



Terms and conditions – page 1

I. Scope of application

- 1.) The following terms and conditions apply exclusively to companies in accordance with § 14 of the German Civil code, legal entities of public law as well as special funds under public law.
- 2.) The general terms and conditions of the contractor apply to all contractor bids, goods and services. If the buyer should refer to his/her own alternative, supplementary or conflicting conditions, these only apply when they are expressly acknowledged in writing by the contractor.
- 3.) The general terms and conditions of the contractor also apply to pending and immediate future business; this also applies when it is not expressly referred to, in so far as the general terms and conditions of the contractor were included by the contractor with one of his/her previous contracts.

II. Delivery

- 1a.) Delivery dates or terms of delivery, binding or non-binding, are to be stipulated in writing. The terms of delivery begin with the conclusion of the contract.
- 1b.) The contractor's delivery dates or terms of delivery are not binding, unless otherwise stipulated in writing. The delivery dates are also not binding, if the buyer has not provided all information and documents required for the business transaction.
- 1c.) The buyer can call on the contractor for delivery six weeks after a non-binding delivery date or a non-binding term of delivery is exceeded. The contractor is in default with the receipt of the request.
In the event that the buyer has a claim for replacement of damage caused by delay, he is entitled to request a flat compensation. It is limited, however, to a maximum of 5 percent of the purchase price.
- 1d.) Unforeseen disruptions in operation, transgression of delivery periods or delivery failures of the subcontractors of the contractor, shortages of labor, energy or raw material, strikes, lockouts, difficulties with the acquisition of the means of transportation, traffic congestion, official regulations and cases of force majeure release the party concerned from the obligation for delivery and/or acceptance for the length of the disruption and within the scope of its effect. If the delivery and/or acceptance is delayed by more than one month, then each of the parties is entitled to withdraw from the contract with regard to the quantity affected by the delivery and/or acceptance disruption to the exclusion of all further claims.
- 2.) The contractor is authorized for partial deliveries without special agreements, in so far as they are to be expected by the buyer.
- 3.) A unit pack is considered to be a minimum purchase, in so far as nothing else is stipulated.
- 4.) In so far as the contractor and buyer have agreed on partial deliveries (call orders), the buyer is obligated for receipt in approximately equal monthly quantities, unless something else has been stipulated between the parties.
- 5.) The deliveries are made from the contractor's warehouse, unless something else has been agreed on between the parties.
- 6.) When this is justifiable based on the nature of the goods, an excess delivery or short delivery in relation to the order quantity is permissible up to 10%. In calculating the prices, the prices indicated by the contractor are authoritative.

III. Payment

- 1.) The invoices of the contractor are payable in cash without discounts within 30 days from the date of the invoice; when complete payment is made within 14 days after the invoice is issued, the contractor gives a 2% discount. After expiration of the 30 day period, the buyer is in default of payment.



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2.) Checks and bills of exchange, subject to reservations of their discountability, are only accepted on the basis of special agreements and only on account of performance, taking into account all costs and expenses. Credit takes place on the day on which the contractor can freely dispose of the proceeds; an earlier due date upon default of the buyer remains unaffected by this. No liability is assumed for timely presentation, protestation, notification and return of bills or checks that are not cashed.

3.) Upon default of payment, the contractor is entitled to request interest in the amount of 8 % over the respective base rate posted by the European Central Bank. The contractor reserves the right to prove and to claim a higher loss due to delay.

4.) All contractor claims vis-a-vis the buyer are payable immediately, in so far as the buyer defaults in one of his/her payments, foreclosure is instigated against him/her, payments are frozen, bankruptcy is filed for or securities requested by the contractor are not supplied. In this case, discounts granted, price reductions, etc. are considered to be forfeited; the gross prices shown in the invoice are then to be paid.

5.) With partial deliveries, payment is requested for every partial delivery in accordance with the preceding conditions.

IV. Shipment and transfer of risk

1.) The prices are calculated ex warehouse of the goods, unless an alternative was stipulated in writing. When the invoice values are less than 250,- EURO (without VAT) the contractor reserves the right to calculate a flat rate for a quantity shortage. The type and means of shipping are determined by the contractor based on convenience.

2.) With all deliveries, the danger of accidental destruction and of accidental deterioration of the delivery items passes over to the buyer with the transfer of the goods or, with a mail order purchase, with the delivery of the object to the shipper, the carrier or to the other person or agency determined for shipping. It is the same for the transfer when the buyer is in default of acceptance. (§ 446 of the German Commercial Code).

V. Retention of title

1a.) The contractor remains the proprietor of the delivery item up to the complete payment of the purchase price. The contractor also reserves to himself the ownership of the delivery item up to the complete fulfillment of all claims against the buyer that he/she is entitled to from the whole business connection.

1b.) The contractor is entitled to withdraw from the contract and to request the goods, in the event of customer behavior contrary to the contract, in particular upon default of payment.

2.) In so far as the delivered goods are processed or connected with foreign material, the contractor acquires co-ownership of the new object produced in the ratio of the value of the retained goods to the value of the object newly created through processing. The point in time of the processing is authoritative when determining the value of the retained goods as well as of the object newly developed through processing. The buyer is active for the contractor in the processing, but acquires no claims against the contractor in the processing. The buyer is obligated to carefully preserve the retained goods for the contractor.

3.) Upon resale by the buyer of the new product created through processing, the buyer transfers to the contractor the proportionate purchase price he/she is entitled to from the resale in accordance with Number 2, Clause 1 and 2. The contractor accepts the transfer herewith.

4.) If the buyer resells the unprocessed goods bought from the contractor, then the buyer transfers herewith the claims to which he/she is entitled from such sales with all principal and ancillary rights to the contractor, but only up to the amount of the claim of the contractor from this delivery. The contractor accepts this transfer.



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5.) In as far as the securities exceed the claims of the contractor by more than 20%, the contractor is obligated to release the part of the securities in excess to which he is entitled on the demand of the buyer.

6.) Retained goods may not be bonded or transferred for security without the agreement of the contractor. The buyer is not entitled to pledge or transfer his/her claim from the resale of retained goods in the original or processed condition to a third party.

Third party access to the retained goods in the unprocessed or processed condition or the assigned claims are to be communicated by the buyer to the contractor immediately upon submission of any attachment protocol and attachment orders.

VI. Packaging

1.) The contractor takes back packing material to the place of fulfillment (No. XI,1.) free of charge, if and when a legal obligation exists. If the contractor names a disposal center for the return which is not the place of fulfillment, then the buyer is obligated for the return to this location when this is not unreasonable based on the different distance. The buyer bears the costs for the transportation to the return location.

2.) Cable reels remain the property of the contractor if nothing else has been stipulated in writing. If the buyer has left a deposit for cable reels, then this is paid back, when the buyer has sent back the cable reels to the contractor within a year after delivery without defects free of the place of fulfillment. (No. XI,1.)

VII. Warranty

1.) The contractor delivers the goods in accordance with the product description given by him/her. Product descriptions of the buyer as well as of the contractor are only considered to be warranted characteristics when they have been designated expressly as such by these.

2.) The buyer is obligated to protest visible defects in writing immediately after receipt of the goods by the buyer. In so far as this concerns hidden defects, the buyer is obligated to protest these in writing to the contractor within a cut-off period of two weeks after detection of the defects. If this does not occur, the product is considered to be approved.

3.) In so far as the buyer's notice of defect is justified, the buyer can request a contractor remedy, i.e., the contractor can either choose remedial action or replacement delivery. If the remedy fails, the buyer is entitled to request a reduction of the remuneration (decrease) or to withdraw from the contract. When there is only a minor infringement of the contract, in particular only minor defects, the customer is not entitled to a right of withdrawal from the contract.

4.) If the buyer elects to withdraw from the contract due to a defect of title or material defect after a remedy has failed, the buyer is not entitled to a claim for damages based on the defect.

In the event that the buyer elects a claim for damages after a remedy has failed, the goods remain at the buyer when this is reasonable. The claim for damages is limited to the difference between the purchase price and the value of the defective object.

5.) There is no guarantee for defects that have developed due to inappropriate or improper use, defective assembly or operation, erroneous or careless handling, normal wear and tear or other disadvantageous influences and for which the contractors are not responsible. If the buyer or a third party makes improper changes or repair work to the goods delivered by the contractor without the prior approval of the contractor, the warranty for the altered products does not apply.



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VIII. Liability/miscellaneous claims for damages

Claims of the buyer for damages from default in performance of contract, from breach of duties from contract negotiations and conclusion of a contract as well as from illegal acts are excluded irrespective of the legal foundation for the claims for damages. This does not apply to damage to personal objects; in cases of intent or the negligence of the contractor, of his/her legal representative or his/her assistants liability is compulsory. These restrictions do not apply to personal injuries. When there is a breach of essential contractual liabilities, the contractor is also liable for slight negligence. Contractor liability from the warranty for indirect damages, which are based on circumstances not typical of the contract and therefore not foreseeable by the contractor, is excluded. This provision does not restrict the liability for warranted characteristics. In so far as contractor liability is excluded through this provision, this applies as well for the benefit of his/her employees with the direct claim by the buyer.

IX. Contractor instructions

Contractor instructions with regard to the use of the goods apply only as general guidelines. Since contractor goods can often be used in different ways, it is incumbent on the buyer to test the goods himself/herself for his/her special application. In so far as the contractor supports the buyer technologically in the application, the buyer bears the risk of the success of his/her work. Buyer claims against the contractor are not excluded by this provision in accordance with No. VIII.

X. Offset and right of retention

The buyer can only offset with claims of the contractor when the counterclaim of the buyer is uncontested or there is a legally valid title (judgment, settlement, etc.). This also applies with regard to a buyer's possible right of retention.

XI. Jurisdiction/place of fulfillment

- 1.) The place of fulfillment for all commitments from the business connection or from the individual contract is Esslingen.
- 2.) For all present and future claims from business connections with business people the jurisdiction is, depending on the choice of the contractor, his/her place of business or the general jurisdiction of the buyer. This also applies to disputes in the document, bill of change or check process.
- 3.) The law of the Federal Republic of Germany applies. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

XII. Final clauses

- 1.) Alterations or amendments to the contract between the contractor and the buyer must be in writing and the modifying document must be signed by both parties.
- 2.) If one or more provisions of these general terms or conditions or these general terms and conditions overall, or other contractual agreements between the parties should be or become completely or partially invalid, the other provisions remain valid. The contract parties are then obligated to arrange valid regulations in place of the invalid provisions, which will bring about the commercial success of the invalid provisions in so far as this is possible.