

General Terms and Conditions of Business



1. General

These Terms and Conditions also apply to future business transactions between the contracting parties. These General Terms and Conditions of Business apply exclusively. The customer's General Terms and Conditions of Business are only valid to the extent that the supplier has expressly approved the same in writing.

2. Final specification

The characteristics set out in this specification provide a comprehensive and final definition of the properties of the delivery item.

3. Right to subsequent performance

Payment is due in full at delivery/acceptance. If payment was not made, the purchaser will be considered to be in default without any further declarations from the seller 14 days after the due date. In the case of any defects, the purchaser does not have a right of retention, unless the delivered item is obviously defective or the purchaser obviously has a right to reject acceptance of the work. In this case, the purchaser has a right to retention only in as far as the retained sum represents a reasonable ratio based on the defects and the expected costs for subsequent performance (in particular the elimination of a defect). The purchaser does not have the right to exercise any claims and rights due to defects if the purchaser did not make due payments and the due sum (including any payments made) represents a reasonable ratio of the value of the defective delivery/work.

4. Comprehensive retention of title

(1) The delivery item remains the property of the contractor until all claims against the purchaser that the contractor is entitled to based on the business relationship have been fulfilled. (2) While the retention of title exists, the purchaser is prohibited from pawning the delivery item or transferring ownership by way of security. Reselling is permissible only for resellers in the due business process and only on the condition that the equivalent value of the delivery item is paid to the purchaser. The purchaser must also enter into an agreement with the buyer to the effect that the buyer will gain ownership only with this payment. (3) In the case of the delivery item or the new goods being sold, the purchaser hereby transfers its claim from the resale against the buyer with all subsidiary rights to the contractor as security, without requiring any further special declarations. The transfer applies including any claims for payment of balance. The transfer, however, applies only to the amount that corresponds to the price of the delivery item invoiced by the purchaser. The portion of the claim transferred to the contractor must be settled as a priority. (4) Until further notice, the purchaser is entitled to collect the transferred claims. The purchaser will forward any payments made against the transferred claims to the contractor immediately, up to the amount of the secured demand. If a compelling reason exists, in particular in the case of default in payment, suspension of payment, opening of bankruptcy proceedings, protest of a bill or justified indications of excessive debts or impending insolvency of the purchaser, the contractor has the right to withdraw the purchaser's right to collect. After prior warning and in compliance with a reasonable deadline, the contractor can also disclose the transfer of security, use the transferred claims and demand that the purchaser discloses the transfer of security to the customer. (5) If a vital interest can be substantiated, the purchaser must provide the contractor with the information required for asserting its rights towards the customer and must hand over the required documents. (6) In the case of seizure or other rulings or interventions by third parties, the purchaser must inform the contractor immediately. (7) If the realisable value of all rights of security that the contractor holds exceed the amount of the secured claims by more than 10 %, then the contractor must release a corresponding part of the rights of security at the purchaser's request. The contractor can choose between different rights of security for the release. (8) If the purchaser commits a breach of duty, in particular in the case of default in payment, the contractor has the right – even without setting a time limit – to demand the

return of the delivery item / new goods and/or to withdraw from the contract. The purchaser is obligated to comply with the demand for return. The demand for returning the delivery item or new goods does not constitute a declaration of withdrawal by the contractor, unless this is expressly declared.

5. No duty for the intermediary to pay damages

The seller is not responsible for defects on deliveries that it procures from third parties and passes on to the purchaser unchanged; responsibility in the event of intent or negligence remains unaffected.

6. Minor defects

Warranty claims do not apply in the case only minor deviations from the agreed quality or in the case of only minor impact on usability.

7. Right to choose subsequent performance

The contractor always has right to choose between the correction of defects and a new delivery (new performance). If the subsequent performance fails, the purchaser has the right to reduce the price or to withdraw from the contract, at its own choosing. (This does not affect the purchaser's right to demand damages instead of the performance based on the legal regulations and these conditions.)

8. Number of rectification attempts

If the purchaser wants to claim damages instead of the delivery item or wants to rectify the defect itself, then the rectification will be considered to have failed only after the second unsuccessful attempt. The legal cases of dispensability of the fixing of a time limit remain unaffected.

9. Costs for rectification

The costs required for carrying out the subsequent performance must be paid by the purchaser if they are increased by deliveries or services being moved to a location that is not the purchaser's place of business, unless this change of location is in line with its intended use.

10. Liability (without delivery delay / impossibility)

(1) The contractor is liable in cases of intent or gross negligence by the contractor or by a representative or a person employed by the contractor in the performance of its obligations in accordance with the legal regulations. In addition to this, the contractor is liable only in accordance with the applicable product liability legislation, due to damage to life, body or health or due to a culpable violation of essential contractual duties. The claim for damages due to the violation of essential contractual duties, however, is limited to the foreseeable damage typical for this contract. The contractor's liability is also limited to the foreseeable damage typical for this contract in cases of gross negligence, if none of the exceptions listed in sentence 2 of this par. 1 apply. (2) Liability for damage to the purchaser's legal rights caused by the delivery item, e.g. damage to other objects, is completely excluded, though. This does not apply in the case of intent or gross negligence or if liability applies due to damage to life, body or health. (3) The rules of the previous par. 1 and 2 extend to the damages in addition to the performance and damages in lieu of the performance, regardless of the legal grounds, in particular due to defects, the violation of duties from the obligation relationship or from any prohibited action. They also apply to the claim for compensation for fruitless expenses. Liability for default, however, is determined as per no. 12, and liability for impossibility as per no. 13. (4) Any change to the burden of proof to the disadvantage of the contractor is not connected to the rules above.

11. Liability due to default

(1) If failure to meet deadlines is due to force majeure, e.g. mobilisation, war, unrest, or to similar events, e.g. strike or lockout, the deadlines will be extended accordingly. (2) For delays in the delivery of the performance, the contractor is liable in cases of intent or gross negligence by the contractor or by a representative or a person

employed by the contractor in the performance of its obligations in accordance with the legal regulations. The contractor's liability, however, is limited to the foreseeable damage typical for this contract in cases of gross negligence, if none of the exceptions listed in sentence 5 of this provision apply. In addition to this, the contractor's liability due to a delay in the delivery of the performance for damages in addition to the performance and for damages in lieu of the performance is limited to 5 % of the value of the delivery/service. Any further claims by the purchaser are excluded, also after expiry of any time limit set for the contractor. The aforementioned limits do not apply in the case of liability due to damage to life, body or health. Any change to the burden of proof to the disadvantage of the contractor is not connected to the rules above.

12. Liability in the event of impossibility

In the event of impossibility of the delivery/performance, the contractor is liable in cases of intent or gross negligence by the contractor or by a representative or a person employed by the contractor in the performance of its obligations in accordance with the legal regulations. The contractor's liability, however, is limited to the foreseeable damage typical for this contract in cases of gross negligence, if none of the exceptions listed in sentence 5 of this provision apply. In addition to this, the contractor's liability due to impossibility for claims for damages and reimbursement of fruitless expenses is limited to 10 % of the value of the delivery/service in total. Any further claims by the purchaser due to impossibility of the delivery are excluded. This limitation does not apply in cases of intent, gross negligence or if liability applies due to damage to life, body or health. The purchaser's right to withdraw from the contract remains unaffected. Any change to the burden of proof to the disadvantage of the contractor is not connected to the rules above.

13. Right of withdrawal and duty to decide

The purchaser can withdraw from the contract on the basis of the legal regulations only if the contractor is responsible for the violation of the duty. In the event of defects, however, the legal requirements remain unchanged. In the case of violations of duties, the purchaser must explain within an appropriate time limit, at the contractor's request, whether it is withdrawing from the contract because of the violation of duties or is insisting on the delivery.

14. Limitation period

(1) The limitation period for claims and rights due to defects in the deliveries/services on new items, regardless of the legal grounds, is one year. On used items, these are excluded. This, however, does not apply in cases of art. 479 (1) of the German Civil Code (BGB) (enterprise's right of recourse). The time periods defined in the previous sentence 2 are subject to a period of limitation of three years. (2) The rules for exclusion / limitation periods as per par. 1 also apply to all claims for damages against the contractor that are connected to the defect, regardless of the legal basis for the claim. If there are any

claims for damages against the contractor that are not connected to a defect, the limitation period from par. 1(1) applies to these. (3) The limitation period rules as per par. 1 and 2 apply, provided the following: a) The limitation periods generally do not apply in the case of intent. b) The limitation periods also do not apply if the contractor has fraudulently concealed the defect or if the contractor has accepted a warranty for the quality of the deliveries/services. If the contractor has fraudulently concealed a defect, the legal limitation periods that would apply without any fraudulence apply instead of the legal limitation periods stated in par. 1 (i.e. art. 438(1)(3) (other deliveries) or art. 634a(1)(1) BGB (manufacture/maintenance/alteration of an object or planning/monitoring services) or no. 3 (other services)), with the exclusion of the extension of the period in the case of fraudulence as per art. 438(3) and 634a(3) BGB, if no other exception as per this par. 3 applies. c) The periods of limitation additionally do not apply to claims for damages in the case of damage to life, body, health or freedom, in the case of claims as per the product liability legislation, in the case of a grossly negligent breach of duty or in the case of a violation of essential contractual duties. (4) The period of limitation starts at receipt of the delivery. For contractually agreed work, it starts at acceptance. (5) Unless expressly specified otherwise, the legal regulations regarding the start of the period of limitation, the suspension of the period of limitation and the suspension and restart of time limits remains unaffected. (6) Any change to the burden of proof to the disadvantage of the contractor is not connected to the rules above.

15. Recourse of the enterprise as per art. 478 BGB

Recourse claims of the purchaser against the seller as per art. 478 BGB (enterprise's right of recourse) exist only in as far as the purchaser has not made any agreements with his buyer that go beyond the legal claims for defects.

16. Partial performance

Partial deliveries are permissible if they are not unreasonable for the purchaser.

17. Offsetting

The purchaser can offset only claims that are undisputed or have been finally determined.

18. Stipulation as to venue

If the contractor's contract partner is a business, then the sole venue for all disputes arising from the contract is the contractor's registered office.

19. Applicable law

The contractual relationship is subject to the laws of the Federal Republic of Germany, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.