

General payment and delivery terms
For use with other companies

Section 1
General information - scope

(1) Our general payment and delivery terms apply exclusively: we do not recognise contrary or different terms issued by the customer unless we have explicitly agreed to their application in writing. Our general payment and delivery terms also apply if we implement delivery to the customer without restriction even when aware of opposing or different terms from the customer.

(2) All agreements made between the parties for the purpose of implementing this agreement are laid down in writing.

(3) Our payment and delivery terms only apply to businesspeople as defined by Section 310 Para. 1 of the German Civil Code (BGB).

(4) They also apply to all future transactions with the customer.

Section 2
Quotation - quotation documents

(1) If the order is qualified as an offer under Section 145 BGB, we can accept this within 2 weeks. Our own quotations remain subject to change until written confirmation.

(2) We retain the ownership and copyrights to diagrams, drawings, calculations and other documents in any form whatsoever (including in electronic form). This also applies to such documents marked "confidential". Before their transfer to third parties the client requires our explicit written consent.

Section 3
Prices - payment terms

(1) If nothing further is stated in the order confirmation, our prices apply "ex works" excluding packaging; this will be invoiced separately. For international deliveries the customer also pays any additional customs charges incurred.

(2) We reserve the right to modify our prices accordingly if, after concluding the contract, cost reductions or increases, in particular as a result of agreed tariffs or material price changes, occur. We will provide evidence of these to the customer

(3) The prices do not include statutorily applicable value-added tax; it is shown separately on the invoice at the statutory amount on the invoicing date.

(4) Payments are due within 14 days of receipt of the invoice. The deduction of discounts requires special written agreement. The statutory regulations with regard to the consequences of payment default apply.

(5) The customer only has the right to offset the damages if its counter-claims are legally binding, undisputed or recognised by us. They are also permitted to execute a retention right to the extent to which the counter-claim is based on the same contractual relationship.

(6) We are entitled to assert a contractual penalty of 0.2% for each week of payment default started up to a maximum of 5% of the gross order value whilst excluding the continuation of the offence. The contractual penalty is offset against the ongoing contractual penalty.

Section 4

Delivery time

- (1) The customer must collect the goods at the agreed time or, if there is no such agreement, immediately after notification that they are ready at the place of fulfilment.
- (2) If contrary to Para. 1 it was agreed that the goods would be dispatched, the start of the delivery period that we have stated requires the prior clarification of all technical questions. Stated delivery lists only represent a guideline and are therefore only agreed as approximate (approx. deadlines). We will freely select the choice of transport method and route.
- (3) Compliance with our delivery obligation further requires the on-time and proper fulfilment of the customer's obligation. The objection of an unfulfilled contract is retained.
- (4) If the customer delays acceptance or culpably infringes other cooperation duties, we are entitled to request the reimbursement of the damages we have incurred including any additional costs. Other claims or rights remain reserved.
- (5) If the requirements in Para. 4 are met, the risk of a random destruction or worsening of the item purchased passes to the customer at the time when they have entered into financial or acceptance default. We are entitled to store the goods during acceptance default at the customer's expense.
- (6) We are liable under the statutory provisions if the fundamental purchase agreement is a fixed transaction as defined by Section 286 Para. 2 No. 4 BGB or Section 376 of the German Commercial Code (HGB). We are also liable under the statutory provisions if as a consequence of a delivery delay for which we are responsible, the customer is entitled to assert that his interest in ongoing contract fulfilment has ceased to apply.
- (7) We are also liable under the statutory provisions if the default delivery is based on a deliberate or grossly negligent contractual infringement for which we are responsible; culpability by our representative or vicarious agents is assigned to us. If the default delivery is based on a grossly negligent contractual infringement for which we are responsible, our liability for damages is limited to predictable damage that typically occurs.
- (8) We are also liable under the statutory provisions if the delivery delay for which we are responsible is based on the culpable infringement of a key contractual obligation; in this case however the liability for damages is limited to predictable damages that typically occur.
- (9) Additional claims and rights of the customer remain reserved. We are not otherwise liable.
- (10) There is no liability for delayed deliveries in the event of force majeure. This is also the case if there are delivery delays by our sub-suppliers. Cases of force majeure apply in particular to unpredictable business disturbances for which we are not responsible, such as a lack of raw materials, energy or human resources, strikes, difficulties arranging transport, traffic disturbances and comparable cases.

Section 5

Transfer of risk - packaging costs

- (1) If nothing further is stated in the order confirmation, delivery "ex works" is agreed.
- (2) Separate agreements apply with regard to the return of packaging.
- (3) If the customer wishes, we will cover the delivery with transport insurance; the customer will bear the costs thus incurred.

Section 6

Liability for faults

(1) The customer's warranty rights require that it has properly complied with the investigation and complaint obligations stated in Section 377 of the German Commercial Code (HGB).

(2) If the purchased item has a fault, the customer is entitled to subsequent fulfilment at our choice by rectifying the fault or delivering a new, fault-free item. In the case of fault rectification or replacement delivery, we are obliged to bear all of the expenses, especially transport, route, working and material costs, for the purpose of subsequent fulfilment as long as these are not increased by transporting the purchased item to a different location from the place of fulfilment. If the customer has combined the goods we have delivered with other items, we are only liable for installation and removal costs.

(3) If the subsequent fulfilment fails, the customer is entitled to choose between withdrawal or price reduction.

(4) We are liable under the statutory provisions if the client asserts claims for damages that are based on deliberate acts or gross negligence, including the deliberate acts or gross negligence of our representatives or vicarious agents. If gross negligence is asserted, the liability for damages is limited to predictable, typically occurring damage.

(5) We are liable under the statutory provisions if we culpably infringe a key contractual duty; in this case however the liability for damages is limited to predictable damage that typically occurs. A key contractual obligation exists if the duty infringement relates to a duty on which the customer has relied and can rely.

(6) If the customer has a claim to the reimbursement of damages in place of performance, our liability is limited even within the framework of Para. 3 to the reimbursement of predictable damage that can typically occur. We are not liable for any indirect or subsequent damages such as in particular loss of profit. There is also no liability for usual wear and tear and faults that are due to the improper handling of our goods.

(7) Liability due to the culpable injury to life, limb or health remains unaffected; this also applies to compulsory liability under the German Product Liability Act.

(8) For contracts relating to used items, we are only liable for deliberate actions.

(9) If nothing to the contrary is stated above liability is excluded.

(10) The limitation period is 12 months. In the event of delivery delays the limitation period under Sections 478 and 479 BGB remains unaffected; it is five years calculated from delivery of the defective item. The statutory binding limitation periods are also unaffected, in particular in the event of deliberate action, gross negligence as well as injury to life, limb or health under the German Product Liability Act and Section 438 Para. 1 No. 2 BGB

(11) Any and all advice we render is so rendered to the best of our knowledge and belief. None of the data and information on the suitability and use of the goods delivered relieves the customer of their duty to inspect and test the goods and is exclusively binding if noted as such.

Section 7

Overall liability

(1) Any further liability to damages except as envisaged in Section 6 is excluded, irrespective of the legal nature of the asserted claim.

(2) The limitation under Para. 1 also applies if the customer requests the reimbursement of costs with no purpose in place of a claim for the reimbursement of damages.

(3) If the liability for damages is excluded or restricted for us, this also applies with regard to personal liability for damages relating to our employees, representatives and vicarious agents.

Section 8

Securing the retention of title

(1) We retain ownership of the item purchased until receipt of all payments from the delivery contract. If the customer acts in a manner contrary to the contractual obligations, especially in the event of a default in payment, we are entitled to take back the goods purchased. The return of the goods purchased to us always represents a withdrawal from the contract. After returning the goods purchased for resale we are authorised to offset the sale proceeds against the customer's liabilities minus appropriate sale costs.

(2) The customer is obliged to treat the item purchased carefully; in particular they are obliged to adequately insure it for the replacement value against damage from fire, water and theft at their own expense. If maintenance and inspection work is required, the customer must carry out this work on time and at their own expense.

(3) If goods are pledged or there are other interventions by third parties, we must be informed without delay in writing so that we can initiate third party objection claims as defined in Section 771 Code of Civil Procedure - ZPO. If the third party is not able to reimburse us for the costs of a lawsuit under Section 771 ZPO, the customer is liable for the loss incurred by us.

(4) The customer is entitled to sell on the purchased item in normal business operations; but it already assigns to us all claims in the final invoicing amount (including VAT) of our receivable arising from the ongoing sale against its customer or third parties no matter whether the item purchased is sold on with or without processing. The customer is entitled to collect this claim even after the assignment. This does not affect our entitlement to collect the claim itself. We are however obliged not to collect the receivable as long as the customer complies with its payment obligations from the income received, is not in default payment and in particular no settlement or insolvency proceedings have been started and payments have not stopped. If this is the case however, we can also request that the customer informs us of all assigned claims and their debtors, provides all of the information required for collection, hands over the associated documents and informs the debtors (third parties) about the assignment.

(5) The customer always processes or transforms the delivery item for us. If the goods are processed with other objects that do not belong to us, we acquire joint ownership of the new item in the same ratio as the value of the goods (final invoice amount incl. VAT) to the other processed items at the time of the processing. The same rules shall apply to the item produced through processing as for the purchased item that is subject to retention of title.

(6) If the purchased item is indivisibly mixed with other objects that do not belong to us, we acquire joint ownership of the new item (final invoice amount incl. VAT) in the same ratio as the invoice value of the purchased item to the other mixed items at the time of the mixing. If the items are mixed such that the customer's item is viewed as the main item, it is agreed that the customer transfers joint ownership to the supplier in the same ratio. The customer shall assign the sole ownership or co-ownership resulting therefrom to us.

(7) The customer also assigns the claims that have arisen by combining the purchased item with a property against a third party to secure our claims against him.

(8) We are obliged to approve the collateral to which it is entitled at the customer's request if the realizable value of our securities exceeds the claims being protected by more than 10%; we select the collateral to be released.

Section 9

Rented containers

If shipment is in rented containers of any kind then same must be returned carriage paid and emptied within 90 days of receipt. Loss or damage to rented containers is charged to the customer. Rented containers may not be used for any other purpose, in particular filled with any other product. Labelling may not be removed.

Section 10

Court of jurisdiction - place of fulfilment - choice of law

(1) The exclusive place of jurisdiction for all legal disputes arising from the business relationship between the parties is our registered head office.

(2) The laws of the Federal Republic of Germany apply; the application of UN purchasing law and the provisions of International Private Law are excluded.

(3) The contractual language is German. If the supplier also uses another language, the German wording has priority.

(4) If nothing further is stated in the order confirmation, our registered office is the place of fulfilment.

Section 11 Confidentiality

The customer is aware that the confidential information from us has to date not been made known in full or in part nor was it freely accessible and is therefore of economic value, is protected by appropriate confidentiality measures and there is a justified interest: in maintaining its confidentiality. If information under this agreement does not meet the requirements for a business secret as defined by the German Business Secrets Act, this information is still covered by the confidentiality obligations under this agreement.

Each party is obligated to treat the information provided by the other party orally and/or in writing in the strictest of confidence. This applies both to information that was transmitted in the past and in the future. The customer will keep all of the information confidential and ensure that the information is only used for the purposes of the contract. The customer is obliged to protect the information for their part from unauthorised access by third parties using appropriate confidentiality measures and when processing information comply with the statutory and contractual requirements for data protection.

Each party will not make the information received available to a third party without the prior written agreement of the other party nor use it in any way outside the agreed purpose. Each party will restrict access to the information to those employees as require it for the purposes of this contract and are also obliged to maintain its confidentiality.

The confidentiality obligation lapses if the information

- was known to the relevant party before transmission by the other party or
- is or becomes common knowledge due to publications or by other means,
- was published by a different person without the direct or indirect involvement of the other party and this can be proven,
- had to be passed on due to a legal or official order or as a result of applicable legal regulations. In this case the customer is obligated to inform us about this without delay in writing and to undertake all reasonable efforts to restrict the scope of publication to a minimum and provide all reasonable support to us as required.

Each party is obligated at the request of the other party to without delay and at the latest on achieving the purpose stated above, in particular the purpose of the main contract, return all documents received including copies thereof or on request to delete or destroy them in compliance with data protection regulations and to not use any of the information provided by the other party either directly or indirectly. If the relevant party requires the documents provided to fulfil existing contractual or statutory obligations, the other party is permitted to retain copies for this purpose. These must be returned without delay after fulfilling the other party's contractual obligations. The confidentiality obligations remain unaffected by the end of this agreement.

Section 12 Data protection

We process personal data in compliance with the EU General Data Protection Regulation (GDPR), the new German Data Protection Act (BDSG) and all other relevant laws.

To conclude and implement contracts we require the information that you have provided, in particular

concerning contacts. Without processing this data it is not possible to conclude or implement contracts. The legal basis for processing personal data for pre-contractual and contractual purposes is Art. 6 Para. 1 b) GDPR.

We also process your personal data to fulfil statutory obligations, such as commercial and tax law storage obligations. In this case the legal basis for the processing is the relevant statutory provisions combined with Art. 6 Para. 1 c) GDPR.

If your personal data is no longer required for the purposes mentioned above, it is deleted. It may occur that personal data is stored for the period in which claims against our company can be asserted (statutory limitation period of three up to thirty years).

In addition, we store your personal data if we are obliged to do so by law. The relevant documenting and storage obligations arise from such laws as the German Commercial Code, the Tax Code and the Money-laundering Act. The storage periods are up to ten years.

When making contact with us (e.g. using the contact form or by email), your information is stored for the purposes of processing the enquiry and in the event of subsequent questions under Art. 6 lit. b) GDPR. Your data is deleted as soon as we have handled your enquiry in full.

Rights of those affected

Affected people are entitled to request information about the personal data we store on them (Art. 15 GDPR). They also have the right to correction (Art. 16 GDPR) or deletion (Art. 17 GDPR). They can also assert their right to restrict processing (Art. 18 GDPR) and request the transfer of the data (Art. 20 GDPR). If the processing of personal data is based on justified interests under Art. 6 Para. 1 lit. f GDPR they are also entitled to a revocation right (Art. 21 GDPR).

Complaint right

Affected people also have the option to contact the data protection officer stated above or a data supervisory authority with a complaint.

Section 13

Severability clause

If one or more of the provisions stated above are or become ineffective or unimplementable, the remaining agreements nevertheless remain effective.