

General Purchasing Terms and Conditions

I. Scope, form

1. These General Purchasing Terms and Conditions (“terms”) apply to all business transactions with our business partners and suppliers (“vendors”). These terms only apply if the vendor is a contractor as defined in §14 of the German Civil Code (BGB), a legal entity under public law, or a special public fund under public law.
2. These terms apply in particular to contracts for the sale and/or delivery of movable objects (“goods”), irrespective of whether the vendor manufactures the goods or procures them from its suppliers (§§433, 651 BGB). Unless otherwise agreed, the terms in force at the time the buyer places the order or the version last supplied to the buyer in writing shall apply as the framework agreement for future orders of a similar nature, without any further reference required.
3. These terms apply to the exclusion of any others. Any vendor terms and conditions that deviate, contradict, or add to what is agreed herein shall only apply if expressly and separately agreed in writing. This continues to apply even if we accept deliveries from the vendor without reservation while being aware of said terms.
4. Any individual agreements made with the vendor (including collateral agreements, addenda, and amendments hereto) shall take priority over these terms. Subject to evidence to the contrary, a written contract or written confirmation on our part shall be authoritative for the content of such agreements.
5. Any declarations and notifications made by the vendor with regard to the contract such as deadlines, reminders, withdrawals, etc. must be in writing to be legally valid. Statutory requirements as to form and further evidence, in particular in cases of doubt as to the declarant’s legitimation, remain unaffected.
6. References to the validity of the statutory regulations are only for purposes of clarification. Even without such clarification, the statutory provisions apply, unless directly modified or expressly excluded herein.

II. Contract

1. Our order is only binding when submitted or confirmed in writing. For obvious errors (e.g. spelling or arithmetic errors), incomplete information regarding the order, or missing order documents, the vendor must request that we remedy the mistake or complete the information before acceptance; otherwise, the contract has not been concluded.
2. The vendor is obliged to confirm our order in writing within a period of **two days** by sending an email to the person placing the order or by fulfilling the order by shipping the goods unconditionally (order acceptance).

III. Delivery time and delays

1. The delivery time we indicate on the order is binding. If the delivery time is not indicated and we have not otherwise agreed, it shall be **two** weeks after the order is accepted. The vendor shall inform us without delay in writing if, for any reason, the agreed delivery time cannot be met.

2. If the vendor fails to make delivery within the agreed delivery period, our rights, particularly those to withdraw from the contract and to make a claim for damages, are governed by the statutory provisions. The regulations in para. 3 remain unaffected.
3. The vendor warrants and guarantees that products it will deliver will be free from raw materials designated as conflict minerals in the Dodd-Frank Act. The vendor further warrants that its products comply with the provisions of the EU regulation on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and are registered. The vendor is liable for ensuring compliance with the EU Directive on the Restriction of Hazardous Substances (RoHS) in its current version and that any products and components supplied to us will only contain materials that comply with this regulation.
4. If the vendor is in default, we can claim damages equal to 1% of the net price for the order per full calendar week of delay, capped at 5% of the net price of the goods delivered late. This does not affect our right to assert further claims. We reserve the right to prove that the damages we have incurred are higher. The vendor likewise has the right to prove that we have incurred no or significantly lower damage.

IV. Performance, delivery, transfer of risk, default in accepting delivery

1. Without our prior written consent, the vendor may not use third parties or subcontractors to provide the goods or services we have ordered. The vendor bears the procurement risk for the goods or services we have ordered, unless otherwise agreed (e.g. a limit to stock-on-hand).
2. Deliveries within Germany are at no extra charge to the location we specify in the order. Unless otherwise agreed and no other destination has been specified, deliveries are to our headquarters in **Furtwangen**. The destination specified in the order is also the place of performance for the delivery and any subsequent performance.
3. The shipment must include a delivery note listing the date printed and shipped, the contents of the shipment (item number and quantity), as well as the date and number of our order. If the delivery note is absent or incomplete, we shall not be held responsible for any resulting delays in processing and payment.
4. The risk of accidental loss and accidental deterioration of the ordered goods transfers to us when delivered to the stipulated place of performance. If a prior inspection of the delivered goods has been agreed, this must take place for the risk to be transferred. In all other respects, the statutory provisions concerning contracts for goods and services shall apply. The risk is transferred even if we fail to accept delivery as agreed.
5. The statutory provisions apply to a default of acceptance. However, the vendor must then expressly offer us its goods or services if a specific or identifiable calendar time is agreed for any activity or involvement on our part (such as the provision of material). If we are in default of acceptance, the vendor may claim reimbursement for any additional expenses incurred per §304 BGB. If the order is for a non-fungible item custom-manufactured by the vendor, the vendor is only entitled to further claims if we had agreed to cooperate and have failed to do for reasons under our control.

V. Prices and terms of payment

1. The price listed in the order is binding. All prices include the statutory value-added tax if not listed separately.
2. Unless otherwise agreed, the price shall be all-inclusive, including assembly, installation, proper packaging, transport costs, any transport and liability insurance, etc.

3. The agreed price is due for payment within 30 calendar days after complete delivery and service (including acceptance, if agreed) and receipt of a proper invoice. If we make the payment within 14 calendar days, the vendor shall grant us 3% discount off the net invoice amount. If we pay by bank transfer, our payment shall be deemed timely if our transfer order is received by our bank before the payment deadline; we are not responsible for delays by the banks involved in the payment process.
4. We do not owe any interest on arrears. The statutory provisions shall apply to default in payment.
5. We reserve all statutory rights to offset and retain payment and to assert claims for breach of contract. In particular, we are entitled to withhold payments until the vendor has fulfilled our order in full and has remedied any defects.
6. The vendor may use offsets or retain goods or services if its claims have been settled in court or are not disputed by us.

VI. Non-disclosure and retention of title

1. We reserve ownership and copyright for any and all images, plans, drawings, calculations, implementation instructions, product descriptions, etc. Such documents may only be used to provide the services ordered and returned to us once the contract has been fulfilled. The documents must not be disclosed to third parties, not even after the contract is completed. The confidentiality agreement does not expire until, and insofar as, the knowledge contained in the documents has become public knowledge.
2. These provisions also apply accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples, and other objects provided to the vendor for use in its manufacturing process. When not in active use, such objects must be kept safe separately at the vendor's expense and must be insured for the usual amount against destruction and loss.
3. Any processing, mixing or combination of objects we provide to the vendor is done on our behalf. The same applies to any further processing we undertake with the goods delivered by the vendor. We will be deemed their manufacturer and acquire ownership of the product in accordance with the statutory provisions at the latest upon further processing.
4. Ownership of the goods is transferred to us unconditionally and regardless of payment. However, if in specific cases we accept an offer from the seller to transfer ownership that is conditional on the payment of the purchase price, the seller's retention of title expires, at the latest, upon payment of the purchase price for the delivered goods. We remain authorized in the ordinary course of business to resell the goods under advance assignment of the resulting claim, also before the payment of the purchase price (alternatively application of the simple retention of title extended to the resale). This excludes all other forms of retention of title, in particular extended, transferred, or prolonged retention to include the further processing.

VII. Defective delivery

1. The statutory provisions concerning our rights apply in the event of material defects or defects of title (including misdelivery, shorted orders, improper assembly, inadequate installation, missing operating instructions or user manuals) and in the event of any other vendor breaches of duty, unless otherwise specified below.
2. According to statutory provisions, the vendor is responsible for ensuring that the goods meet the agreed specifications upon transfer of risk to us. In any case, those product

- descriptions, especially when indicated on our order, constitute the scope of the order and are as integral to the vendor's contract with us as these terms. In this respect, the source of the product description does not matter.
3. §442 (1)(2) BGB notwithstanding, we are entitled to claims for defects without restriction even if the defect remained unknown to us due to gross negligence at the time the order was placed.
 4. The statutory provisions (§§ 377, 381 HGB) apply to the commercial duty of inspection and notification of defects, with the following proviso: Our duty of inspection is limited to defects which come to light during our incoming goods inspection during superficial examination, including the delivery documents (e.g. transport damage, wrong and short delivery), or which are recognizable during our quality control in random sampling procedures. If acceptance has been agreed, there is no inspection obligation. In all other respects, it depends on the extent to which an examination is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to report defects that are subsequently discovered remains unaffected. Irrespective of our duty to inspect the goods, our complaint (notice of defects) shall in any case be deemed to be immediate and timely if it is sent within ten working days of discovery or, in the case of obvious defects, of delivery.
 5. Subsequent performance shall also include removal of the defective goods and re-installation, insofar as the goods have been incorporated into or attached to another item in accordance with their intended purpose. Our statutory right to replacement remains unaffected. The vendor shall bear its costs for the testing and subsequent performance even if eventually no defect is identified. Our liability for damages in the event of an unjustified demand to rectify defects shall remain unaffected; in this respect, however, we shall only be liable if we have knowingly or grossly negligently failed to recognize that no defect existed.
 6. Irrespective of our statutory rights and the regulations in para. 5, the following applies: If, within a reasonable grace period we have set, the vendor fails to remedy the defect or replace the defective item as chosen at our discretion, we may choose to remedy the defect ourselves and demand reimbursement from the vendor for the expenses thus incurred or require that the vendor pay them in advance. If the vendor's efforts to remedy the defect fail or would be unreasonable for us to accept (e.g. due to urgency, danger to operational safety, or the threat of unreasonable subsequent damages), no further grace period will be granted. We will inform the vendor accordingly without delay or even in advance, if possible.
 7. Otherwise, in the case of material defects or defect of title, the statutory provisions entitle us to reduce the purchase price or withdraw from the agreement. In addition, we are entitled to statutory claims for damages and compensation of expenses.

VII. Recourse

1. We are entitled without restriction to our statutory recourse claims against the supply chain (§§445a, 445b, 478 BGB) in addition to other claims for defects. In particular, we are entitled to demand from our vendor exactly the same kind of subsequent fulfilment (remedy or replacement) that we owe our customers. Our legal right to choose (§439 (1) BGB) is not restricted by this.
2. Before we recognize or fulfil a claim for defects asserted by one of our customers (including compensation for expenses pursuant to §§445a (1), 439 (2) and (3) BGB), we shall inform the vendor and ask for a written response to the matter. If the vendor fails to provide such response within a reasonable period of time and no amicable solution can be found, the warranty claim actually granted by us will be deemed owed to our customer; in such case, the seller is responsible for submitting evidence to the contrary.
3. Claims from supplier recourse are excluded if the defective goods have been further processed by us or a third party, e.g. by installation into another product.

VIII. Producer liability

1. If the vendor is responsible for a product defect, the vendor agrees to indemnify and hold us harmless against claims by third parties insofar as the vendor is held responsible for such damage and is liable for the same.
2. Within the scope of this obligation, the vendor shall reimburse our expenses per §§683, 670 BGB such as may arise from such third-party claims, including any product recalls we are forced to implement. We shall provide reasonable notice and information concerning the nature and extent of any recall actions and give the vendor the opportunity to respond. All other claims shall remain unaffected.
3. The vendor warrants and guarantees that products it will deliver will be free from raw materials designated as conflict minerals in the Dodd-Frank Act. The vendor further warrants that its products comply with the provisions of the EU regulation on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) and are registered. The vendor is liable for ensuring compliance with the EU Directive on the Restriction of Hazardous Substances (RoHS) in its current version and that any products and components supplied to us will only contain materials that comply with this regulation.
4. The vendor agrees to take out and maintain an adequate level of product liability insurance.

IX. Limitation period

1. The parties' claims are subject to the statutory limitations, unless otherwise agreed.
2. Notwithstanding section §438(1)(3) BGB, the general statute of limitations is 3 years from the transfer of risk. Insofar as acceptance has been agreed, the limitation period commences upon acceptance. The 3-year limitation period shall also apply accordingly to claims arising from defects of title, whereby the statutory limitation period for third party claims to surrender in rem (§438 (1)(1) BGB) remains unaffected; furthermore, claims arising from defects of title shall under no circumstances lapse, as long as the third party can still assert the right against us, in particular if no limitation period applies.
3. The limitation periods of the law governing the sale of goods apply, including the above extension – within the scope of the law – for all contractual claims for defects. As far as we are entitled to non-contractual claims for damages due to a defect, the normal statutory limitation period applies (§§195, 199 BGB), insofar as in a particular case the application of the limitation periods of the law governing the sale of goods does not lead to a longer limitation period.

X. Choice of law and place of jurisdiction

1. The laws of the Federal Republic of Germany shall apply to these General Purchasing Terms and Conditions and the contractual relationship between us and the vendor, with the exclusion of international uniform law, in particular the UN Sales Convention.
2. If the vendor is a merchant as defined in HGB, a legal entity under public law, or a special public fund, whether domestic or foreign, the exclusive jurisdiction for any disputes arising directly or indirectly under this contract shall be our headquarters in Furtwangen. The same applies if the buyer is an entrepreneur, as defined in §14 BGB. However, in all cases we are also entitled to bring an action at the place of performance as defined herein or in a prior individual agreement or at the vendor's general place of jurisdiction. Statutory provisions that have precedence, in particular regarding exclusive responsibilities, remain unaffected.