

# General Terms and Conditions of Sale



> CASEA GmbH

---

General Terms and Conditions of Sale  
of CASEA GmbH  
Version: October 2023

[casea-gips.de](http://casea-gips.de)

## > GENERAL TERMS AND CONDITIONS OF SALE

### > 1 General Information, Scope of Application

- (1) These General Terms and Conditions of Sale (GTCS) apply to all our business relationships with our customers (hereinafter referred to as: "Buyer"). These GTCS shall apply only if the Buyer is an entrepreneur (Sec. 14 of the BGB [German Civil Code]), a legal entity under public law or a special fund under public law.
- (2) These GTCS apply, in particular, to contracts for the sale and/or delivery of movable goods (hereinafter also referred to as: "Goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers (Sections 433, 651 of the BGB). These GTCS as amended shall also apply as a framework agreement to future contracts on the sale and/or delivery of movable goods with the same Buyer without us having to refer to them again in each individual case.
- (3) Our GTCS shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Buyer shall only become part of the contract if and to the extent that we have expressly agreed to their effectiveness. This requirement of consent shall apply in any case, for example even if we carry out the delivery to the Buyer without reservation in full awareness of the Buyer's GTC.
- (4) Individual agreements made with the Buyer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTCS. A written contract or our written confirmation shall be decisive for the content of such agreements.
- (5) Legally relevant declarations and notifications to be made to us by the Buyer 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.
- (6) References to the applicability of statutory provisions shall be for clarification purposes only. The statutory provisions shall therefore apply even without such clarification, unless they are directly amended or expressly excluded in these GTCS.

### > 2 Conclusion of Agreements

- (1) Our offers are subject to change and non-binding. This shall also apply if we have provided the Buyer with catalogues, technical documentation (e.g. drawings, plans, calculations, estimates, references to DIN standards), other product descriptions or documents – also in electronic form – to which we reserved property rights and copyrights.
- (2) The Buyer's purchase order for the Goods shall be deemed a binding offer to enter into a contract. Unless otherwise stated in the purchase order, we shall be entitled to accept this offer within four (4) weeks of its receipt by us.
- (3) Acceptance may be declared either in writing (e.g. by order confirmation) or by delivery of the Goods to the Buyer.

### > 3 Delivery Period and Delay in Delivery

- (1) The delivery period shall be agreed individually or stated by us upon acceptance of the purchase order. If this is not the case, the delivery period shall be four (4) weeks from the conclusion of the contract.
- (2) If we are unable to meet binding delivery deadlines for reasons not attributable to us (non-availability of the service or force majeure), the delivery deadline shall be extended accordingly. We will inform the Buyer immediately of the occurrence of such an event. 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 will immediately refund any consideration already paid by the Buyer. A case of non-availability of the service in this sense shall be deemed to be in particular the failure of our suppliers to make timely deliveries to us, if we have concluded a congruent covering transaction, if neither we nor our supplier are at fault or if we are not obliged to procure in the individual case.
- (3) The occurrence of a delay in delivery by us will be determined in accordance with the statutory provisions. In any case, however, a reminder by the Buyer is required.

## > GENERAL TERMS AND CONDITIONS OF SALE

- (4) The rights of the Buyer pursuant to Art. 8 of these GTCs 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 in full force and effect.
- (5) Partial deliveries are permissible insofar as they are reasonable for the Buyer.
- (6) The Buyer requires our consent to assign their claims arising from the contractual relationship.
- (7) We shall only be in default after the expiry of a reasonable grace period set by the Buyer, which must be at least 15 working days.

Claims for damages due to delay can only be made regarding the affected scope of delivery. Further claims for damages due to delay are excluded.

In any case of default, our liability for damages shall be limited in accordance with the provisions of Art. 8 hereof.

### > 4 Delivery, Transfer of Risk, Acceptance, Default of Acceptance

- (1) Delivery shall be made ex works/warehouse, which is also the place of performance. At the request and expense of the Buyer, the Goods will be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we shall be entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves. The delivery of packed goods does not include unloading, unless this is expressly included in the purchase order.
- (2) The risk of accidental loss and accidental deterioration of the Goods shall pass to the Buyer 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 upon delivery of the Goods to the forwarding agent, the carrier or any other person or institution designated to carry out the shipment. Insofar as 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. Handover or acceptance shall be deemed to have been made if the Buyer is in default of acceptance.
- (3) If the Buyer is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons attributable to the Buyer (e.g. unsuitable unloading point), we shall be entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs, transport costs).
- (4) The "Guidelines for the transfer of goods" in their currently valid version apply to all transports of goods in which goods are transported to or collected from one of the locations of CASEA GmbH. > [casea-gips.de/downloads](https://casea-gips.de/downloads)

### > 5 Prices and Payment Conditions

- (1) Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply, ex warehouse, plus statutory VAT. The weight determined at the place of performance or the weight indicated on the packed goods shall be decisive for invoicing. Invoicing shall be carried out in accordance with the reverse charge procedure, insofar as the required prerequisites are fulfilled.
- (2) In the case of a sale by delivery to a place other than the place of performance (Art. 4 (1)), the Buyer shall bear the transport costs ex warehouse and the costs of any transport insurance requested by the Buyer. Any customs duties, fees, taxes and other public charges shall be borne by the Buyer. The instructions on the disposal of packaging apply to transport packaging and all other packaging in accordance with the German Packaging Act. > [casea-gips.de/downloads](https://casea-gips.de/downloads)
- (3) Unless otherwise agreed – the purchase price shall be due for payment without deduction within fourteen (14) days of invoicing and delivery or acceptance of the Goods. Discounts shall be granted on the basis of a written contract and only if there are no more old receivables due. Under no circumstances will a discount be granted on freight costs or other logistics services that are included in the invoice amount. However, for contracts with a delivery value of more than € 2,500, we are entitled to demand an advance payment of 30% of the purchase price. The advance payment is due for payment fourteen (14) days after invoicing.

## > GENERAL TERMS AND CONDITIONS OF SALE

- (4) For payments by direct debit, the customer is obliged to issue a binding direct debit mandate. We are entitled to send the customer the preliminary information ("Pre-Notification") with a shorter period than fourteen (14) days before the due date.
- (5) If the credit note procedure has been agreed upon, the delivery shall be invoiced on the basis of the delivery note. The customer shall send us a credit note as proof of the recorded delivery within fourteen (14) days of delivery or acceptance of the Goods. Each delivery note will indicate the delivery according to type and quantity, net prices, VAT rate and VAT amount as well as the total amount. The credit agreement may be terminated by either party with a notice period of six (6) weeks to the end of the month.
- (6) Upon expiry of the agreed payment term, the Buyer shall be deemed to be in default. During the period of default, the purchase price shall bear interest at the applicable statutory default interest rate. We reserve the right to assert further damage caused by the delay. With respect to merchants, our claim to the commercial maturity interest (Sec. 353 of the HGB [German Commercial Code]) remains in full force and effect.
- (7) The Buyer shall only be entitled to rights of set-off or retention insofar as their claim has been legally established or is undisputed or is in a close reciprocal relationship to our claim. The Buyer shall also only be entitled to exercise a right of retention insofar as their counter-claim is based on the same contractual relationship. In the event of defects in the delivery, the rights of the Buyer, in particular pursuant to Art. 7 (6) sentence 2 of these GTCS, shall remain in full force and effect.
- (8) If, after the conclusion of the contract, it becomes apparent that our claim to the purchase price is jeopardised by the Buyer's inability to pay (e.g. by a request for the initiation of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (Sec. 321 of the BGB). In the case of contracts for the manufacture of special items (custom-made products), we may declare our withdrawal immediately; the statutory provisions on the dispensability of setting a deadline will remain in full force and effect.

### > 6 Retention of Title

- (1) We retain title to the Goods sold until full payment of all our current and future claims arising from the purchase contract and an ongoing business relationship (secured claims).
- (2) 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 Buyer must inform us immediately in writing if and insofar as third parties seize the Goods belonging to us.
- (3) In the event of conduct by the Buyer in breach of the contract, in particular non-payment of the purchase price due, we shall be entitled to withdraw from the contract in accordance with the statutory provisions and/or to demand the return 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 a withdrawal; we are entitled to demand only the return of the Goods and to reserve the right of withdrawal. If the Buyer fails to pay the purchase price due, we may only assert these rights if we have previously set the Buyer a reasonable deadline for payment which passed without success or if setting such a deadline is dispensable according to the statutory provisions.
- (4) The Buyer is authorised 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 extends to the products resulting from the processing, mixing or combining of our Goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their right of ownership remains, we will acquire co-ownership in proportion to the invoice values of the processed, mixed or combined Goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title.
  - (b) The Buyer 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 Buyer mentioned in (2) shall also apply with regard to the assigned claims.
  - (c) The Buyer remains authorised to collect the claim in addition to us. We undertake not to collect the claim as long as the Buyer meets their payment obligations towards us, is not in default of payment, files no request for the initiation of insolvency proceedings and there is no other deficiency in their ability to make payments. If this is the case, however, we may demand that the Buyer

## > GENERAL TERMS AND CONDITIONS OF SALE

inform us of the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment.

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

### > 7 The Buyer's Claims for Defects

- (1) The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title (including wrong delivery and short delivery), unless otherwise stipulated below. In all cases, the special statutory provisions for final delivery of the Goods to a consumer (supplier recourse pursuant to Sections 478, 479 of the BGB) shall remain in full force and effect.
- (2) The basis of our liability for defects is exclusively the agreement reached on the quality of the Goods. The product descriptions designated as such (e.g. product data sheets) provided to the Buyer prior to their purchase order or included in the contract in the same way as these GTCS, shall be deemed to be an agreement on the quality of the Goods. Samples, specimens, etc. serve only as an approximate description of the Goods. Deviations from the Goods delivered later do not constitute a defect in this respect. We reserve the right to make technical and constructive changes to the Goods insofar as they are customary in the trade, do not unreasonably impair the Buyer and do not impair the usability for the agreed purpose.
- (3) Insofar as the quality has not been agreed upon, it shall be assessed according to the statutory regulation whether a defect exists or not (Sec. 434 (1) sentences 2 and 3 of the BGB). However, we accept no liability for public statements made by the manufacturer or other third parties (e.g. advertising statements).
- (4) The Buyer's claims for defects presuppose that they have fulfilled their statutory obligations to inspect and give notice of defects (Sections 377, 381 of the HGB). If a defect becomes apparent during the inspection or later, we must be notified of this in writing without delay. The notification shall be deemed to have been made without undue delay if it is made within five (5) working days of becoming aware of the defect, whereby the timely dispatch of the notification shall suffice to comply with the time limit. Irrespective of this obligation to inspect and give notice of defects, the Buyer must notify us in writing of obvious defects (including incorrect and short deliveries) within one week of delivery, whereby timely dispatch of the notification is also sufficient to meet the deadline. If the Buyer fails to properly inspect the Goods and/or notify us of defects, the legal warranty rights for the defect not notified shall be excluded. In the case of packaged goods, weight deviations within the permissible tolerances will not constitute a defect.
- (5) If the delivered item is defective, we may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement). Our right to refuse subsequent performance under the statutory conditions shall remain in full force and effect.
- (6) We are entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due. However, the Buyer shall be entitled to retain a part of the purchase price that is reasonable in relation to the defect.
- (7) The Buyer shall give us the time and opportunity required for the subsequent performance owed, in particular to hand over the Goods reported to be defective about for inspection purposes. In the event of a replacement delivery, the Buyer shall return the defective item to us in accordance with the statutory provisions. Subsequent performance includes neither the removal of the defective item nor the re-installation if we were not originally obliged to install it.
- (8) The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs (not: removal and installation costs), will be borne by us, if a defect actually exists. However, if a request by the Buyer to remedy a defect turns out to be unjustified, we may demand reimbursement from the Buyer of the costs incurred as a result.
- (9) Even in the case of minor defects or in cases of urgency, execution of the remedy by the Buyer is only permissible after prior consultation with us.
- (10) If the subsequent performance has failed or a reasonable deadline to be set by the Buyer for the subsequent performance has expired unsuccessfully or is dispensable according to the statutory provisions, the Buyer may withdraw from the purchase agreement or reduce the purchase price. In the case of an insignificant defect, however, no right of withdrawal shall apply.
- (11) Claims of the Buyer for damages or reimbursement of futile expenses exist only in accordance with Art. 8 and are otherwise excluded.

## > GENERAL TERMS AND CONDITIONS OF SALE

### > 8 Liability

- (1) Insofar as nothing to the contrary arises from these GTCS including the following provisions, we shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the relevant statutory provisions.
- (2) We shall be liable for damages – regardless of the legal grounds – in the event of intent and gross negligence. In the event of simple negligence, we shall only be liable (a) for damages arising from injury to life, limb or health, (b) for damages arising from the breach of an essential contractual obligation (an obligation the fulfilment of which makes the proper performance of the contract possible in the first place and on the observance of which the contractual partner regularly relies and may rely); in this case, however, our liability shall be limited to compensation for the foreseeable, typically occurring damage – but no more than up to the amount of the order value. The limitations of liability resulting from paragraph 2 also apply in favor of the legal representatives and vicarious agents of the seller if claims are asserted directly against them.
- (3) The limitations of liability resulting from paragraph (2) shall not apply insofar as we have fraudulently concealed a defect or have assumed a guarantee for the quality of the Goods. The same applies to claims of the Buyer under the German Produkthaftungsgesetz [Product Liability Act].
- (4) The Buyer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect, if such breach of duty is attributable to us. A free right of termination of the Buyer (in particular according to Sections 651, 649 of the BGB) shall be excluded. In all other respects, the statutory requirements and legal consequences shall apply.
- (5) Liability for indirect and unforeseeable damage, loss of production and use, missed savings, interruption of operations, downtime, loss of use, financial losses due to claims by third parties and loss of profit, is excluded in cases of negligent breach of contractual obligations.

### > 9 Limitation

- (1) Notwithstanding Section 438 (1) No. 3 of the BGB, the general limitation period for claims arising from material defects and defects of title shall be (12) months from delivery, but no longer than 24 months from notification of readiness for dispatch. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- (2) If, however, the Goods are a building or an object which has been used for a building in accordance with its customary use and has caused its defectiveness (building material), the limitation period shall be 5 years from delivery in accordance with the statutory provision (Sec. 438 (1) no. 2 of the BGB). The special statutory provisions for claims of by third parties for the return of goods (Sec. 438 (1) no. 1 of the BGB), in the event of fraudulent intent on the part of the seller (Sec. 438 (3) of the BGB) and for claims in supplier recourse in the event of final delivery to a consumer (Sec. 479 of the BGB) shall also remain in full force and effect.
- (3) The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages of the Buyer based on a defect of the Goods, unless the application of the regular statutory limitation period (Sections 195, 199 of the BGB) would lead to a shorter limitation period in the individual case. The limitation periods of the Product Liability Act shall remain unaffected in any case. Otherwise, the statutory limitation periods exclusively shall apply to the Buyer's claims for damages pursuant to Art 8.

> 10 Choice of Law and Place of Jurisdiction

- (1) The law of the Federal Republic of Germany shall apply to these GTCS and all legal relationships between us and the Buyer, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods. The prerequisites and effects of the retention of title pursuant to Art. 6 are subject to the law at the respective place of storage of the item, insofar as the choice of law made in favour of German law is inadmissible or ineffective thereafter.
- (2) If the Buyer 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 – including international – place of jurisdiction for all disputes arising, directly or indirectly, from the contractual relationship shall be the registered office of the seller. However, we are also entitled to bring an action at the Buyer's general place of jurisdiction.