

General terms and conditions of trade (for sale)

1. Scope of application

1.1 These General Terms and Conditions (GTC) shall apply to all our business relations with our customers. The GTC shall only apply if the customer is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.

1.2 All deliveries, services as well as the sale of products by our company are exclusively subject to these General Terms and Conditions. We do not recognize any deviating terms and conditions of the customer unless we have expressly agreed to their validity. Our terms and conditions shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our terms and conditions of sale.

1.3 Legally relevant declarations and notifications to be made to us by the customer after conclusion of the contract (e.g. setting of deadlines, notifications of defects, declaration of withdrawal or reduction) must be made in writing to be effective.

2. Offer and conclusion of contract

2.1 If the order is to be qualified as an offer according to § 145 BGB, we may accept it within 4 weeks.

2.2 Our offers are subject to confirmation unless we expressly designate them as binding. The information contained in brochures, price lists, catalogs, circulars and other printed matter or in the documents belonging to the offer, such as illustrations, descriptions, technical data and performance specifications, shall not be binding.

2.3 A contract shall be concluded by a timely acceptance of our written offer or by an order confirmation sent by us, which determines the scope of the services assumed by us.

2.4 We reserve the right to make technical changes. Any deviations shall be accepted accordingly, insofar as they are reasonable for the customer. We reserve the right to make changes to products and services that do not affect functionality.

2.5 References to the applicability of statutory provisions shall have only a clarifying meaning. Even without such clarification, the statutory provisions shall therefore apply, unless they are directly amended or expressly excluded in these General Terms and Conditions.

3. Subject matter of the contract

3.1 In addition to these Terms and Conditions, the content of our written offer shall be decisive for the content and scope of the services to be provided by us.

3.2 Our confirmation of order shall determine the deliveries and services to be provided by us in detail. Furthermore, our order confirmation specifies the remuneration to be paid by the customer and the handover and acceptance of the services and deliveries by the customer.

4. Prices, terms of payment

4.1 The type, amount and date of the payment to be made shall be determined by our order confirmation and shall apply ex works including packaging, unless expressly agreed otherwise in writing. Costs of packaging shall be invoiced separately.

4.2 The statutory value-added tax is not included in our prices; it will be shown separately on the invoice at the statutory rate on the day of invoicing. All prices shall be subject to the addition of any other statutory costs and charges at the statutory rate applicable at the time.

4.3 If the delivery date is later than four months after conclusion of the contract, a price increase shall be admissible if it is based on circumstances which are unavoidable for us and which only occurred after conclusion of the contract. Unavoidable circumstances are, for example, price increases of our suppliers for raw materials and purchased parts as well as changes in standards or wage and salary increases over which we have no influence. Unavoidable price increases are only permissible before the expiry of four months if they are based on circumstances which were not foreseeable for us at the time of conclusion of the contract. If the increase amounts to more than 5% of the agreed purchase price, the customer shall be entitled to terminate the contract. A price increase shall not be permitted if the price increase conflicts with a price guarantee given by us.

4.4 Invoices shall be paid net within 30 days of the invoice date. A discount of 3% shall be granted for payment within 14 days of the invoice date. However, we shall be entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part only against advance payment. We shall declare a corresponding reservation at the latest with the order confirmation. A cash discount deduction is not permissible if there is a balance due at the time of payment. Payments shall first redeem any interest and costs, then the oldest debt.

4.5 If, after conclusion of the contract, it becomes apparent (e.g. by filing for insolvency proceedings) that our claim to the purchase price is jeopardized by the customer's inability to pay, we shall be entitled in accordance with the statutory provisions to refuse performance and - if necessary after setting a deadline - to withdraw from the contract (§ 321 BGB). In the case of contracts for the manufacture of unjustifiable items (custom-made products), we may declare withdrawal immediately; the statutory provisions on the dispensability of setting a deadline shall remain unaffected.

4.6 If the customer is in default of payment, we shall be entitled to demand default interest at the statutory rate. If we are able to prove higher damages caused by default, we shall be entitled to claim such damages.

4.7 The customer shall only be entitled to rights of set-off or retention to the extent that its claim has been established by a final court decision or is undisputed. In the event of defects in the delivery, the customer's counter rights shall remain unaffected, in particular in accordance with 7.2. sentence 2 of these GTC.

5. Deliveries

5.1 All delivery agreements must be in writing. Delivery periods shall commence on the date of our order confirmation, but not before clarification of all technical data. Unless expressly confirmed, delivery periods shall be understood as non-binding approximate values.

5.2 If we are unable to meet binding delivery deadlines for reasons for which we are not responsible (non-availability of the service), we shall inform the customer of this without delay and at the same time notify the customer of the expected new delivery deadline. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the customer. A case of non-availability of the performance in this sense shall be deemed to be in particular the failure of our supplier to deliver on time if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obligated to procure in the individual case.

5.3 Our delivery and performance periods shall be extended appropriately in the event of disruptions due to force majeure and other obstacles for which we are not responsible, in particular delays in the provision of necessary preliminary services by other work contractors, strikes, lockouts, operational disruptions, pandemics, etc., which have a significant influence on our delivery and performance.

5.4 The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In any case, however, a reminder by the customer shall be required. If we are in default of delivery, the customer may demand lump-sum compensation for the damage caused by the delay. The lump-sum compensation shall amount to 0.5% of the net price (delivery value) for each full calendar week of the delay, but in total not more than 5% of the delivery value of the goods delivered late. We reserve the right to prove that the customer has not suffered any damage or that the damage is significantly less than the aforementioned lump sum.

5.5 The rights of the customer pursuant to Section 8 of these GTC and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

5.6 Partial deliveries are permissible and may be invoiced separately, unless they are not economically feasible for the customer.

5.7 Compliance with our delivery obligation requires the timely and proper fulfillment of the customer's obligations.

5.8 If delays occur as a result of circumstances for which the customer is responsible, the customer shall reimburse us for all additional expenses and damages arising therefrom in addition to the agreed remuneration.

5.9 In the case of orders up to a net value of goods of EUR 1,530, there shall be a flat-rate freight and packaging charge of 5%, but at least EUR 7.50, and a small-quantity surcharge of EUR 7.50 for orders of less than EUR 51. In case of delay for assembly orders, a lockable room must be provided for the delivered goods. Smaller deliveries are made by mail or parcel service.

6. Transfer of risk

6.1 Unless otherwise stated in the order confirmation, delivery is agreed „ex works“, which is also the place of performance for the delivery and any subsequent performance.

Insofar as delivery to the customer is agreed in our order confirmation, we shall assign claims against our transport insurance or against the transport insurance of the commissioned transport company to the customer.

6.2 If delivery to the customer is agreed in our order confirmation, we shall bear the costs of transport insurance ourselves.

6.3 The risk of accidental loss and accidental deterioration of the goods shall pass to the customer at the latest upon handover. However, in the case of sale by delivery to a place other than the place of performance, the risk of accidental loss and accidental deterioration of the goods as well as the risk of delay shall pass to the customer upon delivery of the goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. If 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 mutatis mutandis to an agreed acceptance. The handover or acceptance shall be deemed equivalent if the customer is in default of acceptance.

7. Acceptance

7.1 Acceptance by the customer shall cause payment to become due and shall start the warranty period. Depending on the service owed, partial acceptance may be considered. A partial acceptance shall not be affected by the result of the final acceptance.

7.2 In the case of delivery services, acceptance shall be effected by unconditional acceptance of the delivery item by the Customer.

7.3 The customer may not refuse acceptance if there are only insignificant deviations from our order confirmation. Such insignificant deviations shall be recorded in an acceptance report and remedied by us within the scope of the warranty.

7.4 If the acceptance results in significant deviations from our order confirmation, the customer shall grant us a reasonable grace period to remedy such deviation. After expiration of this grace period, the acceptance shall be repeated. If it is successful, the customer shall declare acceptance. 7.5 If the customer does not declare acceptance despite successful acceptance, if he defaults on acceptance or if he does not make a declaration in accordance with Clause 7.4, we may grant him a period of grace of 3 weeks, stating that acceptance shall be deemed to have been declared if this period of grace expires without result. If the customer does not make any declaration within this grace period or does not participate in the acceptance, we shall be deemed to have accepted the performance or partial performance capable of acceptance. 7.6 If the customer is in default of acceptance or violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us, including any additional expenses.

8. Sample pieces and loan delivery

We reserve the property rights and copyrights to illustrations, sketches, other documents and samples. These are to be returned immediately upon request. They may only be forwarded to third parties with our approval. Samples and deliveries on loan will only be delivered against invoice.

9. Installation conditions

Wall, floor and ceiling conditions must be specified to us at the latest when the order is placed. Our installation calculations are based on solid masonry with a level surface without niches and protrusions in perpendicular walls, floors and ceilings for normal dowel installation. The installation of the media technology must be possible without restrictions. We will not bear any costs for opening and closing of facings etc. Sufficiently large gaps must be provided in suspended ceilings by the customer, which must be closed accurately by the customer after our installation. Installation costs in terms of material and time incurred by us due to the absence of these prerequisites will be charged separately. Electrical supply lines as well as on-site prerequisites of the EUV are to be provided by licensed electricians according to our specifications. The calculated installation costs are for installation in one go without interruptions. If assembly dates cannot be met due to reasons for which the customer is responsible, as well as if an assembly cannot be carried out without our fault in the case of defined dates (likewise in the case of an unagreed assembly interruption), the costs shall be borne by the customer. Any additional necessary travel will be charged to the customer in the amount of the proven costs.

10. Warranty

10.1 The statutory provisions shall apply to the Customer's rights in the event of material defects and defects of title (including wrong delivery and short delivery as well as improper assembly or defective assembly instructions), unless otherwise stipulated below. In all cases, the special statutory provisions shall remain unaffected in the case of final delivery of the goods to a consumer (supplier's recourse pursuant to §§ 478, 479 BGB).

10.2 The customer's warranty rights in the commercial sector presuppose that the customer has duly fulfilled its obligations to examine the goods and give notice of defects in accordance with §§ 377, 381 of the German Commercial Code (HGB).

10.3 If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (subsequent improvement) or by delivering an item free of defects (replacement delivery). Our right to refuse subsequent performance under the statutory conditions shall remain unaffected. We shall be entitled to make the subsequent performance owed dependent on the customer paying the purchase price due. The customer shall, however, be entitled to retain a part of the purchase price which is reasonable in relation to the defect.

10.4 The customer may not assign warranty claims without our prior written consent.

10.5 We shall bear the expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs (not: removal and installation costs), if there is actually a defect. Otherwise, we may demand reimbursement from the customer of the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), unless the lack of defectiveness was not apparent to the customer.

10.6 Excess or short deliveries as well as dimensional tolerances to a minor extent customary in the industry as well as the delivery of a relatively small number of defective goods, insofar as the latter is technically unavoidable, shall not entitle the customer to complain about the delivery. 10.7 We shall not be liable for defects in third-party products and/or services which have not been supplied or rendered by us.

11. Limitation of liability

11.1 Unless otherwise provided in these GTC including the following provisions, we shall be liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.

11.2 We shall be liable for damages - irrespective of the legal grounds - within the scope of culpability in the event of intent and gross negligence. In the event of simple negligence, we shall be liable, subject to a milder standard of liability in accordance with statutory provisions (e.g. for due care in our own affairs) only

a) for damages resulting from injury to life, body or health,
b) for damages resulting from the not insignificant breach of a material contractual obligation (obligation the fulfillment of which is a prerequisite for the proper performance of the contract and the observance of which the contractual partner regularly relies on and may rely on); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage.

11.3 The limitations of liability resulting from 10.2 shall also apply to breaches of duty by or in favor of persons for whose fault we are responsible according to statutory provisions. They shall not apply insofar as we have fraudulently concealed a defect or have assumed a guarantee for the quality of the goods and for claims of the customer under the Product Liability Act.

11.4 The customer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. In all other respects, the statutory requirements and legal consequences shall apply.

12. Limitation of actions

12.1 Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance, and in the event of partial acceptance for the accepted partial performance, upon such acceptance.

12.2 Special statutory provisions on the limitation period shall remain unaffected (in particular § 438 para. 1 no. 1, para. 3, §§ 444, 479 BGB).

12.3 The above limitation periods of the law on sales shall also apply to contractual and non-contractual claims for damages of the customer based on a defect of the goods, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in the individual case. However, claims for damages of the customer according to 11.2. sentence 1 and sentence 2. a) of these GTC as well as according to the Product Liability Act shall become time-barred exclusively according to the statutory limitation periods.

13. Retention of title security

13.1 We shall retain title to the goods sold until all our present and future claims arising from the purchase contract and an ongoing business relationship (secured claims) have been paid in full.

13.2 In the event of a breach of contract by the customer, in particular in the event of non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions or/and to demand surrender of the goods on the basis of the retention of title. The demand for return does not at the same time include the declaration of withdrawal; we are rather entitled to demand only the return of the goods and to reserve the right of withdrawal. If the customer does not pay the purchase price due, we may only assert these rights if we have previously set the customer a reasonable deadline for payment without success or if setting such a deadline is dispensable under the statutory provisions.

13.3 The customer shall be obliged to treat the object of sale with care; in particular, he shall be obliged to insure it adequately at his own expense against damage by fire, water and theft at the nominal value.

13.4 The goods subject to retention of title may neither be pledged to third parties nor assigned as security before full payment of the secured claims. The customer shall notify us in writing without delay if an application is made to open insolvency proceedings or if third parties (e.g. seizures) seize the goods belonging to us.

13.5 Until revoked in accordance with (c) below, the customer shall be entitled to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall apply in addition.

(a) The retention of title shall extend to the products resulting from the processing, mixing or combining of our goods at their full value, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combination with goods of third parties, their right of ownership remains, we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. Otherwise, the same shall apply to the resulting product as to the goods delivered under retention of title.

(b) The customer hereby assigns to us by way of security the claims against third parties arising from the resale of the goods or the product in total or in the amount of our co-ownership share, if any, in accordance with the preceding paragraph. We accept the assignment. The obligations of the customer stated in 13.3. shall also apply in respect of the assigned claims.

(c) The customer shall remain authorized to collect the claim in addition to us. We undertake not to collect the claim as long as the customer meets its payment obligations towards us, there is no deficiency in its ability to pay and we do not assert the retention of title by exercising a right pursuant to 13.2. If this is the case, however, we may demand that the customer informs us of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. Furthermore, in this case we shall be entitled to revoke the customer's authorization to further sell and process the goods subject to retention of title.

(d) If the realizable value of the securities exceeds our claims by more than 10%, we shall release securities of our choice at the customer's request.

14. Subcontractors

We are entitled, at our discretion, to engage subcontractors to perform our contractual services.

15. Miscellaneous

15.1 Any assignment of rights and claims arising from this contract shall require the prior written consent of the other contracting party. This shall not apply to the assignment of our claims for remuneration.

15.2 The non-exercise of a right in accordance with these provisions shall not constitute a waiver of the future assertion of this right.

16. Choice of Law and Place of Jurisdiction

16.1 These General Terms and Conditions and the contractual relationship between us and the customer shall be governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

16.2 If the customer 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 directly or indirectly from the contractual relationship shall be Fürth. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, we shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these GTC or a prior individual agreement or at the general place of jurisdiction of the customer. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.

17. Severability clause

If individual provisions of these General Terms and Conditions of Business and Delivery are or become invalid or are amended in writing by contractual agreements, the validity of the remaining provisions shall not be affected thereby.