software supplier. The issuing of sub-licences is not permitted.

X. Applicable law, place of jurisdiction

1. For all legal relationships between the supplier and the customer, the applicable law of the Federal Republic of Germany relating to legal relationships between domestic parties shall apply exclusively.
2. The place of jurisdiction shall be the competent court of the place of business of the supplier. However, the supplier shall be entitled to bring a lawsuit at the place of business of the customer.