

General Terms and Conditions (GTC)

Important notice: This document is a translation, and in a dispute the German version will be taken as the correct version.

For all deliveries and performances, including future transactions, the following GTC apply exclusively. Deviating agreements require our confirmation. At the latest with the receipt of our goods and/or services, these GTC are considered accepted.

Our GTC only apply for companies, corporate bodies under public law or special funds under public law.

1. Quotation and conclusion of contract

Our quotations are non-binding.

Contracts are only concluded with our acceptance of orders submitted to us, when we have confirmed declarations of acceptance or when the delivery items ordered by the purchaser have been delivered. This applies accordingly for additions and amendments to contracts. The contracting parties will confirm oral agreements immediately in writing.

All specifications, such as dimensions, weights, figures, descriptions, assembly drawings and diagrams in offers, brochures, price lists and other printed material are only approximate, determined as accurate as possible, however they are non-binding for us in this respect. Models and drawings remain our property.

2. Dates and deadlines

Specified periods and deadlines are only binding insofar as they have been expressly agreed upon as binding in the written form.

Unforeseen extraordinary events, such as labour disputes, official measures, traffic jams or other force majeure, whether they occur to us or to our suppliers, release us from our duty of delivery and/or performance for the duration of their effects or release us entirely if they lead to the impossibility of the performance. Any agreed contractual penalty shall not be deemed as forfeited under these circumstances.

If the delivery of a delivery item which is ready for dispatch is delayed at the request of the purchaser or for reasons for which the purchaser is responsible, we are entitled to charge the purchaser a storage fee amounting to 0.5% of the invoice amount of the respective delivery item for each commenced month. The purchaser is entitled to provide evidence that no expenses have been incurred at all or that they were significantly lower than the flat charge. Further rights remain unaffected thereof.

3. Shipment and transfer of risk / insurance

The risk of accidental loss and accidental deterioration of the goods passes to the buyer upon delivery, in case of a sales shipment upon the transfer to the carrier, haulier or the person or agency responsible for the performance of the shipment.

The transfer also applies when the purchaser is in default of acceptance.

Insurance is only arranged at the request of the purchaser and at the purchaser's expense.

4. Payment

Unless otherwise agreed, our invoices are due immediately and payable within 14 days of the date of invoice.

Unless otherwise agreed, a cash discount of 2% is only possible in the case of advance payments, or in the case of an unhampered receipt of payment by direct debit authorisation granted to us, subject to fulfilment of the following conditions.

A cash discount deduction is only permitted insofar as all due invoices – excluding those for which the purchaser has legitimate objections – have been paid.

The net invoice amount after the deduction of discounts, freight and other non-discountable performances applies as the basis for calculation.

We only accept bills of exchange upon prior express agreement and on the condition that they are discountable.

A Credit for cheques and bills of exchanges is only issued after redemption; assignments of claims are only credited after payment. The claim and its maturity remain unaffected until then.

We assume no liability for timely redemption and protesting.

Bills of exchange, rebates, protests and collection are borne by the purchaser.

If a reasonable doubt of the purchaser's creditworthiness or ability to pay should arise after the conclusion of contract, we are entitled to refuse our services until the purchaser provides the consideration and has paid our claims due for payment - including those from earlier transactions in the ongoing business relationship - or has provided corresponding securities. If multiple claims against the purchaser exist, incoming payments are credited against the oldest claim.

5. Offsetting and right of retention

The purchaser is only entitled to offset and/or retention if the counterclaim is based on the same contractual relationship or the counterclaim is undisputed, acknowledged by us or has been finally and non-appealable established.

6. Liability for defects

Unless otherwise stated below, we shall be liable for material defects and legal deficiencies (including incorrect and short delivery) in accordance with the statutory provisions. The regulations for supplier recourse remain unaffected in any case.

Objections on the basis of defects of the goods, incorrect deliveries and deviations in quantity - even for excess delivery - must be immediately asserted in writing or no later than 14 days after receipt of the goods or completion of performance, insofar as they can be verified through reasonable investigation.

For defects of goods and/or services, we provide supplementary performance by repair or replacement, at our discretion.

In the case of the failure, which means the impossibility, the unacceptability, refusal or inappropriate delay in rectification or replacement, the purchaser can – in case of a significant defect - withdraw from the contract or reasonably reduce the purchase price.

If we are to blame for a defect, the purchaser can demand compensation for damages under the conditions specified in paragraph 7.

Claims for defects become statute-barred one year after the delivery of the goods or completion of performance, insofar as we have not assumed liability in the scope of a manufacturer's guarantee for a longer period of time. This does not apply to items which have been used for a building in accordance with its customary manner of use and have caused its deficiency.

If a used item is sold, we are not liable for any defects unless we have fraudulently concealed the defects. This exception does not apply for compensation claims in case of liability for material defects caused by gross negligence or a deliberate violation of obligations as well as injury to life, limb and health. Any existing claims that might exist against third parties in case of liability for material defects shall be assigned to the purchaser.

It is agreed that basically only our product description according to our offer applies as the condition of the goods. Public statements, promotions or advertisements, on the other hand, do not represent a contractual specification of the condition of the goods.

The purchaser does not receive any guarantees from us in the legal sense.

7. Liability

We are liable within the scope of the statutory provisions insofar as the purchaser has asserted damage claims which are based on intent or gross negligence on the part of our corporate bodies, representatives or vicarious agents. If the cause of a damage is based on minor negligence, we are only liable insofar as essential contractual duties have been violated. Essential contractual duties are to be understood as duties whose fulfilment are necessary for the proper execution of the contract in the first place and on the compliance of which the contractual partner may regularly rely.

If we are liable in accordance with the preceding clause for minor negligence, the liability is limited to the foreseeable contract-typical damages.

If compensation for damages is demanded on the basis of the deficiency of the item in the case of minor negligence, the goods remain in the purchaser's possession insofar as this is reasonable for him. The compensation for damages is limited to the difference between the value of the defective item and the purchase price.

The preceding limitations of liability do not apply in the case of injury to life, body or health or in cases of mandatory liability on the basis of the provisions of the German Product Liability Act (Produkthaftungsgesetz). The limitations of liability do not apply in the case of the issue of guarantees whose content has the purpose of safeguarding the purchaser against such damages, either.

8. Retention of title

Our deliveries are made exclusively under retention of title. The property is only transferred to the purchaser once he has fulfilled his obligations to us.

In the case of an account current, the goods subject to retention of ownership also serve as security for our balance claim. Any processing, reworking, installation or other use of the goods delivered by us which are still our property is carried out by the purchaser on our behalf.

If the goods delivered by us are combined or mixed with other items, we acquire co-ownership of the new item and/or the mixed assets proportional to the invoice value of the goods subject to retention of title to the value of the new item or the mixed assets. The purchaser stores the goods whose sole or co-ownership we are entitled to for us. If the mixture or combination takes place in such a manner that the purchaser's item should be considered the primary item, it is agreed that the purchaser transfers proportional co-ownership to us and that item is also kept safe for us.

Prior to acquiring ownership, the purchaser may only sell the delivered goods in the normal course of business and may not agree with their purchaser to a prohibition of assignment. The purchaser is also obligated to enjoin our retention of title on their purchaser.

Encroachments on our rights, especially seizure and sequestration, must be reported to us by the purchaser immediately in writing with inclusion of copies of seizure reports.

Until the full repayment of all of our bills payable, the purchaser assigns to us all claims, along with all ancillary rights and securities, as well as any claims against his insurer, which he has accrued from his purchasers through future sales of our delivered goods in the amount of the invoice value of the goods delivered by us and sold by the purchaser plus an additional 10%. We hereby accept the assignment. If the value of the assignments and securities exceeds our claims by more than the 10% specified in Sentence 1, we are obligated to release corresponding securities of our choice at the purchaser's request.

At our request the purchaser is obligated to inform his purchaser of the assignment and to provide us with the information necessary for the assertion of our rights towards the purchaser and to hand over the documentation necessary. We are entitled to inform the purchaser's purchaser of the assignment. This applies as a cancellation of the following collection authorisation.

The purchaser is empowered to collect the assigned claim for us, however only insofar as he fulfils his contractual duty of payment to us. We can revoke the empowerment of the purchaser for the collection of our claim. The amounts collected must be set aside by the purchaser and paid to us immediately. The purchaser bears any costs for intervention.

A sale in the sense of these conditions of sale includes the reworking, installation or other use.

9. Place of performance and jurisdiction

The place of performance for all obligations arising from the delivery transaction is Issum, Germany.

The local or district court responsible for Issum, Germany shall settle any disputes arising from the business relationship between us and the purchaser.

The law of the Federal Republic of Germany applies exclusively. The application of the UN Convention on the International Sale of Goods (CISG) is excluded.

If individual provisions of these General Terms and Conditions should be or become invalid either wholly or in part on the basis of the deviation of provisions which do not serve for the protection of the purchaser, the wholly or partly invalid provision shall be replaced by a provision whose economic outcome comes as close as possible to the invalid provision.