

General Terms and Conditions of Purchase (GTCP)

§ 1 General, scope of application

1. These General Terms and Conditions of Purchase (GTCP) will apply to all business relations with our business partners and suppliers ("Vendors"). The GTCP will only apply if the Vendor is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
2. The GTCP will apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether the Vendor manufactures the Goods itself or procures them from suppliers (§§ 433, 651 BGB). Unless otherwise agreed, the GTCP in the version valid at the time of the Purchaser's order or in any case in the version last notified to the Purchaser in text form will also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.
3. These GTCP will apply exclusively. Derogating, conflicting or supplementary General Terms and Conditions of the Vendor will only become part of the contract if and to the extent that we have expressly consented to their application in writing. This requirement of consent will apply in any case, e.g. even if we accept the Vendor's deliveries without reservation in the knowledge of the Vendor's General Terms and Conditions.
4. Individual agreements made with the Vendor in individual cases (including collateral agreements, supplements and amendments) will in any case take precedence over these GTCP. Subject to proof to the contrary, a written contract or our written confirmation will be authoritative for the content of such agreements.
5. Legally relevant declarations and notifications to be made to us by the Vendor after conclusion of the contract (e.g. setting of deadlines, reminders, declaration of withdrawal) must be made in writing to be effective.
6. References to the applicability of statutory provisions will only have clarifying significance. Even without such clarification, the statutory provisions will therefore apply unless they are directly amended or expressly excluded in these GTCP.

§ 2 Conclusion of contract

1. Our order will be deemed binding at the earliest on written submission or confirmation. The Vendor will point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents to us before acceptance for the purpose of correction or completion; otherwise the contract will be deemed not concluded.
2. The Vendor is required to confirm our order in writing within a period of one week or to execute it without reservation, in particular by dispatching the goods (acceptance). A delayed acceptance will be deemed a new offer and requires acceptance by us.

§ 3 Delivery time and delay in delivery

1. The delivery time specified by us in the order is binding. If the delivery time is not specified in the order and also not agreed otherwise, it will be one week from the conclusion of the contract. The Vendor is required to inform us immediately in writing if he is unlikely to be able to meet agreed delivery times - for whatever reason.
2. If the Vendor does not perform or does not perform within the agreed delivery period or if the Vendor is in default, our rights - in particular to rescission and damages - will be determined in accordance with the statutory provisions. The provisions in para. 3 will remain unaffected.
3. If the Vendor is in default, we may demand a contractual penalty in the amount of 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the goods delivered late. We will be entitled to demand the contractual penalty in addition to the performance and as a minimum amount of the damages owed by the Vendor under the statutory provisions; the assertion of further damages will remain unaffected. If we accept the delayed performance, we will assert the contractual penalty with the final payment at the latest.

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

1. The Vendor will not be entitled to have the performance owed by it rendered by third parties (e.g. subcontractors) without our prior written consent. The Vendor will bear the procurement risk for its services, unless otherwise agreed in individual cases (e.g. restriction to stock).
2. Delivery will be made "free to domicile" within Germany to the place specified in the order. If the place of destination is not specified and nothing else has been agreed, delivery will be made to our place of business at the time agreed in writing. The respective place of destination will also be the place of performance for the delivery and any repair (delivery obligation).
3. The delivery must be accompanied by a delivery bill showing the date (issue and dispatch), the contents of the delivery (item number and quantity) and our order identification (date and number). If the delivery bill is missing or incomplete, we will not be responsible for any delays in processing and payment resulting therefrom. A corresponding dispatch bill with the same content must be sent to us separately from the delivery bill.
4. The risk of accidental loss and accidental deterioration of the item will pass to us on handover at the place of performance. If acceptance has been agreed, this will be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services will also apply as appropriate in the event of acceptance. Handover or acceptance will be deemed equivalent if we are in default of acceptance.

5. The statutory provisions will apply to the occurrence of our default in acceptance. However, the Vendor must expressly offer us his performance even 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 Vendor may demand compensation for its additional expenses in accordance with the statutory provisions (§ 304 BGB). If the contract relates to a non-fungible item to be manufactured by the Vendor (custom-made product), the Vendor will only be entitled to further rights if we have assumed a duty to cooperate and are responsible for the failure to cooperate.

§ 5 Prices and terms of payment

1. The price shown in the order is binding. All prices include the statutory value added tax, unless this is shown separately.
2. Unless otherwise agreed in the individual case, the price will include all services and ancillary services of the Vendor (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 will be due for payment within 30 calendar days after complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If we pay within 14 calendar days, the Vendor will grant us a 3% discount on the net invoice amount. In the case of bank transfer, payment will be deemed to have been made in due time if our transfer order is received by our bank before expiry of the payment deadline; we will not be responsible for any delays caused by banks involved in payment transactions.
4. We do not owe interest on arrears. The statutory provisions will apply to default in payment.
5. We will 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 will be entitled to withhold payments due as long as we are still entitled to claims against the Vendor arising from incomplete or defective performance.
6. The Vendor will only be entitled to a right of set-off or retention on the basis of counterclaims that have become judicially final or are undisputed.

§ 6 Secrecy and retention of title

1. We reserve the property rights and copyrights to illustrations, plans, drawings, calculations, performance instructions, product descriptions and other documents.
2. These documents are to be used exclusively for the contractual service and returned to us after termination of the contract. The documents must be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy will only expire if and to the extent that the knowledge contained in the documents provided has become generally known.

3. The above provision will apply as appropriate to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items which we provide to the Vendor for production. Such items will - as long as they are not processed - be stored separately at the Vendor's expense and insured to a reasonable extent against destruction and loss.
4. Any processing, mixing or combination (further processing) of provided items by the Vendor will be carried out on our behalf. The same will apply in the event of further processing of the goods supplied by us, so that we will be deemed to be the manufacturer and will acquire ownership of the goods at the latest on further processing in accordance with the statutory provisions.
5. The transfer of ownership of the goods to us will be unconditional and without regard to the payment of the price. If, however, in an individual case we accept an offer by the Vendor to transfer ownership subject to payment of the purchase price, the Vendor's retention of title will expire at the latest on payment of the purchase price for the goods delivered. We will 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 will apply). This excludes all other forms of retention of title, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to the further processing.

§ 7 Defective delivery

1. The statutory provisions will apply to our rights in the event of material defects and defects of title of the goods (including wrong delivery and short delivery as well as improper assembly, defective assembly, operating or operating instructions) and in the event of other breaches of duty by the Vendor, unless otherwise stipulated below.
2. In accordance with the statutory provisions, the Vendor will be liable in particular for ensuring that the goods have the agreed quality when the risk passes to us. In any case, the product descriptions which - in particular by designation or reference in our order - are the subject of the respective contract or have been included in the contract in the same way as these GTPC will be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, from the Vendor or from the manufacturer.
3. Notwithstanding § 442 (1) sentence 2 BGB, we will also be entitled to unlimited claims for defects if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
4. The statutory provisions (§§ 377, 381 HGB) will apply to the commercial inspection and complaint obligations with the following proviso: Our inspection obligation will be limited to defects which become apparent during our incoming goods inspection under external appraisal including the delivery papers as well as during our quality control in the random sampling procedure (e.g. transport damage, faulty and insufficient yeast). Insofar as acceptance has been agreed, there will be no obligation to inspect. Otherwise, it will depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our

obligation to give notice of defects discovered later will remain unaffected. In any case, our complaint (notice of defect) will be deemed to have been made without undue delay and in due time if it is received by the Vendor within 14 working days.

5. The costs incurred by the Vendor for the purpose of inspection and repair (including any removal and installation costs) will be borne by the Vendor even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect will remain unaffected; in this respect, however, we will only be liable if we recognised or were grossly negligent in not recognizing that there was no defect.
6. If the Vendor fails to meet its obligation to provide repair - at our option by remedying the defect (subsequent improvement) or by delivering an item free of defects (replacement delivery) - within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement from the Vendor of the expenses required for this purpose or a corresponding advance payment. If repair by the Vendor has failed or is unreasonable for us (e.g. due to special urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we will inform the Vendor of these circumstances without delay, if possible in advance.
7. Otherwise, we will be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions in the event of a material defect or defect of title. In addition, we will be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

§ 8 Supplier recourse

1. We will be entitled to our statutory rights of recourse within a supply chain (supplier recourse under §§ 478, 479 of the Civil Code) without restriction in addition to the claims for defects. In particular, we will be entitled to demand from the Vendor exactly the type of repair (repair or replacement) that we owe to our customer in the individual case. Our statutory right of choice (§ 439 para. 1 BGB) will not be restricted hereby.
2. Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses under §§ 478 (2), 439 (2) BGB), we will notify the Vendor and request a written statement briefly explaining the facts of the case. If the statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by us will be deemed to be owed to our customer; in this case, the burden of proof to the contrary will be incumbent on the Vendor.
3. Our claims under supplier's recourse will also apply if the goods have been further processed by us or by one of our customers, e.g. by incorporation into another product, prior to their sale to a consumer.

§ 9 Product liability

1. If the Vendor is responsible for product damage, it will indemnify us against third-party claims to the extent that the cause lies within its sphere of control and organisation and it is liable itself in relation to third parties.

2. Within the scope of its indemnification obligation, the Vendor will reimburse expenses under §§ 683, 670 BGB arising out of or in connection with a claim by a third party, including any recall actions carried out by us. We will inform the Vendor about the content and scope of recall measures - to the extent possible and reasonable - and give him the opportunity to comment. Any further legal claims will remain unaffected.
3. The Vendor will take out and maintain product liability insurance with a lump sum coverage of at least EUR 2 million per personal injury/property damage.

§ 10 Limitation

1. The mutual claims of the contracting parties will become statute-barred in accordance with the statutory provisions, unless otherwise stipulated below.
2. Notwithstanding § 438 (1) No. 3 BGB, the general limitation period for claims based on defects will be 3 years from the transfer of risk. Insofar as acceptance has been agreed, the limitation period will commence on acceptance. The 3-year limitation period will apply as appropriate to claims arising from defects of title, whereby the statutory limitation period for claims in rem of third parties for surrender (§ 438 para. 1 no. 1 BGB) will remain unaffected; in all other respects, claims arising from defects of title will not be subject to limitation under any circumstances as long as the third party can still assert the right - in particular in the absence of a limitation period - against us.
3. The limitation periods of the law on sales including the above extension will apply - insofar as provided by law - to all claims for defects that come into consideration. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (§§ 195, 199 BGB) will apply for this unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

§11 Choice of law and legal venue

1. The law of the Federal Republic of Germany will apply to these GTPC and the contractual relationship between us and the Vendor to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the Vendor is a merchant within the meaning of the Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - including international - legal venue for all disputes arising from the contractual relationship will be our registered office in Waldshut. However, we will also be entitled in all cases to bring an action at the place of performance of the delivery obligation according to these GTPC or a prior individual agreement or at the general legal venue of the Vendor. Mandatory statutory provisions, in particular regarding exclusive places of jurisdiction, will remain unaffected.
3. Should any provision of these GTPC and the further agreements made be or become invalid, or should these GTPC be incomplete, the remaining provisions will remain unaffected.