

For use vis-à-vis

1. Companies (§ 14 German Civil Code, BGB) and traders, if the contract pertains to the operation of the commercial enterprise.
2. Legal persons of public law and special public funds.

I. General

1. General terms and conditions (sales and purchasing provisions, etc.) of the Purchaser shall apply only insofar as the Supplier has expressly consented to them. They will not become part of the contract simply because the order has been accepted.
2. Individual contractual agreements of the parties made in writing shall have priority over these general terms and conditions of delivery.
3. The contract shall come into effect with the Supplier's written acknowledgement of order. For the scope of delivery and performance the Supplier's written acknowledgement of order shall be the decisive factor. Ancillary agreements and alterations require the Supplier's written confirmation.
4. The documents associated with the offer such as illustrations, drawings, declarations of weight and indications of measurement are an approximate decisive factor, inasmuch as they are not expressly designated as binding. The Supplier reserves the proprietary right and copyright to drawings and other documents, including those in electronic form. They shall be treated confidentially and may not be made accessible to third parties and shall be immediately returned if the order is not awarded to the Supplier.
5. When ordering delivery items, the design and composition features of which the Purchaser stipulates, the latter shall bear the responsibility for ensuring that neither design nor composition encroach upon the industrial property rights of third parties. The Purchaser shall indemnify the Supplier in the case of a claim being made.

II. Price and payment

1. The prices apply ex works excluding packaging plus the VAT in the current statutory amount; duty unpaid and untaxed in the case of international transactions.
2. Payments shall be made without deduction free paying office of the Supplier as follows:
30 % at the time of acknowledgement of order, 60 % at the time of delivery
10 % at the time of acceptance, at the latest however 60 days after delivery
3. Should the Purchaser defer the delivery, the payment shall still be due at the time the Supplier announces readiness and submits an invoice.
4. In the case of a suspension by the Purchaser, the amounts for the previously rendered services shall fall due 4 weeks after the suspension, provided this is not canceled. This shall not affect the Supplier's claims for damages.
5. The Purchaser may only offset in the case of non-contested or legally effective accounts receivable.
6. In the case of default in payment, the Purchaser shall pay default interest in the statutory amount. Should the Supplier prove that greater damages were caused by delay, these should be compensated.

III. Retention of ownership

1. The delivered goods shall remain the property of the Supplier until all claims to which the latter is entitled from the current contract have been met. Pledging or transfer by way of collateral will not be permitted prior to full payment. The Purchaser shall inform the Supplier immediately in the case of attachments, distraints or other dispositions or interventions of third parties.
2. The property shall extend, where appropriate, to the new object created by the preparation of the conditional commodity. The Purchaser shall manufacture the new object for the Supplier, excluding his own acquisition of ownership, and hold it in safe custody free of charge for the Supplier. No claims by the Purchaser against the supplier shall result.
3. When processing the conditional commodity with goods of other Suppliers, whose rights of ownership also continue with the new object, the Supplier shall acquire joint ownership together with the other Suppliers – excluding the Purchaser's joint acquisition of ownership – of the new object at its full value (including value added) as follows:
 - a) The joint ownership share shall correspond to the ratio of the invoice value of the Supplier's conditional commodity to the invoice value of all jointly processed conditional commodities.
 - b) Should a residual share of the retention of ownership remain unrecorded initially, the ownership share shall increase by this residual share. Should other Suppliers have also extended their ownership share to include this residual share, the Supplier shall only be entitled to the share that determines the ratio of the invoice value of the Supplier's conditional commodity (including any rendered job performances and services) to the other Suppliers' invoice values.
4. The Purchaser shall now assign his claims from the sales of conditional commodities from present and future deliveries including all subsidiary rights within the framework of the Supplier's ownership share to the Supplier. When processing within the framework of a contract for services the wage claim shall be

assigned to the Supplier in the pro rata amount of the Supplier's invoice for the processed conditional commodity. The Supplier shall accept the assignment.

5. As long as the Purchaser duly meets his obligations from the business relations with the Supplier, he may avail himself of the goods owned by the Supplier in the ordinary course of business and personally collect the claims assigned to the Supplier.
6. In the case of default of payment of more than 30 days or deterioration of the Purchaser's assets, the Supplier shall be authorized to disclose the assignment of claim without setting another time limit and collect the assigned claims. To this end the Purchaser shall be obligated to immediately hand over the required information and documents to the Supplier.
7. Should the value of the collateral granted to the Supplier exceed the amount of secured debts by more than 20 %, the Supplier shall release an appropriate part of the collateral as requested and specified by the Purchaser.
8. Should the Purchaser act in violation of the contract, in particular in the case of default in payment, the Supplier shall be entitled to recover the delivery item following a warning and the Purchaser shall be obligated to return it.

IV. Period of delivery

1. The period of delivery arises from the agreements between the contractual parties. The observance of agreed time limits for deliveries presupposes the prompt receipt of all documents to be delivered by the Purchaser, required authorizations and releases, in particular of plans and samples, as well as the observance of the agreed terms and conditions of payment and other obligations by the Purchaser. Should these preconditions not be satisfied, the time limits shall be appropriately extended. This shall not apply if the Supplier is responsible for the delay.
2. The observance of the period of delivery shall be subject to the correct and prompt self-delivery. The period of delivery shall be appropriately extended if supply happens to be delayed as far as such hindrances exert considerable proven influence on the completion or delivery of the delivery item, such as e.g. inculpable exclusion of an important delivery part. This shall also apply if the circumstances emerge at Sub-suppliers' locations or during an already existing delay. The Supplier shall immediately inform the Purchaser of the beginning and end of such hindrances.
3. The period of delivery shall have been observed if the delivery item has left the factory by the expiration of the said period or readiness for shipment has been announced. Provided a preliminary acceptance is to take place – except in the case of justified refusal of preliminary acceptance – the preliminary acceptance date shall be the decisive factor, alternatively the announcement of readiness to preliminary acceptance.
4. The Purchaser may withdraw from the contract, if the entire performance has definitely been rendered impossible for the Supplier prior to the passage of risk. In addition, the Purchaser may withdraw from the contract if part of a delivery is impossible for a specific order and he has no justified interest in the delivery of a partial delivery. Should this not be the case, the Purchaser shall be obligated to pay the accrued contractual price for the partial delivery. The same shall apply in the case of the Supplier's inability to perform. Should impossibility of performance or inability to perform occur during the delay in acceptance or should the Purchaser be solely or predominantly responsible he shall be obligated to provide compensation.
5. Should the Purchaser be able to credibly prove that he has suffered damages due to a delay caused through the Supplier's own fault, excluding the claims regulated in these terms and conditions, he shall be authorized to claim 0.5 % as compensation for the damages caused by delay for every full week of the delay, but only to a maximum of 5 % of the value of the part of the total delivery that could not be used promptly or in accordance with the contract. Should the Purchaser set the Supplier a reasonable time limit to perform after the due date – taking into account the statutory exceptions – and should this time limit not be observed, the Purchaser shall be authorized to withdraw from the contract within the framework of the statutory provisions. The Supplier shall be authorized to provide proof that the Purchaser has suffered no or only minimal damages.

V. Passage of risk

1. The risk shall pass to the Purchaser at the latest at the time of shipment or collection of the delivery parts, even in the case of freight paid delivery or if the Supplier has assumed additional obligations such as delivery, setup, etc. irrespective of pricing. At the request and expense of the Purchaser the deliveries shall be insured against damages caused by theft, breakage, transport, fire and water as well as other insurable risks. The Supplier may make the insurance dependent on the advance payment of expenses by the Purchaser.
2. Should the shipment, delivery, start or implementation of the setup or assembly, the acceptance in the Purchaser's own operation or the test operation be delayed due to circumstances for which the Purchaser is responsible, or if the Purchaser's acceptance is delayed for other reasons, the risk shall pass to the Purchaser. At the request and expense of the Purchaser the deliveries shall be insured against damages caused by theft, breakage, transport, fire and water as well as other insurable risks. The Supplier may make the insurance dependent on the advance payment of expenses by the Purchaser.

3. Provided this has not previously been the case the risk shall pass to the Purchaser at the latest at the time of acceptance.

VI. Acceptance

1. The Purchaser shall accept the delivery item without prejudice to the rights in Section VII, even if it shows immaterial deficiencies.
2. Partial deliveries shall be permissible, provided these are acceptable to the Purchaser.

VII. Warranty

1. The Supplier shall be liable for deficiencies excluding further claims as follows:
2. Occurring deficiencies asserted within the framework of the Supplier's liability / warranty shall be reported to him in writing immediately after they occur. Should the Purchaser neglect this notification, the Supplier shall be released from his liability.
 - a) The Supplier may choose to rectify deficiencies, which are due to a circumstance prior to the passage of risk, or to replace the defective parts.
 - b) The Purchaser shall be obligated to provide the Supplier with reasonable time and opportunity to implement all reworks and replacement deliveries deemed necessary by the latter. Otherwise the Supplier shall be released from liability – with regard to resulting consequences as well. The Purchaser shall only have the right to eliminate the deficiencies himself or have them eliminated and to demand compensation for the required expenses from the Supplier in urgent cases of danger to operational security or to prevent unreasonably large damages.
 - c) Of the direct costs resulting from the rework or the replacement delivery, the Supplier shall bear the costs of the replacement part including shipment in the case of a justified complaint. He shall also bear the costs of the removal and installation, as well as the costs of any required service technicians and helpers, including travel expenses, provided no unreasonable burden is caused to the Supplier.
 - d) The Purchaser shall have a right to withdraw from the contract should the Supplier – taking into account the statutory exceptions – allow a set time limit for rework or replacement delivery due to redhibitory defect to elapse fruitlessly. Should only an immaterial deficiency exist, the Purchaser shall only be entitled to a reduction in the purchase price.
 - f) All further rights of the Purchaser due to a deficiency and the resulting consequential damages shall be excluded. This shall not apply in the case of intention, gross negligence on the part of the owner, the executive organs, the executive staff, in the case of culpable injury to life, body and health, should the Supplier have fraudulently concealed the deficiency or have assumed a guarantee for the quality of the factory, in the case of deficiencies in the delivery item, provided liability is assumed for injury to persons and damage to property on privately owned objects according to the law governing product liability. In the case of culpable infringement of essential contractual obligations the Supplier shall be liable even in cases of gross negligence of non-executive employees and by slight negligence, restricted however in the latter case to contractually typical, reasonably foreseeable damages.
 - g) The Supplier shall assume no liability
 - for damages arising due to unsuitable or improper use, storage, intermediate storage, incorrect assembly or startup by the Purchaser or a third party, natural wear and tear, incorrect or negligent treatment, unsuitable operating resources, defective construction work, unsuitable building site or chemical, electrochemical or electrical influences, provided the Supplier is not at fault.
 - for damages or consequential damages caused by alterations or maintenance work performed by the Purchaser or a third party without the Supplier's consent.
2. The warranty shall begin with the passage of risk (cf. V). A formal acceptance is not a prerequisite for the beginning of the warranty.
3. All entitlements of the Purchaser, irrespective of the underlying legal ground, shall be struck by the statute of limitations in 12 months. The statutory time limits shall apply to claims for damages in accordance with Figure 1 f. During the rectification of a deficiency the period of warranty shall be delayed. The statute of limitations shall not recommence.
4. The Purchaser shall only be entitled to a right of lien to payments in a reasonable ratio to the occurring deficiencies.
5. Should the use of the delivery item lead to an infringement of the domestic industrial property rights or copyrights, the Supplier shall basically provide the Purchaser with the right of further use or modify the delivery item in such an acceptable manner to the Purchaser that the infringement of the industrial property rights no longer exists. Should this not be possible at economically reasonable terms and conditions or within a reasonable time limit, the Purchaser shall be authorized to withdraw from the contract.

Under the cited conditions the Supplier shall also have the right to withdraw from the contract. In addition, the Supplier shall indemnify the Purchaser against non-contested or legally determined claims of the relevant holder of the industrial property right.

6. The Supplier's obligations cited in Section VII Figure 5 are conclusive and shall exist only if
 - the Purchaser immediately informs the Supplier of asserted infringements of industrial property rights or copyrights.
 - the Purchaser supports the Supplier to a reasonable extent in containing the asserted claims or allows the Supplier to implement modification actions in accordance with Figure 5.
 - the Supplier reserves the right to take all containment actions including out of court settlements.
 - the legal infirmity is not due to an instruction issued by the Purchaser.
 - the infringement of the right has not been caused by the fact that the Purchaser has arbitrarily altered the delivery item or used it in a way not in accordance with the contract.

VIII. Withdrawal of the Purchaser

1. The Purchaser may withdraw from the contract in statutorily regulated cases, provided this is still possible despite the restriction on the warranty described in Section VII.
2. In the case of the permissible withdrawal of the Purchaser due to a circumstance, which is the fault of the Supplier, the Purchaser may request compensation for damages. This shall be restricted to 10 % of the value of the part of the delivery, which could not be implemented due to the withdrawal. More far-reaching claims of the Purchaser are excluded.

The Supplier shall be authorized to provide proof that the Purchaser has suffered no or only minimum damages.

IX. Right of the Supplier to withdraw and contractual adjustment

1. In the case of unforeseeable events in accordance with Section IV, provided they considerably alter the economic significance or content of the performance or have a considerable effect on the Supplier's operation, and in case of subsequently emerging impossibility of performance of the contract in the foreseeable form, the contract shall be appropriately adjusted in amicable agreement with the Purchaser. Inasmuch as this is not economically justifiable, the Supplier shall have the right to completely or partially withdraw from the contract.
2. Claims for damages by the Purchaser due to such a withdrawal shall not exist. Should the Supplier wish to avail himself of the right of withdrawal from the contract, he shall immediately inform the Purchaser as soon as he becomes aware of the consequences of the event, even if an extension of the period of delivery has initially been agreed with the Purchaser.
3. The application to open insolvency proceedings with regard to the Purchaser's assets shall authorize the Supplier to withdraw from the contract and request the immediate handing over of the delivery item.

X. Other claims for damages

1. Other claims for damages of the Purchaser against the Supplier, his assistants and vicarious agents, irrespective of the underlying legal ground, shall be excluded, provided no imperative statutory liability is at issue.
2. Section VII shall apply accordingly to those claims of the Purchaser for rework, replacement delivery or compensation for damages, which have been caused by proposals or consultations before or after the contract was concluded or by the infringement of contractual subsidiary rights.

XI. Software use

1. Inasmuch as software is included in the scope of delivery, the Purchaser shall be granted a non-exclusive right to use the delivered software including its documentation. The right shall be assigned for the use of the specified delivery item. Use of the software on more than one system shall be prohibited.
2. The Purchaser may only duplicate, rework or translate the software or convert its object code to the source code to the legally permissible extent (§§ 69 a et seq. German Copyright Act). The Purchaser shall undertake to refrain from removing the manufacturer's specifications – in particular copyright endorsements – or altering them without the Supplier's prior express consent.
3. All other rights to the software and documentation including the copies shall remain at the location of the Supplier or Software Supplier. The allocation of sub-licenses shall be prohibited.

XII. Place of jurisdiction and applicable right

1. In the case of all disputes arising from these contractual relations the suit shall be filed at the court responsible for the Supplier's head office. The Supplier shall also be authorized to file suit at the Purchaser's head office.
2. The contractual relations shall be subject to the law of the Federal Republic of Germany excluding the United Nations Convention of 11. 04.1980 regarding contracts concerning the international sale of goods.