

GENERAL TERMS AND CONDITIONS OF PURCHASE

§ 1 Area of applicability, form

1. These general terms and conditions of purchase apply to all business relationships with our business partners and suppliers ("seller"). These general terms and conditions of purchase apply only when the customer is an entrepreneur (§ 14 of the German Civil Code - BGB), a legal person under public law or a public law special fund.

2. The general terms and conditions of purchase apply in particular to contracts for the sale and/or delivery of moveable objects ("goods"), regardless of whether the seller manufactures these itself or procures these from suppliers (§§ 433, 650 of the German Civil Code - BGB). Unless otherwise agreed, the general terms and conditions of purchase in the version valid at the time of the order of the buyer or in all cases the version most recently notified to the buyer in text form apply as a framework agreement, also to equivalent contracts in the future, without us being required to refer to these once again in an individual case.

3. These general terms and conditions of purchase shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of business of the seller will only become part of the contract if we have expressly agreed to their applicability in writing. The above agreement requirement applies in all cases, also if we accept the deliveries of the seller without reservation in the knowledge of its general terms and conditions of business.

4. Individual agreements which are concluded with the seller in individual cases (including ancillary agreements, additions and amendments) shall always take priority over these general terms and conditions of purchase. In reservation of counter proof, a written contract or our written confirmation shall be decisive in relation to the content of such agreements.

5. Legally binding declarations and notifications of the seller in relation to the contract (for example the setting of deadlines, warnings, rescission) must be issued in writing, i.e. in written or text form (for example letter, email, fax). Statutory form requirements and further proof, in particular in cases of doubt concerning the authority of the person making the declaration, shall remain unaffected.

§ 2 Conclusion of the contract

1. Our order shall be deemed to be binding at the earliest at the time of its written submission or confirmation. The seller must notify us of obvious errors (for example typing and grammatical errors) and incompleteness in the order, including the order documents, so that we can carry out corrections or additions prior to acceptance; otherwise, the contract shall be deemed not to have been concluded.

2. The seller must confirm our order in writing within a deadline of 10 days or, in particular, by carrying out the shipment of the goods without reservation (acceptance).

§ 3 Delivery time and delivery delays

1. The delivery time stated by us in the order is binding. The seller shall be obliged to immediately notify us in writing if it is expected not to be able to comply with agreed delivery times, regardless of reason.

2. Should the seller fail to provide its service at all, should it fail to provide the service within the agreed delivery time or should it enter default, our rights (in particular those of rescission and damages) shall be determined in accordance with the statutory regulations.

§ 4 Service, delivery, transfer of risk, acceptance default

1. Should the delivery location not be specified and should no other agreement be in place, the delivery must be sent to our place of business in Hohenkammer, Germany. The respective delivery location is also the place of performance for the delivery and any supplementary performance (obligation to be discharged).

2. A delivery note, stating the date, content of the delivery and our order number must be attached to the delivery. Should the delivery note be missing or should it be incomplete, we will not be responsible for any delays which result in relation to processing and payment. We must be sent a relevant shipping notification with the same content separately from the delivery note.

3. The risk of accidental destruction and possible deterioration of the goods is transferred to us at the time of handover at the place of performance. If acceptance is agreed, this is decisive for the transfer of risk. The statutory regulations concerning contracts for work and labour shall also apply in case of acceptance. It is deemed equivalent to the handover or acceptance if we are in default with the acceptance.

§ 5 Payment terms

1. The price stated in the order is binding. All prices include statutory value added tax, unless this is stated separately.

2. The agreed price is due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. Should we make payment within 10 calendar days, the seller shall grant us a 3% discount on the net invoice sum. In case of bank transfers, the payment will be deemed to have been made on time if our remittance instruction is received by our bank prior to the expiry of the payment deadline; we are not responsible for any delays to the payment process on the part of the banks.

3. We are not obliged to pay any default interest.

4. We are entitled to rights of set off and rights of retention, as well as the plea of non-fulfilment of the contract to the extent mandated by law. In particular, we are entitled to retain payments which are due, should we still be entitled to claims against the supplier due to incomplete or defective services.

§ 6 Non-disclosure and reservation of ownership

1. We reserve ownership and copyright in relation to images, plans, drawings, calculations, performance instructions, product descriptions and other documents. Such documents must only be used for the contractual service and must be returned to us once the contract has been completed. The documents must be kept secret in relation to third parties, also following termination of the contract. The non-disclosure obligation will continue to apply until such time that the knowledge contained in the documents which have been provided has become generally known.

2. The provision above applies accordingly to substances and materials (for example software, completed and semi completed products) as well as to work tools, drafts, samples and other objects which we provide to the seller for the purpose of manufacturing. Unless these are processed, such objects must be stored separately at the expense of the seller and must be reasonably insured against loss and destruction.

3. Processing, mixing or connection (further processing) of the provided objects by the seller will be carried out for us. The same applies in case of further processing of the delivered goods by us, so that we are deemed to be the manufacturer and obtain ownership of the product at the latest at the time of further processing in accordance with the statutory regulations.

4. The transfer of the goods to us must take place in absolute terms and without taking payment of the price into account. However, should we accept a transfer offer of the seller in an individual case which is subject to payment of the purchase price, the reservation of ownership of the seller shall cease to apply at the latest at the time of payment of the purchase price for the delivered goods. Also prior to payment of the purchase price, we remain entitled to sell on the goods in the course of proper business dealings and to pre-assign the resulting claim (alternatively applicability of the simple reservation of ownership which extends to the resale). All other forms of reservation of ownership are excluded in all cases, in particular the extended, assigned reservation of ownership and reservation of ownership which is extended to further processing.

§ 7 Delivery defects

1. The statutory regulations apply to our rights in case of material defects and defects of title in relation to the goods (including incorrect and reduced delivery, incorrect and defective assembly, defective operating or user instructions) and in case of other breaches of obligations by the seller, unless otherwise stated below.

2. According to the statutory regulations, the seller is responsible in particular for ensuring that the goods possess the contractually agreed quality at the time of transfer of risk. Those product descriptions which are part of the respective contract or which were incorporated into the contract in the same way as these general terms and conditions of purchase, in particular by means of description or referencing in our order are always deemed to be an agreement relating to quality. Whether the product description originates from us, the seller or the manufacturer is irrelevant.

3. In deviation from § 442 Paragraph 1 Sentence 2 of the German Civil Code (BGB), we will also be entitled to claims connected to defects without limitation if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.

4. The statutory provisions (§§ 377, 381 of the German Commercial Code - HGB) apply to the commercial inspection and complaint obligation with the following condition: Our inspection obligation is limited to defects which are discovered during our goods-in inspection by means of an external check, including the delivery papers (for example damage during transportation, incorrect and reduced delivery) or which are discovered during our quality control process by means of random checking. Should acceptance be agreed, no inspection obligation exists. Otherwise, it depends on to what extent an inspection is feasible, taking the circumstances of the individual case into account in accordance with the principle of proper business dealings. Our complaint obligation for defects which are discovered subsequently remains unaffected.

5. Supplementary performance also includes the disassembly of the defective goods and re-installation, should the goods have been built into another item or should they have been combined with another object in accordance with their nature and purpose of use; our statutory claim to the reimbursement of relevant expenses shall remain unaffected. The necessary expenses for the purposes of inspection and supplementary performance shall also be borne by the seller if it becomes apparent that no defect was actually present. Our liability to pay damages in case of justified defect correction requests shall remain affected; however this shall only apply if we were aware that no defect was present or failed to recognise that no defect was present due to gross negligence.

6. Should the seller fail to comply with its obligation to provide supplementary performance within a reasonable deadline set by us (according to our choice this can be by means of correction of the defect (improvement) or by means of the delivery of a defect-free item (replacement delivery)), we can correct the defect ourselves and request reimbursement by the seller of the necessary expenses in this respect

or request a relevant advance payment. Should the supplementary performance by the seller have failed or should this be unreasonable for us (for example due to special urgency, endangerment of operational safety or threatened occurrence of disproportionate damage), it is not necessary to set a deadline; we will inform the seller of such circumstances immediately and where possible in advance.

7. Otherwise, in case of a material defect or defect of title, we are entitled in accordance with the statutory regulations to reduce the purchase price or rescind the contract. Also, we are entitled under the statutory regulations to bring damages claims and claims for the reimbursement of expenses.

§ 8 Supplier recourse

1. We are entitled to our recourse claims within a supply chain which are provided by law (supplier recourse in accordance with §§ 445a, 445b, 478 of the German Civil Code - BGB) without restriction, alongside the defect claims. In particular, we are entitled to request the same type of supplementary performance to be provided by the seller (improvement or replacement delivery) which we owe to our customer in the individual case. Our statutory right of choice (§ 439 Paragraph 1 of the German Civil Code - BGB) shall not be restricted as a result.

2. Before we acknowledge or fulfil a defect claim brought by our customer (including the reimbursement of expenses in accordance with §§ 445a Paragraph 1, 439 Paragraphs 2 and 3 of the German Civil Code - BGB), we will inform the seller and request a written statement, setting out the matter in brief terms. Should a substantiated statement not be forthcoming within a reasonable deadline and should no mutually agreeable solution be able to be found, the defect claim which is actually granted by us shall be deemed to be owed to our customer. In such a case, the seller shall be obliged to provide the counter-proof.

3. Our claims under supplier recourse also apply if the defective goods were further processed by us or another contractor, for example by means of installation into a different product.

§ 9 Producer's liability

1. Should the seller be responsible for damage caused by its products, it must release us from third party claims to the extent that the cause lies in its area of management and organisation and to the extent that it incurs liability itself in relation to third parties.

2. Within the framework of its release obligation, the seller must, in accordance with §§ 683, 670 of the German Civil Code (BGB) reimburse expenses which are incurred in connection with a third party claim, including those of any recall measures carried out by us. Where possible and reasonable, we will inform the seller of the content and scope of any recall measures and provide the seller with the opportunity to make a statement. Further statutory claims shall remain unaffected.

§ 10 Limitation period

1. The mutual claims of the contracting parties shall be subject to the statutory limitation periods, unless otherwise stated below.

2. In deviation from § 438 Paragraph 1 Number 3 of the German Civil Code (BGB), the general limitation period for defect claims is 3 years from the time of transfer of risk. Should acceptance be agreed, the limitation period shall start to run at the time of acceptance. The 3 year limitation period applies accordingly to claims connected to defects of title, whereby the statutory limitation period for a real right of a third party on the basis of which the return of the purchased item can be demanded (§ 438 Paragraph 1 Number 1 of the German Civil Code - BGB) shall remain unaffected; claims connected to defects of title shall not then be time barred for the time that the third party can continue to claim the right against us, in particular in case of the absence of a limitation period.

3. The limitation periods under sales laws, including the extension referred to above, shall apply to the extent provide by law for all contractual defect claims. Should we also be entitled to damages claims outside of the contract due to a defect, the regular statutory limitation period shall apply in this respect (§§ 195, 199 of the German Civil Code BGB), unless the application of the limitation periods under sales laws leads to a longer limitation period in the individual case).

§ 11 Choice of law and place of jurisdiction

1. The law of the Federal Republic of Germany shall apply to these general terms and conditions of purchase and to the contractual relationship between ourselves and the seller, to the exclusion of international uniform laws, in particular the United Nations Convention governing the International Sale of Goods.

2. Should the seller be a merchant as defined in the German Commercial Code (HGB), a legal person under public law or a public law special fund, the exclusive place of jurisdiction (also internationally) for all disputes arising under the contractual relationship shall be our place of business in Freising, Germany. The same applies if the seller is an entrepreneur in accordance with § 14 of the German Civil Code (BGB). However in all cases, we are entitled to bring a lawsuit at the place of performance of the delivery obligation in accordance with these general terms and conditions of purchase or a superordinate individual undertaking. We are also entitled to bring a lawsuit at the general place of jurisdiction of the seller. Superordinate statutory regulations, in particular concerning exclusive jurisdictions shall remain unaffected.

§ 12 Data protection provisions

1. The seller is obliged to treat all information of which it becomes aware in the course of the business relationship with us confidentially. All commercial and technical details in connection with orders and other matters must also be treated as confidential information.

2. The duplication of the documents and disclosure of these to third parties is only permitted to the extent that is necessary in accordance under the business transaction.
The supplier must also impose a confidentiality obligation on its sub-suppliers.

3. We reserve ownership rights and copyright.
Suppliers may only pass completed products, semi-completed products, drawings, work tools, samples, models, brand names and similar objects on to third parties with our written permission.

As of: November 2018