

General Terms and Conditions

§ 1 Scope of Application

1. These general terms and conditions shall apply to all current and future transactions, agreements and negotiations with our business partners who are entrepreneurs, legal persons under public law or special funds under public law (hereinafter referred to simply as the “buyer”).
2. These general terms and conditions shall particularly apply to contracts for the sale of movable objects (“goods”), regardless of whether we manufacture the goods ourselves or purchase them from suppliers (see Sections 433, 651 of the German Civil Code [BGB]).
3. Unless otherwise agreed, the valid version of these general terms and conditions shall be the one in place at the time the order is placed by the buyer, or at least the version most recently shared with the buyer in text form, and this version shall also apply as a general agreement for any future contracts without us having to refer to it again in each individual case.
4. Our terms and conditions shall apply exclusively; we shall not acknowledge any conflicting or deviating terms and conditions of the buyer. Our general terms and conditions shall even apply if we unreservedly provide a product or service to the buyer despite being fully aware of the latter’s conflicting or deviating conditions.

§ 2 Conclusion of Contract

1. Our offers shall be non-binding and subject to change. This shall also apply if we have provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents (including electronic files). We shall retain ownership of any such documents and all industrial property rights, particularly copyrights.
2. As soon as an order is placed for goods, the buyer shall be deemed to have made a binding offer to enter into a contract. Unless otherwise stated in the order, we shall be entitled to accept this offer to enter into a contract within three weeks after receiving the order.
3. A contract shall only be concluded when we give our confirmation, which we must do at least in text form, or when the contractual items are delivered or the work is performed.
4. Any individual agreements made with the buyer (e.g. side agreements, additions, amendments, declarations made as part of our customer services) shall take precedence over these general terms and conditions in each case. Subject to evidence to the contrary, the content of such agreements shall be determined by an arrangement or our confirmation in text form.

§ 3 Delivery Deadlines and Delays

1. Our service times (delivery, assembly and repair times) shall be indicated in a non-binding manner, unless a specific service time is explicitly agreed. If we agree on a binding service time in exceptional cases, it shall only begin when we have confirmed the order in writing after clarifying all issues necessary to perform the contract.
2. The onset of a delivery delay shall be determined by the statutory provisions. If a delivery is delayed as a result of our simple negligence, the buyer’s claims for compensation due to the damage caused by the delay shall be limited to 5% of the net purchase price.
3. If force majeure or other events (“hindrances”) make it much more difficult or impossible for us to provide our services, and if the hindrance is not only temporary, the buyer shall be entitled to withdraw from the affected contract with us. If the hindrance is only temporary, our delivery deadlines or service times shall be extended or postponed by the duration of the hindrance plus a reasonable start-up period. If the buyer cannot be reasonably expected to accept the delivery due to the extension or postponement, the buyer may withdraw from the contract with us, provided the buyer declares its

intention to withdraw from the contract in writing immediately after becoming aware of the extension or postponement.

§ 4 Delivery, Transfer of Risk

1. As all deliveries shall be made ex stock, our warehouse shall be the place of performance for the delivery and any rectification measures. The goods shall be shipped to another destination at the buyer's request and expense (sale involving the carriage of goods). Unless otherwise agreed, we shall be entitled to determine the means of shipment at our reasonable discretion (particularly the means of transport, route, packaging and loading equipment). We shall not take back any packaging or loading equipment (except pallets).
2. The risk of accidental loss and deterioration shall be transferred to the buyer as soon as the goods are handed over. In the case of sales involving the carriage of goods, the risk of accidental loss and deterioration and the risk of delay shall be transferred to the forwarding agent or carrier – or any other person or institution assigned to carry out the shipment – as soon as the goods are handed over. Any agreements on transport and insurance costs (e.g. CIF, FOB, carriage paid) shall be merely regarded as expense clauses. If a formal inspection and acceptance procedure is agreed in exceptional cases, this shall determine when the risk is transferred to the buyer.
3. If the buyer defaults on the acceptance of the goods, if the buyer fails to cooperate, or if a shipment is delayed at the buyer's request or for other reasons attributable to the buyer, we shall be entitled to compensation for any subsequent damages, including any additional expenses (e.g. storage costs). If the goods are subsequently stored in our warehouse, we shall charge a lump sum amounting to 0.5% of the invoice amount for every month or part thereof, starting with the scheduled delivery deadline or, in the absence of a delivery deadline, starting when the goods were reported as ready for dispatch. We reserve the right to prove that we have incurred greater damage and to assert our legal claims (particularly the reimbursement of additional expenses, reasonable compensation, termination); the lump sum shall be deducted from any further monetary claims. The buyer shall be entitled to prove that we have incurred significantly less damage than the above lump sum or no damage at all.

§ 5 Offers and Prices

1. Our offers shall be non-binding and subject to change. Any binding offers made in exceptional cases shall expire within 30 days of their submission at the latest, unless a longer binding validity period is stipulated in the offer. The buyer shall be bound to its offers for 30 days, unless a longer binding validity period applies in the circumstances.
2. If prices are provided without any additional information, they should always be regarded as net prices plus the statutory rate of value added tax. Unless a special agreement is made, the prices shall be ex works, including loading at the factory but excluding packaging, loading equipment, unloading and, in the case of exports, excluding customs. Any discounts (e.g. for early payment or bulk orders) shall only be granted in cases where this is explicitly agreed.

§ 6 Payment

1. Unless explicitly agreed otherwise, the full purchase price shall be due for payment within 14 days of the invoice date. Unless a special agreement is made, payment must be made in cash or by bank transfer.
2. The buyer shall be in arrears at the end of the above payment deadline. The purchase price shall accrue interest at the statutory rate of default interest during the period in which the buyer is in arrears. We reserve the right to assert further claims for damages caused by the late payment. If the buyer is a merchant, we also reserve the right to charge commercial maturity interest in accordance with Section 353 of the German Commercial Code (HGB).
3. Unless otherwise agreed, we shall be entitled to make all or part of a delivery subject to a prepayment at any time, even during an ongoing business relationship. This shall particularly apply if the buyer falls

in arrears with a payment obligation or fails to accept a (partial) delivery on time. We shall announce such a proviso, at the latest, when issuing the order confirmation.

4. The buyer shall not be entitled to withhold payment or offset claims in any way whatsoever, unless its counterclaims are undisputed or legally recognised. In addition, the buyer shall only be entitled to withhold payment if its counterclaims are based on the same specific delivery. This shall have no bearing on the buyer's rights in the event of defects in the delivered goods, particularly its rights stipulated in § 8 (5) of these general terms and conditions.
5. If it becomes apparent that our claim to the purchase price is jeopardised by the buyer's solvency after the contract has been concluded, we may refuse to provide our services and, perhaps after setting a grace period, to withdraw from the contract in accordance with the statutory provisions (Section 321 BGB).

§ 7 Retention of Title

1. We shall retain ownership of the goods we sell (goods subject to the retention of title) until we have received all payments from our existing business relationship with the buyer. In the case of an outstanding invoice, the retention of title shall also act as a security until our outstanding claims have been settled.
2. The buyer shall be entitled to resell the goods subject to the retention of title within its normal course of business until this entitlement is revoked; as a security however, the buyer hereby assigns to us all claims arising from the resale to its customers or third parties up to the final invoice amount of our claims (including the statutory rate of value added tax). This applies irrespective of whether the goods subject to the retention of title are processed before being resold. As long as the buyer is not in arrears and, in particular, as long as no application has been made to open insolvency proceedings, payments have not been suspended and we have not revoked our consent, the buyer may collect in trust the claims assigned to us on the condition that the buyer pays us the collected amount up to the amount of the outstanding and due claims that we hold against it. If the buyer is no longer entitled to collect payments in such cases, we may ask the buyer to notify us of the assigned claims and the debtors, to provide all the information required to collect the receivables, to hand over the relevant documents, and to inform the debtors that the claims have been assigned to us.
3. If the buyer processes or remodels goods subject to the retention of title, this shall always be carried out for us. If the goods subject to retention of title are processed, combined, mixed or blended with other items that do not belong to us, we shall acquire co-ownership of the new item in the ratio of the combined invoice value of the goods subject to retention of title to the other processed, mixed or combined goods. The preceding clause shall apply accordingly to the new item. If the buyer uses the goods subject to retention of title to produce new items at the request of a third party and the new items are to be regarded as the main item, the buyer shall grant us a proportionate share of co-ownership and store the new item for us free of charge.
4. If the realisable value of the securities exceeds our claims by over 10%, we shall release securities of our choice at the buyer's request.
5. We shall be entitled to inspect the goods subject to the retention of title – wherever they may be located – at any time. If the buyer breaches the contract, particularly by falling in arrears, we shall be entitled to recover the secured goods at the end of a reasonable grace period. The recovery of the goods shall not constitute our withdrawal from the contract. After recovering goods subject to the retention of title, we shall be entitled to liquidate them; the proceeds from any such liquidation shall be deducted from the buyer's liabilities (minus any reasonable liquidation costs).
6. The buyer must treat the goods subject to retention of title with care and adequately insure them against fire, water damage and theft at its own expense; the insurance policy must cover their replacement value. The buyer must assign to us any claims held against the insurance company upon request. If maintenance and inspection work is necessary, the buyer must carry this out in good time at

its own expense, unless different stipulations are made in the contract. If goods subject to the retention of title are seized from the buyer by third parties, the buyer must immediately inform us that the goods have been seized and notify the respective third parties that the goods are subject to retention of title. All costs arising from the seizure shall be borne by the buyer, unless the buyer is not responsible for the circumstances.

§ 8 Claims for Defects

1. The buyer may only assert claims for defects if it has fulfilled its obligation to inspect the delivered items and report any defects in accordance with Section 377 HGB. This shall only apply if the purchase is a commercial transaction for both parties.
2. Our liability for defects shall primarily be based on the agreement made regarding the quality of the goods. All product descriptions which relate to the specific contract or which have been published by us (e.g. in brochures or on our website) shall be regarded as agreements regarding the quality of the goods. The submission of samples shall not constitute an agreement regarding a specific quality; the samples shall only be intended to illustrate the type of goods. Any information regarding the production, composition, mechanism, suitability and application of our services shall not release the buyer from its obligation to carry out its own tests and trials.
3. If a certain quality has not been agreed, the statutory provisions shall be consulted to determine whether the goods are defective (Section 434 (1) No. 1 and 3 BGB). However, we shall not assume liability for any public statements made by third parties (e.g. advertising claims).
4. If defects are found in the goods, we shall initially be entitled to remedy the defect or deliver a replacement at our own discretion ("rectification measures"). If we fail in our attempts to rectify the issue on two occasions, the buyer shall be entitled to request a reduction in the consideration or withdraw from the contract at its own discretion. In such cases, the buyer may also claim damages in accordance with § 9 below if we are responsible for the defect and the buyer does not request a reduction in the consideration.
5. We shall be entitled to ask the buyer to pay the purchase price before taking the necessary rectification measures. However, the buyer shall be entitled to withhold a reasonable part of the purchase price in relation to the defect.
6. Our rectification measures shall not include the removal of the defective item or its re-installation if we were not originally obliged to install the goods.
7. If we choose to rectify the issue by remedying the defect, we shall bear all expenses necessary for the purpose of remedying the defect (e.g. transport, travel, labour and material costs) and, if applicable, the removal and installation costs in accordance with the statutory provisions, provided there is actually a defect. If the goods are not defective, we may demand the reimbursement of any costs incurred as a result of the buyer's unjustified request for the remedying of defects (particularly testing and transport costs), unless the lack of defects could not be recognised by the buyer.
8. The customary manufacturing deviations and tolerances shall apply to all deliveries.
9. In the case of contracts of sale, the buyer's claims for defects shall expire one year after the purchased items are delivered; in the case of contracts for work, the buyer's claims for defects shall expire one year after the services are accepted. If the buyer asserts claims for damages within the scope of our liability for defects, however, the statutory limitation periods shall apply.

§ 9 Liability

1. We shall be held fully liable for any damages caused by ourselves, our legal representatives or our vicarious agents. The same applies to any damages resulting from injury to life, limb or health culpably caused by the persons indicated above. We shall also be held fully liable for any acts of gross negligence committed by our legal representatives and executives.

2. If the requirements stipulated in § 9 (1) are not met, we shall only be held liable – regardless of the legal grounds – if an essential contractual duty is breached in a grossly negligent manner or damage is caused through an act of gross negligence on the part of our other vicarious agents who are not part of our executive team. In such cases, our liability shall be limited to the typically foreseeable degree of damage for the contract in question. An essential contractual duty is an obligation which must be observed to allow the contract to be properly performed in the first place and which the buyer may regularly expect us to observe. It is therefore an obligation which, if violated, would compromise the fulfilment of the contract.
3. The above limitation of liability shall not apply to any claims asserted under the German Product Liability Act (ProdHaftG), nor shall it apply to claims due to the absence of guaranteed qualities or properties in the contractually agreed items or, if the buyer holds a payment claim against us, claims for default interest, a lump sum pursuant to Section § 288 (5) BGB or compensation for damages resulting from legal prosecution costs (see Section 288 (6) BGB). If our liability is excluded or limited, this shall also apply to the personal liability of our legal representatives, executives and other vicarious agents.

§ 10 Use of Software / Business Secrets

1. If software is included in the scope of the delivery, the customer shall be granted a non-exclusive right to use the software, including its documentation. The software must be used exclusively in conjunction with the delivered items. The software must not be used on more than one system.
2. The software must be used exclusively for the contractually agreed purpose. The right to use the software must not be transferred to third parties; no sub-licences must be issued. All other rights to the software and its documentation shall be reserved by us or our software providers.
3. The buyer shall be prohibited from observing, examining, deconstructing or testing the software or other goods we deliver in search of business secrets.

§ 11 Place of Jurisdiction / Applicable Law / Final Provisions

1. Borken / North Rhine-Westphalia shall be the place of jurisdiction for any disputes and types of proceedings arising directly or indirectly from our business relationship with the buyer, including any disputes regarding the effectiveness of a contract, provided the buyer is a merchant, a legal person under public law or a special fund under public law, or if the buyer does not have a general place of jurisdiction in Germany. However, we shall also be entitled to take legal action at the buyer's headquarters.
2. All rights and duties arising from contracts concluded with us shall be subject exclusively to the laws of the Federal Republic of Germany governing legal relationships between domestic parties to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. If individual clauses in these general terms and conditions prove to be invalid, this shall have no bearing on the effectiveness of the remaining provisions.