

General Conditions of Purchase

Our German version of the General Terms and Conditions shall apply exclusively. To the best of our knowledge and belief, our GTC in German have been translated into English by a professional translation agency for our international customers exclusively for better understanding.

§ 1 Scope, Form

- (1) These General Terms and Conditions of Purchase (GTCP) apply to all business relationships with our suppliers (sellers). The GPC shall only apply if the seller is an entrepreneur (Section 14 BGB), a legal entity under public law or a special fund under public law.
- (2) The GPC apply in particular to contracts for the sale and/or delivery of movable goods ("goods"), irrespective of whether the seller manufactures the goods himself or purchases them from suppliers (Sections 433, 650 BGB). Unless otherwise agreed, our GTCP in the version valid at the time of the buyer's order shall also apply to similar future contracts without our having to refer to them again in each individual case.
- (3) These GPC apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the seller shall only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This consent requirement applies in all cases, for example even if the seller refers to his GTC in the context of the order confirmation and we do not expressly object to this.
- (4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order take precedence over the GPC. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® published by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.
- (5) Legally relevant declarations and notifications by the seller in relation to the contract (e.g. setting of a deadline, reminder, rescission) must be made in writing. Written form within the meaning of these GPC includes written and text form (e.g. letter, e-mail, fax). Legal formalities and further proof, in particular in the case of doubts about the legitimacy of the declarant, shall remain unaffected.
- (6) References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GPC.

§ 2 Conclusion of contract

- (1) Our order shall be deemed binding at the earliest upon written submission or confirmation. The seller must inform us of obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not to have been concluded.
- (2) The seller is obliged to confirm our order in writing within a period of five working days or, in particular, to execute it without reservation by dispatching the goods (acceptance).
- (3) A delayed acceptance shall be deemed a new offer and requires acceptance by us.

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§ 3 Delivery time and delay in delivery

- (1) The delivery time stated by us in the order is binding. Delivery times are calculated from the date of the order. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be two weeks from the conclusion of the contract. The seller is obliged to inform us immediately in writing if he is unlikely to be able to meet agreed delivery times – for whatever reason.
- (2) If the seller does not perform or does not perform within the agreed delivery time or if he is in default, our rights – in particular to rescission and damages – shall be determined in accordance with the statutory provisions. The provisions in para. 3 shall remain unaffected.
- (3) Force majeure, industrial action with the exception of unlawful lockouts, business disruptions through no fault of our own, riots, official measures and other unavoidable events entitle us – without prejudice to other rights – to withdraw from the contract in whole or in part insofar as they are not of insignificant duration or result in only an insignificant reduction in demand.
- (4) If the seller is in default, we may – in addition to further statutory claims – demand lump-sum compensation for our default damages in the amount of 1% of the net price per completed calendar week, but in total not more than 5% of the net price of the goods delivered late. We reserve the right to prove that a higher damage has occurred. The seller has the right to prove that no damage or only a considerably smaller damage has occurred.

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

- (1) The seller shall not be entitled to have the performance owed by him rendered by third parties (e.g. subcontractors) without our prior written consent. The seller bears the procurement risk for his services, unless otherwise agreed in the individual case (e.g. stock procurement).
- (2) Delivery is "free domicile" within Germany to the location specified in the order. If the place of destination is not specified and nothing else has been agreed, the delivery shall be made to our place of business in Aschaffenburg. The respective place of destination is also the place of performance for the delivery and any subsequent fulfilment (delivery debt).
- (3) The delivery must be accompanied by a delivery note stating the date (issue and dispatch), the content of the delivery (item number and quantity) and our order identifier (date and number). If the delivery note is missing or incomplete, we shall not be responsible for any delays in processing and payment resulting therefrom. A corresponding dispatch note with the same content must be sent to us separately from the delivery note.
- (4) The risk of accidental loss and accidental deterioration of the item shall pass to us upon handover at the place of performance. Insofar as acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly in the event of acceptance. If we are in default of acceptance, this shall be deemed equivalent to handover or acceptance.
- (5) The statutory provisions shall apply to the occurrence of our default in acceptance. However, the seller must also expressly offer us his performance if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the seller may demand compensation for his additional expenses in accordance with the statutory provisions (Section 304 BGB). If the contract concerns a non-representable item to be manufactured by the seller (individual production), the seller shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to cooperate.

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§ 5 Prices and terms of payment

- (1) The price stated in the order is binding. All prices are inclusive of statutory value added tax if this is not shown separately.
- (2) Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- (3) The agreed price shall be due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If we make payment within 14 calendar days, the seller shall grant us a 3% discount on the net amount of the invoice. In the case of bank transfers, payment is deemed to have been made on time if our transfer order is received by our bank before the expiry of the payment deadline; we are not responsible for delays caused by the banks involved in the payment process.
- (4) We do not owe any interest on arrears.
- (5) Payments do not constitute recognition of the delivery or service as being in accordance with the contract. In the event of defective or incomplete delivery or performance, we shall be entitled, without prejudice to our other rights, to withhold payments on claims arising from the business relationship to a reasonable extent until proper performance.
- (6) The assignment of their claims against us to third parties is excluded.
- (7) We shall not be in default of payment because we do not make payment within 30 days of the due date and receipt of an invoice or equivalent payment schedule. If the date of receipt of the invoice or payment schedule is uncertain, we shall not be in default of payment even if we do not make payment at the latest 30 days after the due date and receipt of the delivery.
- (8) We shall be entitled to rights of set-off and retention as well as the defence of non-performance of the contract to the extent provided by law. In particular, we shall be entitled to withhold payments in arrears as long as we are still entitled to claims against the seller arising from incomplete or defective performance.
- (9) The seller has a right of set-off or retention only for legally established or undisputed counterclaims.

§ 6 Securities, environmental protection

- (1) Your deliveries and services must comply with the statutory provisions, in particular the safety and environmental protection provisions including the Ordinance on Hazardous Substances, the Electrical and Electronic Equipment Act, the RoHS Directive and the safety recommendations of the relevant German technical bodies or associations, e.g. VDE, VDI, DIN. All relevant certificates, test certificates, CE declarations and verifications must be supplied free of charge. On request, a risk analysis and/or an FMEA shall be prepared and supplied free of charge.
- (2) You are obliged to determine and comply with the current status of the directives and laws applicable to your components with regard to substance restrictions. They are obliged not to use prohibited substances. Avoidance and hazardous substances according to the applicable laws and directives are to be indicated on the specifications by you. If applicable, the safety data sheets shall already be submitted with the offers and with the respective first delivery with the delivery note (at least in German or English). We must be informed immediately of any violations of substance restrictions and of the delivery of prohibited substances.

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- (3) For deliveries and the provision of services, you are solely responsible for compliance with the accident prevention regulations. Protective devices required thereafter as well as any instructions from the manufacturer shall be supplied free of charge.

§ 7 Import and export regulations

- (1) For deliveries and services from a country belonging to the EU outside Germany, your EU VAT identification number must be stated.
- (2) Imported goods must be delivered duty paid. You are obliged to provide, at your own expense, any declarations and information required under Regulation (EC) No 1207/2001, to permit inspections by the customs authorities and to provide any official confirmations required.
- (3) You are obliged to inform us in detail and in writing of any authorisation requirements for (re-)exports in accordance with German, European, US export and customs regulations as well as export and customs regulations of the country of origin of the goods.

§ 8 Secrecy and retention of title

- (1) We reserve the property rights and copyrights to illustrations, plans, drawings, calculations, export instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and are to be returned to us after completion of the contract. The documents must be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy shall only expire if and to the extent that the knowledge contained in the documents provided has become generally known. Special confidentiality agreements and statutory regulations on the protection of secrets shall remain unaffected.
- (2) The foregoing provision shall apply mutatis mutandis to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other objects which we provide to the seller for production. Such objects shall – as long as they are not processed – be kept separately at the seller's expense and insured to a reasonable extent against destruction and loss.
- (3) Any processing, mixing or combination (further processing) of provided items by the seller shall be carried out on our behalf. The same shall apply in the event of further processing of the delivered goods by us so that we shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.
- (4) The transfer of ownership of the goods to us must take place unconditionally and without regard to the payment of the price. If, however, we accept an offer of the seller for transfer of title conditional on payment of the purchase price in an individual case, the seller's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We shall remain entitled to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively, the simple reservation of title extended to the resale shall apply). This excludes all other forms of retention of title, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.

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§ 9 Defective delivery

- (1) Our rights in the event of material and legal defects in the goods (including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the seller shall be governed by the statutory provisions and, exclusively in our favour, the following supplements and clarifications.
- (2) In accordance with the statutory provisions, the seller is liable in particular for ensuring that the goods have the agreed quality at the time of transfer of risk to us. In any case, those product descriptions which – in particular by designation or reference in our order – are the subject matter of the respective contract or have been included in the contract in the same way as these GPC shall be deemed to be an agreement on the quality. It makes no difference whether the product description comes from us, the seller or the manufacturer.
- (3) In the case of goods with digital elements or other digital content, the seller shall owe the provision and updating of the digital content in any case to the extent that this results from an agreement on quality pursuant to para. 2 or other product descriptions of the manufacturer or on his behalf, in particular on the Internet, in advertising or on the goods label.
- (4) The supplier guarantees that the delivery items and their use do not infringe patents, utility models, registered designs, trademarks and other industrial property rights of third parties.
- (5) We are not obliged to inspect the goods or to make special enquiries about any defects at the time of conclusion of the contract. In partial deviation from Section 442 para. 1 sentence 2 of the German Civil Code (BGB), we are therefore also entitled to unrestricted claims for defects if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
- (6) The statutory provisions (Sections 377, 381 HGB) apply to the commercial duty of inspection and repentance with the following proviso: Our obligation to inspect is limited to defects which become apparent during our incoming goods inspection under external appraisal including the delivery documents (e.g. transport damage, wrong and short delivery) or which are recognisable during our quality control in the random sampling procedure. As far as an acceptance is agreed, there is no obligation to investigate. In other respects, it depends on the extent to which an investigation is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to make restitution for defects discovered later remains unaffected. Notwithstanding our duty to examine, our complaint (notice of defect) shall be deemed to have been made without delay and in good time if it is sent within eight working days of discovery or, in the case of obvious defects, of delivery.
- (7) Subsequent performance shall also include the removal of the defective goods and their re-installation, provided that the goods were installed in another item or attached to another item in accordance with their type and intended use before the defect became apparent; our statutory claim to reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent fulfilment, in particular transport, travel, labour and material costs and, if applicable, removal and installation costs, shall be borne by the seller even if it turns out that there was in fact no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognised or were grossly negligent in not recognising that there was no defect.
- (8) Without prejudice to our statutory rights and the provisions in para. 5, the following shall apply: If the seller does not fulfil his obligation to remedy the defect within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement of the necessary expenses or a corresponding advance payment from the seller. If subsequent performance by the seller has failed or is unreasonable for us (e.g. due to particular urgency, danger to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the seller of such circumstances without delay, if possible in advance.

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- (9) If we return defective goods to you, we shall be entitled to charge you the invoice amount plus a flat-rate fee of 5% of the price of the defective goods, up to a maximum of €250 per return. We reserve the right to provide evidence of higher expenses. You reserve the right to provide evidence of lower or no expenses.
- (10) In the event of a material defect or defect of title, we shall otherwise be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, we shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

§ 10 Supplier recourse

- (1) Our legally determined claims for expenses and recourse within a supply chain (supplier recourse pursuant to Sections 478, 445a, 445b or Sections 445c, 327 para. 5, 327u German Civil Code) shall accrue to us without restriction in addition to the claims for defects. In particular, we are entitled to demand exactly the type of subsequent performance (repair or replacement) from the seller that we owe our customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. Our statutory right of choice (Section 439 para. 1 BGB) is not restricted by this.
- (2) Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to Sections 445a para. 1, 439 para. 2, 3, 6 p. 2, 475 para. 4 BGB), we shall notify the seller and request a written statement, briefly stating the facts of the case. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually made by us shall be deemed to be owed to our customer. In this case, the seller has the burden of proof to the contrary.
- (3) Our claims from supplier recourse shall also apply if the defective goods have been combined with another product or processed in any other way by us, our customer or a third party, e.g. by installation, attachment or assembly.

§ 11 Producer liability

- (1) If the seller is responsible for product damage, he shall indemnify us against claims by third parties to the extent that the cause lies within his sphere of control and organisation and he himself is liable in the external relationship.
- (2) Within the scope of his indemnification obligation, the seller shall reimburse expenses pursuant to Sections 683, 670 BGB (German Civil Code) arising from or in connection with a third party claim, including recall actions carried out by us. As far as possible and reasonable, we will inform the seller about the content and scope of recall measures and give him the opportunity to comment. Further legal claims remain unaffected.
- (3) The seller shall take out and maintain product liability insurance with a lump sum coverage of at least €5 million per personal injury/property damage.

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§ 12 Confidentiality

- (1) The seller is obliged to treat all non-obvious commercial and technical details that become known to him through the business relationship as confidential and not to pass them on to third parties.
- (2) The manufacture for third parties, the display of products manufactured especially for us, in particular according to our plans, drawings or other special requirements, publications concerning the orders and services as well as the reference to this order vis-à-vis third parties, require our prior written consent.

§ 13 Limitation

- (1) The mutual claims of the contracting parties shall lapse in accordance with the statutory provisions, unless otherwise stipulated below.
- (2) Notwithstanding Section 438 para. 1 no. 3 BGB, the general limitation period for claims for defects is 3 years from the transfer of risk. Insofar as acceptance has been agreed, the limitation period shall begin with acceptance. The 3-year limitation period shall apply mutatis mutandis to claims arising from defects of title, whereby the statutory limitation period for claims for restitution in rem of third parties (Section 438 para. 1 no. 1 BGB) shall remain unaffected; claims arising from defects of title shall not be time-barred in any case as long as the third party can still assert the right – in particular in the absence of limitation – against us.
- (3) The limitation periods of the law on sales, including the above extension, shall apply – to the extent provided by law – to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 BGB) shall apply, unless the application of the limitation periods of the law of sales leads to a longer limitation period in individual cases.

§ 14 Choice of law and place of jurisdiction

- (1) The law of the Federal Republic of Germany shall apply to these GPC and the contractual relationship between us and the Seller to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
- (2) If the seller is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is our registered office in Aschaffenburg. The same applies if the seller is an entrepreneur within the meaning of Section 14 BGB. However, we are also entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GCP or a prior individual agreement or at the general place of jurisdiction of the seller. Overriding statutory provisions, in particular those relating to exclusive rights, shall remain unaffected.