



Terms and Conditions of Delivery and Service

1. General provisions – Scope of validity

- 1.1 These Terms and Conditions of Delivery and Service apply to all business transactions concluded with our customers ('buyers').
- 1.2 In particular, these Terms and Conditions of Delivery and Service apply to contracts for the sale and/or supply of moveable objects ('goods'), irrespective of whether the goods are manufactured by us or purchased from vendors as per Sections 433 and 650 of the German Civil Code (BGB). Unless otherwise agreed, these Terms and Conditions of Delivery and Service as valid at the time of the buyer's order, at any rate in the version last disclosed to the buyer in written form, shall apply as a framework agreement for other similar agreements concluded in the future without any requirement on our part to reference them in each individual case.
- 1.3 These Terms and Conditions of Delivery and Service apply exclusively to all deliveries, services and quotes. We shall not recognise any conflicting or deviating Terms and Conditions of Delivery and Service of the buyer unless we have otherwise agreed to the application thereof in writing. Furthermore, our Terms and Conditions of Delivery and Service shall remain binding if we deliver to goods to the buyer in the knowledge of conflicting or deviating Terms and Conditions of the buyer without reservation.
- 1.4 Our Terms and Conditions of Delivery and Service solely apply to merchants, legal entities under public law and special funds under public law as per Section 14 BGB.
- 1.5 In certain cases, individual agreements concluded with the buyer may supersede these Terms and Conditions of Delivery and Service (incl. ancillary agreements, addenda and amendments). The terms of these individual agreements are subject to a written contract or our written confirmation, in the absence of evidence to the contrary.

2. Conclusion of the contract

- 2.1 Our quotes are subject to change, non-binding and subject to prior sale, unless otherwise clearly marked as binding. The same shall apply if we have provided the buyer with samples, catalogues, other product descriptions or documents – also in electronic form – to which we reserve ownership rights and copyright.
- 2.2 The order placed for the goods by the buyer constitutes a binding contractual offer. Unless otherwise stipulated in the purchase order, we shall accept this contractual offer within two (2) weeks of receipt thereof.
- 2.3 We are entitled to declare our acceptance of contractual offers either in writing (e.g. order confirmation) or by delivering the goods to the buyer.

3. Prices – payment terms

- 3.1 Unless otherwise agreed, our prices are quoted ex-works (as per Incoterms 2020 or the most recent version) from our site in Fuldata.
- 3.2 Our prices do not include statutory value added tax, which shall instead be listed separately in the invoice at the statutory rate on the day on which the invoice is created.
- 3.3 Unless otherwise stated in the order confirmation, our invoices are payable net (without discount) within 14 days of the invoice date and receipt of the invoice. However, we reserve the right, also in the context of an ongoing business relationship, to only execute delivery in full or in part with prepayment. We shall assert the above proviso at the latest with the order confirmation.
- 3.4 The buyer may only withhold or offset payments on the grounds of counterclaims if such claims are acknowledged by us, uncontested or legally established. Counterclaims asserted by the buyer from the same contract attributable to defects, non-performance and/or unfinished or incomplete performance remain unaffected by the above.
- 3.5 If it becomes apparent following conclusion of the contract (e.g. due to the cancellation of commercial credit insurance or an application is filed for the opening of insolvency proceedings), that our claim for the payment of the purchase price is in jeopardy due to the buyer's inability to pay, we shall be entitled to refuse performance according to statutory provisions and, after setting a grace period, to withdraw from the contract as per Article



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321 BGB. In the case of contracts concluded for the manufacture of specific items (custom-made products), we shall be entitled to withdraw immediately; this shall not affect the legal provisions concerning the dispensability of setting a grace period.

4. Delivery periods, delivery delays, force majeure

- 4.1 The delivery periods are established on a case-by-case basis or upon acceptance of the order by us. In the case that the above does not apply, the delivery period shall be approx. three (3) weeks following the conclusion of the respective contract.
- 4.2 The date upon which our delivery is in default shall be determined according to statutory provisions. However, a reminder is required in all cases. If we delay delivery of the goods, the buyer shall be entitled to demand reimbursement in the form of a lump sum for the damage incurred as a result of the delay. Die Schadenspauschale beträgt für jede vollendete Kalenderwoche des Verzugs 0,5% des Nettopreises (Lieferwert), insgesamt jedoch höchstens 5% des Lieferwerts der verspätet gelieferten Ware. Uns bleibt der Nachweis vorbehalten, dass dem Besteller gar kein Schaden oder nur ein wesentlich geringerer Schaden als vorstehende Pauschale entstanden ist.
- 4.3 If we are hindered in our attempt to deliver on time as a result of force majeure due to circumstances for which we are not responsible, such as labour disputes, official sanctions, energy or raw material shortages, transportation bottlenecks or hindrances, pandemics, operational hindrances caused by fire, water and/or breakdowns, or for other disruptions to our operations or the operations of our suppliers/subcontractors that have a demonstrably significant impact for which we are not responsible, we must inform the buyer thereof without delay. In these cases, we reserve the right to postpone delivery for the duration of the respective force majeure event or disruption, provided we have fulfilled our aforementioned duty to notify the buyer. If the event in question renders execution of the delivery impossible, our obligation to deliver shall no longer apply and we shall not be liable to pay compensation. If the buyer is able demonstrate that subsequent fulfilment as a result of the delay is of no advantage, the buyer shall be entitled to withdraw from the contract to the exclusion of any further claims. If the force majeure event or disruption lasts longer the one month, we shall be entitled to withdraw from the contract with regard to the services that have not yet been rendered, provided we have fulfilled our aforementioned duty to notify the buyer and have not assumed any risk of procurement or a guarantee of delivery. Force majeure is any external event that can be attributed to the forces of nature or is brought on by the actions of a third party, and which, even with best human judgement and experience, could not be foreseen, avoided or rendered harmless with commercially reasonable means, even after taking the greatest care appropriate to the circumstances, and which is not acceptable for the buyer as a result of its frequency.
- 4.4 Section 4.3 shall apply accordingly, provided we have concluded a congruent covering transaction with the buyer prior to conclusion of the contract which would have enabled us to fulfil our contractual duties towards the buyer during the orderly performance of our services and we are not supplied, or not supplied correctly and/or on time by our supplier for reasons for which neither we nor our supplier are re-sponsible.
- 4.5 The buyer's rights as per Section 8 of these Terms and Conditions of Delivery and Service and our statutory rights, in particular if we are released from our service obligation (e.g. due to the impossibility or unreasonableness of performance and/or subsequent fulfilment), shall remain unaffected hereby.

5. Transfer of risk – Shipment – Partial deliveries – Reserved quantities

- 5.1 Provided nothing to the contrary has been agreed in the order confirmation, delivery shall take place ex-works (as per Incoterms 2020 or the current version). The place of delivery and fulfilment is our registered office in Fuldata. The above shall also apply in the case that we assume the transport costs or disbursed them for the buyer, or if we have performed partial deliveries.
- 5.2 The risk of accidental loss or accidental impairment of the goods shall be transferred to the buyer at the latest when the goods are hand-ed over. In the case that shipment was agreed, the risk of accidental loss or accidental



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impairment of the goods shall pass to the buyer when the goods are handed over to the freight forwarder, the carrier or other persons or institutions selected to deliver the goods.

- 5.3 If the buyer is required to accept the goods, the transfer of risk for the goods shall occur upon the buyer's acceptance thereof. Further-more, the statutory provisions as per the Law on Contracts for Work and Services shall apply accordingly in the case of agreed acceptance.
- 5.4 If the buyer does not accept the goods within the specified period, the goods shall nevertheless be regarded as transferred and accepted.
- 5.5 The buyer must notify us in writing if he desires a particular form of transport and/or coverage by transport insurance for the shipment, provided the buyer bears the incurred costs, even if we would have otherwise assumed the costs for transportation.
- 5.6 We reserve the right to make partial deliveries, provided this is reasonable for the buyer in consideration of his interests.
- 5.7 If the buyer fails to accept the goods within the specified period or the delivery is delayed as a result of reasons for which the buyer is responsible, we shall be entitled to demand compensation for the damage incurred, including additional expenditure. In the above cases, we shall store the products at the buyer's risk and invoice the buyer for this storage.
- 5.8 In the case of custom-made products, we reserve the right to deliver a maximum of 10 % more or less than the ordered quantity for pro-duction reasons. We shall consequently invoice according to the quantity that was delivered.

6. Retention of title

- 6.1 We shall retain the ownership of all goods delivered until all payments from the business relationship with the buyer have been settled. If we have agreed with the buyer that the purchase price can be paid on the basis of cheque and bill transactions, the retention of title also applies until the buyer honours the bill accepted by us and shall not expire on the crediting of the cheque received by us.
- 6.2 The goods subject to reservation of title may neither be pledged to third parties, nor assigned as collateral prior to the full payment of the secured claims by the buyer without our express written approval. In the event of seizures or other encroachment by third parties, the buyer must immediately notify us to enable us to file legal action according to Section 771 of the German Code of Civil Procedure (ZPO). If the legal action is successful and the third party is not in a position to reimburse us for the judicial and extrajudicial costs of legal action as per Section 771 ZPO, the buyer shall be liable to us for the incurred costs.
- 6.3 The buyer reserves the right to resell the delivered goods in the ordinary course of business. However, the buyer hereby assigns to us in advance any claims to the amount of the invoice total (including value added tax) of our claim which the buyer may have against his clients or third parties, i.e. irrespective of whether the goods subject to retention of title were resold without or after processing. Notwithstanding this assignment, the customer retains the right to recover his debts. Our entitlement to independently collect claims shall remain unaffected by the above. However, we undertake not to collect claims provided no bills of exchange or cheques are protested, the buyer complies with his payment obligations arising out of the proceeds collected, he is not in default of payment and in particular has not filed a petition for the opening of insolvency proceedings against his own assets. Should any of the circumstances mentioned in the preceding provision occur, we reserve the right to demand that the buyer immediately discloses the assigned claims and their debtors, provides all information necessary for collection, surrenders the relevant documents and informs its debtors (third parties) of the assignment.
- 6.4 The processing or alteration by the buyer of the goods delivered by us shall always be done on our behalf. If the goods delivered subject to retention of title are mixed during processing with other goods/materials not belonging to us, then we shall acquire co-ownership of the new item created in the ratio of the value of the goods delivered subject to retention of title to the value of the other goods/materials processed at the time of processing. The same provisions shall apply to the items created by processing as for the goods delivered subject to retention of title.



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- 6.5 If the goods delivered subject to retention of title are inseparably mixed or combined in such a way that they become a key component of the resulting homogeneous item during processing with other goods/materials not belonging to us, then we shall acquire co-ownership of the new item created in the ratio of the value of the goods delivered subject to retention of title to the value of the other goods/materials mixed or combined at the time of mixing or combination. If the combination or the mixing takes place in a way so that the buyer's item is considered to be the main item, it is hereby agreed that the buyer shall transfer us joint ownership to the corresponding ratio. In doing so, the buyer shall hold the resulting co-ownership for us. The same provisions shall apply for the items created by mixing or combination as for the goods delivered subject to retention of title.
- 6.6 The buyer shall be obliged to handle the goods subject to retention of title with due care and, in particular, to adequately insure them at replacement value at his own expense against damage caused by fire, water and theft.
- 6.7 In the case of damage or loss of the goods subject to retention of title, the buyer shall assign to us in advance any existing claims in this context to the amount of the invoice total (including value added tax) of our claim with the delivered goods regarded as additional collateral in this regard.
- 6.8 If, for deliveries made abroad to the country of import, certain measures and/or explanations from the buyer are required to enforce the above-mentioned retention of title or other rights to which we are entitled as per the preceding sections, the buyer must inform us accordingly and take the appropriate measures and/or provide explanations at its own cost. In the event that the laws of the import country do not permit a retention of title, the buyer must provide us with other appropriate collateral for the delivered goods or other collateral at his own discretion without delay and at his own costs as per Section 315 BGB.
- 6.9 Upon the buyer's request, we shall release the collateral, provided the realisable value of the collateral exceeds the claims to be secured by more than 10 %; we reserve the right to select which collateral shall be released.

7. Warranty, claims for defects

- 7.1 Statutory provisions shall apply with regards to the buyer's rights in the case of defects in quality and title of the goods (incl. incorrect and short deliveries), provided nothing is agreed to the contrary in the following provisions.
- 7.2 Special legal requirements (Sections 445a, 445b and 478 para. 1 BGB) for the final delivery of the unprocessed goods to a consumer shall remain unaffected in any case, even in the case that these goods are further processed by the consumer (supplier redress as per Section 478 BGB) Claims arising out of redress against suppliers are hereby excluded if the defective goods were processed by the buyer or another contractor, such as through installation into another product.
- 7.3 The basis for any claim for defects is first and foremost the agreement concluded on the condition of the goods. All product descriptions and manufacturer's specifications that form components of the individual contract or that have been published by us (in particular in catalogues or on our homepage) at the time the contract is concluded shall be regarded as agreements concerning the condition of the goods.
- 7.4 In the absence of any agreed specification on the condition of the goods, the existence of defects therein shall be determined in accordance with statutory provisions (Section 434 para. 1, cl. 2 and 3 BGB). However, we do not assume any liability for public statements made by the manufacturers or other third parties (e.g. advertising statements) to which the buyer has not referred to as decisive for his purchase.
- 7.5 Any claim based on the buyer's warranty rights postulates that the buyer meets his duty to inspect the goods and notify us of any defects according to Section 377 HGB. In the case that the agreement concluded between us and the buyer is a contract for work and services, Section 377 HGB shall apply accordingly.
- 7.6 If acceptance of the goods or prior sampling is agreed upon, no complaints which pertain to defects that the buyer should have been able to detect, had he carried out due and proper acceptance or prior sampling shall be recognised.
- 7.7 We must be granted the opportunity to verify the inspected defects on the premises.
- 7.8 If the delivered goods or manufactured goods are found to be defective, the buyer is entitled to the following statutory rights:



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- (I) We reserve the right to either remedy the defect or supply defect-free goods, or, in the case of a contract for goods and services, to manufacture a new product (subsequent fulfilment). The buyer must grant us adequate time and opportunity to perform the subsequent fulfilment. Our right to refuse subsequent fulfilment according to statutory provisions shall remain unaffected.
 - (II) We shall bear all necessary costs, in particular transport, road, labour and material costs related to the subsequent fulfilment in the case of a demonstrable defect. If the demand for rectification of a defect by the buyer is found to be unwarranted, we shall be entitled to reimbursement of the incurred costs from the buyer. Subsequent fulfilment shall cover neither expenses for the disassembly of the defective goods nor the reinstallation if the buyer was already aware of the defect at the time of installation or the installation of the goods was not carried out as intended. The above shall also apply if the buyer failed to detect the lack of defects as a result of intent or gross negligence, unless we fraudulently concealed the defect or provided a guarantee.
 - (III) In the case of replacement delivery or remanufacturing in the case of contracts for work and services, the buyer must return the defective goods to us upon request.
 - (IV) We reserve the right to make subsequent fulfilment conditional on the full payment of the agreed price for the goods by the buyer. However, the buyer shall remain entitled to retain an appropriate percentage of the price.
 - (V) If subsequent fulfilment proves unsuccessful, the buyer shall be entitled to either withdraw from the contract or demand a reduction to the agreed price at his own discretion. However, the buyer shall not be entitled to withdraw from the contract in the case of insignificant defects.
 - (VI) The buyer's claims for compensation or the reimbursement of futile efforts shall only apply in the cases specified in Section 8 of these Terms and Conditions of Delivery and Service, and are otherwise excluded.
- 7.9 Section 9 of these Terms and Conditions of Delivery and Service shall apply with regards to statutes of limitations.

8. Warranty disclaimers and restrictions

- 8.1 Subject to the provisions of Section 8.2, we shall be liable for damages – in the case of contractual, non-contractual or other claims for damages, for whatever reasons, in particular claims due to defects, delays and impossibility, culpability in the case of contract negotiations and tort – only in the case of intent and/or gross negligence, including actions of intent and/or gross negligence executed by our legal representatives or vicarious agents. Furthermore we shall also be liable in cases of minor negligence, including minor negligence on the part of our legal representatives and vicarious agents, for damages resulting from a breach of key contractual duties, i.e. on which the fulfilment thereof the proper execution of the contract is reliant and on which the fulfilment thereof the buyer can regularly rely (cardinal duty). Provided we are not accused of a deliberate breach of duty, the claim for damages shall be restricted to the foreseeable, typically incurred damage
- 8.2 The validity of claims asserted due to injury of life, limb or health and claims from the buyer as per the Product Liability Act, special statutory provisions for the final delivery of the goods to a consumer and other mandatory statutory liability regulations shall not be affected by the warranty disclaimers and restrictions stipulated in Section 8.1. The preceding warranty disclaimers and restrictions shall also be excluded in the case that we have fraudulently concealed a defect, provided a guarantee or assumed the risk of procurement.
- 8.3 Sections 8.1 to 8.2 shall also apply if the buyer demands reimbursement of futile efforts instead of a claim for damage in lieu of performance.
- 8.4 In the case that liability for damages on our part is excluded or restricted, this shall also apply with regard to the personal liability for damages on the part of our staff as a whole, our representatives and vicarious agents or subcontractors.

9. Statute of limitations

- 9.1 Claims asserted by the buyer due to defects in quality and title shall become statute barred within one year of delivery. In the case that acceptance of the goods has been agreed, the statute of limitations shall commence upon acceptance thereof.



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- 9.2 Mandatory statutes of limitations shall remain unaffected hereby. The suspension of the statute of limitations as stipulated in Section 9.1 shall only apply to claims due to injury of life, limb or health, for claims asserted due to acts of intent and/or gross negligence and for claims due to the provision of a guarantee or the assumption of the procurement risk. The extended statutes of limitations as per Section 438, para. 1, no. 1 BGB (third-party rights in rem) and Sections 438, para. 3 and 634a, para. 3 BGB (fraudulent intent) remain unaffected by the above. In the case that the final contract in the supply chain is a consumer good purchase as per Section 474 BGB (i.e. the final delivery of the goods to a consumer), the statutes of limitations as per Section 445b BGB shall also remain unaffected.
- 9.3 The statutes of limitations as per Sections 9.1 and 9.2 for claims due to defects in quality and title shall correspondingly apply to contending contractual and/or non-contractual claims for damages asserted by the buyer as a result of defects in the contractual goods. However, if, in individual cases, the application of statutory statutes of limitations leads to the competing claim becoming statute barred at an earlier point in time, the statutory statute of limitations shall apply. The statutory statute of limitations according to the Product Liability Act shall remain unaffected in any case.
- 9.4 In the case that the statute of limitations for claims asserted against us is shortened as per Sections 9.1 to 9.3, this curtailment shall like-wise apply to any claims asserted by the buyer against our legal representatives, staff as a whole, our representatives and vicarious agents and subcontracts on the basis of the same legal grounds.

10. Right of withdrawal and termination

- 10.1 The buyer shall only be entitled to withdraw from the contract due to a breach of duty on our part in the case that we are found to be responsible for the breach of duty.
- 10.2 If the contract is a contract for work and services or work and materials pertaining to non-fungible, moveable goods, the buyer's free right to terminate (Sections 651 and 649 BGB) is hereby excluded.

11. Place of jurisdiction – Governing law – Partial invalidity – Applicability

- 11.1 To the extent that buyer is a merchant, legal entity under public law or special fund under public law, our registered office in Fuldata shall be the sole place of jurisdiction for all disputes directly or indirectly resulting from the contractual relationship; however, we shall also be entitled to file legal action against the buyer at the court responsible for his place of domicile.
- 11.2 This contractual relationship is governed by the laws of the Federal Republic of Germany. The application of the United Nations law governing the international sale of goods (CISG) is hereby excluded.
- 11.3 If a provision in these Terms and Conditions of Delivery and Service or within the context of other agreements is found to be void or unenforceable at present or in the future, this shall not affect the validity of the remaining provisions or agreements.

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