

GENERAL TERMS AND CONDITIONS

1. GENERAL

These terms and conditions also apply to future business transactions conducted between the contracting parties. These General Terms and Conditions of Business apply exclusively. The General Terms and Conditions of Business of the purchaser are only valid if the supplier has expressly approved their validity in writing.

2. FINAL SPECIFICATION OF SERVICES

The aspects of this specification of services provide a comprehensive and conclusive definition of the delivery item.

3. CORRECT AND PUNCTUAL DELIVERIES

The contract is concluded under the reservation of correct and punctual delivery by the supplier. [The contractor must immediately inform the principal of the non-availability of the delivery item and in the case of rescission the contractor must be reimbursed the equivalent amount immediately.]

4. PAYMENT CONDITIONS AND SUPPLEMENTARY PERFORMANCE

Payment is due in full upon delivery or acceptance. The principal is, without additional declarations from the seller, in default 14 days after the due date for payment if he has not paid. In the case of the presence of defects, the principal is not entitled to retain possession of the goods, unless the delivery was evidently faulty or the principal is clearly entitled to the right to decline acceptance of the work; in such cases, the principal is only entitled to retain possession if the retained amount covers to a reasonable extent the defects and any foreseeable costs for subsequent performance (in particular the costs for eliminating the fault). The principal is not entitled to assert claims and rights for defects if he has not made any payments due and the amount due (including any payments made) covers to a reasonable extent the value of the delivery, with faults, or the work.

5. LOWER-QUANTITY SURCHARGES

For orders with an amount lower 50 € we are going to charge 15 € lower quantity surcharge per order. For orders under 100 € we are going to charge 7,50 € lower quantity surcharge per order.

6. RESERVATION OF PROPRIETARY RIGHTS

(1) The delivery item remains the property of the contractor until fulfilment of all contractual obligations to the principal.

(2) During the period of reservation of proprietary rights, the principal is prohibited from taking out a lien or assigning the item as security. Further disposal is only permitted to distributors in the ordinary course of business and subject to the conditions that payment of the equivalent value for the delivery item is made to the principal. The principal must also agree with the purchaser that the purchaser only acquires the proprietary rights upon this payment.

(3) The principal is allowed to process the delivery item or combine it with other objects. The processing or combination (hereinafter referred to collectively as "processing" and with regard to the delivery item: "processed") occurs when an object is designated as a "new item" following the processing of an existing item. The principal stores the new item for the contractor with the due care and prudence of an ordinary business.

In the event of processing with other objects not belonging to the contractor, the contractor is entitled to co-ownership of the new item for the amount of the share, which results from the proportion of the value of the processed or combined delivery item to the value of the other processed goods at the time of processing. If the principal acquires sole ownership of the new item, both the principal and contractor agree that the principal shall grant the contractor co-ownership of the new item for the proportion of the value of the processed delivery item to the other processed goods at the time of processing.

(4) In the case of disposal of the delivery item or the new item, the principal hereby assigns his rights for further disposal against the purchaser to the contractor by way of security, without the need for further declarations. The assignation also includes outstanding balance claims. However, the assignation is only applicable for the amount that corresponds to the price of the delivery item invoiced by the contractor. The part of the balance assigned to the contractor is to be satisfied prior-ranking.



(5) If the principal combines the delivery item or the new item with moveable objects, he, without the need for further declarations, also assigns his claim, which is due to him as payment for the connection, to the contractor, with all ancillary rights by way of security for the amount in proportion of the value of the delivery item or new item to the other combined goods at the time of the combination.

(6) Except for revocation, the principal is authorised to forfeit the assigned debts. The principal shall immediately forward the payments for the assigned debts for the amount of the secured debt to the contractor. In the event of reasonable cause, in particular delay in payment, cessation of payments, initiation of insolvency proceedings, act of protest or reasonable evidence for excess indebtedness or threatened payment incapacity, the contractor is entitled to revoke the forfeiture authorisation of the principal. In addition, the contractor can, after a prior warning of notifying the debtor of the assignment or of utilizing the assigned claims subject to observance of an adequate respite, notify the debtor of the assignment, utilize the assigned claims, and demand that the principal notify the customer of the assignment.

(7) In the case of establishing prima facie evidence, the principal must provide the contractor with the necessary information and documents for the assertion of his rights against the customer.

(8) For charges, seizures or other dispositions or intervention by third parties, the principal must immediately inform the contractor thereof.

(9) Where the realizable value of all security rights, to which the contractor is entitled, exceeds the amount of all secured claims by more than 10%, the contractor at the request of the principal can approve a partial release of the security; the contractor has the choice between the various security rights.

(10) In the event of contractual breaches by the principal, in particular late payment, the contractor is entitled to demand without notice the withdrawal of the delivery item or new item and / or rescind the contract; the principal is obliged to surrender the item. The demand for the return of a delivery item or new item does not constitute cancellation of the contract by the contractor unless expressly stated.

7. NO LIABILITY FOR DAMAGES FROM DISTRIBUTORS

The seller is not liable for material damage of the delivery which he procured from third parties and distributed to the customer unchanged; the liability for intent and gross negligence remains unaffected.

8. MINOR DEFECTS

The liability for defects does not apply to insignificant deviations from the agreed conditions or to minor impairments to usability.

9. CHOICE OF SUPPLEMENTARY PERFORMANCE

The contractor is entitled to choose between remedial and replacement options in all cases. If the subsequent performance fails, then the principal has the right to reduce or, at his own discretion, rescind the contract.

[This does not affect the rights of the principal in accordance with the statutory provisions and conditions of this contract to demand damages in place of performance.]

10. NUMBER OF IMPROVEMENT ATTEMPTS

If the principal demands damages in place of performance or even self-remedy of defects, this is only provided after the second attempt at repairing the item fails. The statutory provisions regarding the dispensability of setting a grace period shall remain unaffected.

11. EXPENSES FOR SUPPLEMENTARY PERFORMANCE

The expenses necessary for the purposes of subsequent performance shall be borne by the principal; if higher expenses are incurred as the deliveries or services in question are to be transported to a location other than that of the subsidiary of the principal, unless this is in the course of correct and proper use.



12. LIABILITY (WITHOUT DELAY OF DELIVERY / IMPOSSIBILITY)

(1) The contractor is liable in cases of intent or gross negligence of the contractor or an agent or agents in accordance with statutory provisions. In addition, the contractor is liable only under the Product Liability Act in cases of loss of life, limb or health or because of culpable violation of essential contractual obligations. The claim for damages for the breach of significant contractual obligations is, however, restricted to the contractual foreseeable damage. The liability of the contractor in cases of gross negligence is also restricted to contractual foreseeable damage, if none of the exceptions mentioned in Clause 2, of Para. 1 are present.

(2) The liability for damages caused by the delivery item to legal interests of the principal, e.g. damage to other matters, is, however, fully excluded. This does not apply in cases of intent or gross negligence or injury to life, limb or health.

(3) The aforementioned provisions in paragraphs 1 and 2 extend to damages in addition to performance and compensation in place of performance, regardless of the cause of action, in particular because of defects, breach of obligations arising from the debt ratio or tort actions. They also apply to claims to cover expenses. The liability for delay is determined in accordance with paragraph 12. However, the liability for impossibility is covered under paragraph 13.

(4) A change in the burden of proof to the detriment of the principal is not connected to the above regulations.

13. LIABILITY IN THE CASE OF DELAYED DELIVERY

(1) If non-observance of time periods is due to force majeure, for example, mobilisation, war, riot or similar events, e.g. strike or lockout, the time periods shall be extended accordingly.

(2) The contractor is liable for delay in performance of services in cases of intent or gross negligence on his part or on the part of an agent or agents in accordance with statutory provisions. The liability of the contractor in cases of gross negligence is restricted, however, to contractual foreseeable damage, if none of the exceptions stated in clause 5 of this provision are present. Furthermore, the liability of the contractor due to delayed performance for damages, in addition to performance, and in place of performance, is restricted to 5% of the value of deliveries / services. Additional claims by the principal, even after expiry of a deadline to the contractor, for performance, are excluded. The aforementioned restrictions do not apply to liability for injury to life, limb or health. A change in the burden of proof to the detriment of the principal is not connected to the above-mentioned regulations.

14 LIABILITY IN THE CASE OF IMPOSSIBILITY

The contractor is liable for the impossibility of delivery in cases of intent or gross negligence of the contractor or an agent or agents in accordance with statutory provisions. The liability of the contractor is in cases of gross negligence limited to contractual, foreseeable damage, if no exceptions are present that are stated in clause 5. In addition, the contractor's liability for damages due to impossibility and for compensation for expenses is restricted to 10% of the value of deliveries / services. Additional claims by the principal due to impossibility of delivery are excluded. This limitation shall not apply in cases of intent, gross negligence or injury to life, limb or health. The right of the principal to rescind the contract remains unaffected. A change in the burden of proof to the detriment of the principal is not connected with the above regulations.

15. RIGHT TO WITHDRAW FROM THE CONTRACT

The principal may only, within the framework of the statutory provisions of the contract, withdraw from the contract if the contractor has performed a contractual breach; in the event of defects, however, the statutory conditions remain effective. In the event of contractual breaches, the principal must declare within an appropriate timeframe at the request of the contractor whether he is withdrawing from the contract due to contractual breach or he insists on the delivery.



16. LIMITATION OF ACTIONS

(1) The limitation of actions for claims and assertion of rights due to defects in deliveries / services, regardless of the cause in law, is one year for new items and barred for used items. This does not apply, however, for the cases specified in § 479 S. 1 of the German Civil Code (BGB) (Right of recourse). The time periods stated in clause 2 are subject to a limitation period of three years.

(2) Statute-barred or limitation regulations in accordance with S. 1 also apply to all claims for damages against contractors who are connected to the damage – regardless of the cause of action of the claim. Insofar as claims for damages of any type arise against contractors who are not connected to the damage, the limitation period stated in § 1 S. 1 applies.

(3) The limitation period regulations in accordance with S. 1 and S. 2 apply with the following provisions:

a) The limitation periods in general do not apply in the case of intent.

b) The limitation periods also do not apply if the contractor intentionally misrepresented the defects by silence or if the contractor took out a guarantee for the conditions of the deliveries / services. If the contractor intentionally misrepresents the defects, then in place of the limitation periods listed in S. 1, the statutory limitation applicable to fraudulent intent apply [§ 438 S. 1 No. 3 (other deliveries) and § 634a S. 1 No. 1 German Civil Code (BGB) (Manufacture / Maintenance / Change of an item or Planning / Monitoring Services) and No. 3 (other services)] to the exclusion of the period extension for fraudulent intent in accordance with §§ 438 S. 3 or 634 a S, 3 German Civil Code (BGB)), if no other exception is present in accordance with this S. 3.

c) The limitation periods apply to claims for damages and not to cases of injury to life, limb or health, infringement of freedom, claims for product liability, gross negligence or breach of other significant contractual duties.

(4) The period of limitation for all claims commences upon delivery of the items and for services upon acceptance.

(5) Insofar as nothing else is expressly agreed, the statutory terms and conditions on the commencement of the limitation period, suspension of the statute of limitations, the suspension and recommencement of periods remain unaffected.

(6) A change of the burden of proof to the detriment of the principal is not connected with the aforementioned regulations.

17. RECOURSE TO CONTRACTOR IN ACCORDANCE WITH § 478 OF THE GERMAN CIVIL CODE (BGB)

Recourse to the purchaser against the seller in accordance with § 478 German Civil Code (BGB) (Recourse to the Contractor) only exists if the purchaser has not come to any agreements with the seller resulting from the legal defects claims.

18. PART PERFORMANCE

Part performances are permitted insofar as they are considered just and reasonable by the purchaser.

19. OFFSETTING

The purchaser can only offset such claims that are undisputed and final.

20. PLACE OF JURISDICTION

The sole place of jurisdiction for all disputes arising from this contract is the residence of the contractor, if the contracting partner of the contractor is the purchaser.

21. APPLICABLE LAW

This contract is governed by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

