

1. general information

1.1.

These General Terms and Conditions (hereinafter referred to as "GTC") are an integral part of all offers, order confirmations and contracts with customers and suppliers for deliveries or other services, including contracts for work and services and contracts for work and materials of DEFSolution GmbH (hereinafter referred to as DEF). Agreements that deviate from or supplement the GTC shall take precedence over the GTC if these have been agreed in writing between the parties. 1.2 The customer's GTC shall only be deemed valid if they have been expressly confirmed in writing by DEF instead of these GTC, even if DEF provides services without reservation in full knowledge of these terms and conditions. Should DEF amend these GTC, they shall become part of the contract between DEF and the customer if the customer agrees to the amendment or does not object in writing within one month of notification of the amendment.

2. conclusion of contract

2.1.

Orders placed by the customer shall always be non-binding. The contract shall only be concluded upon receipt and in accordance with the content of a written order confirmation (also by e-mail) from DEF or, at the latest, upon delivery of ordered goods or manufactured products (hereinafter also referred to collectively as "subjects of performance") or through the provision of the agreed service (hereinafter also referred to collectively as "subject matter of the contract") by DEF.

2.2.

The performance characteristics of the object of performance and contract are conclusively described in the performance description of the respective individual contract between DEF and the customer or in the order confirmation. Verbal promises, catalog specifications, drawings, illustrations, dimensions, weights or other performance specifications are only binding if they are expressly agreed in writing. The same shall apply to properties that can be expected according to public statements made by DEF or its agents, in particular in advertising, or in the labeling of the goods. DEF reserves the right to make reasonable technical and design deviations from information in brochures, catalogs and written documents as well as model, design and material changes in the course of technical progress and further development without this giving rise to any rights against DEF.

2.3.

If consulting or other services are the subject of the contract between DEF and the customer, these must be expressly agreed in writing. The services to be rendered by DEF in individual cases shall be based on the contents specified in the order confirmation. In addition, DEF shall not be liable for any specific consulting or other success. In the legal sense, DEF does not assume any guarantee for the existence of certain qualities of the objects of performance and contract, unless expressly agreed in writing in individual cases and unless otherwise stipulated by mandatory legal provisions.

3. terms of delivery and service

3.1.

A delivery date or performance date shall be subject to change, non-binding and subject to timely self-delivery and unforeseen circumstances and obstacles and shall be agreed in writing by DEF according to the expected performance capacity. Irrespective of whether these occur at DEF or at a company from which DEF procures the goods or services in whole or in part. These circumstances and obstacles shall extend the delivery date or performance date accordingly, even if they occur during a delay that has already occurred. Any grace period set by the customer in this case shall also be extended by the duration of the circumstance and obstacle. In the event of delays in delivery or performance lasting longer than six weeks caused by a circumstance or an obstacle, DEF reserves the right to withdraw from the contract.

3.2.

Compliance with delivery periods or deadlines for the provision of services agreed in writing requires that the customer provides all information necessary for the delivery or provision of the service in good time, in particular that the customer provides the cooperation required in each case. Otherwise, the delivery period or the period for the provision of the service shall be extended accordingly.

3.3.

DEF shall be entitled to make reasonable partial deliveries and render partial services.

4. invoicing / due date and default

4.1.

Consulting and other services provided by DEF shall generally be remunerated on a time basis, unless otherwise specified in the order confirmation. DEF's deliveries and services shall be remunerated in accordance with the individual contractual agreement on a fixed price or time basis. The amount of the hourly rates and unit prices, etc. can be found in the written order confirmation.

4.2.

The written order confirmation shall be decisive for the scope of the delivery and the determination of the remuneration according to fixed price or time expenditure. If this deviates from the order or from the customer's order, it shall nevertheless be authoritative if the customer does not object to it immediately or accepts services from DEF without reservation.

4.3.

All prices are net and do not include any out-of-pocket expenses or the applicable statutory VAT. Expenses may include, in particular, travel costs, accommodation costs, additional expenses for meals, telecommunications costs, printing costs, copying costs and postage costs. Unless expressly stated otherwise, net prices for deliveries of goods shall include normal packaging plus shipping costs and/or the costs of transport insurance - if such insurance has been taken out in individual cases.

4.4.
DEF shall be authorized to make and demand payments on account and partial invoices.

4.5.
In the case of third countries such as Mexico, the customer must make an advance payment. The amount of the advance payment shall be specified by DEF accordingly, or shall amount to at least 10% of the order.

4.6.
Invoices/partial invoices/interim invoices shall be issued weekly according to the work performed at the agreed hourly rate, unit price or an agreed fixed price, unless otherwise agreed.

4.7.
Invoices shall be due for payment within 14 days of the invoice date for domestic customers and 30 days for foreign customers and shall be payable without deduction, unless a different due date is specified in the respective invoice. The date of receipt of payment by DEF shall be decisive. If the customer is in arrears with payment of the invoice from the due date, DEF shall be entitled to charge interest at a rate of 9% points above the prime rate of the European Central Bank. DEF shall be entitled to terminate the contract without notice if the payment deadline is not met. 4.7 DEF reserves the right to refuse to accept checks or bills of exchange.

5. liability for material defects

5.1.
DEF shall not be liable for any commercial or other performance success intended by the customer with regard to services rendered.

5.2.
In the event of material defects in the objects of performance, DEF shall, at its discretion, repair or replace the goods. Replaced parts shall become the property of DEF without compensation. If DEF fails to rectify notified defects within a reasonable grace period set in writing or if two attempts at rectification fail, the customer shall be entitled either to withdraw from the respective contract or to demand a reasonable reduction in price. If the customer chooses to withdraw from the contract due to a legal or material defect after subsequent performance has failed, he shall not be entitled to any additional compensation due to the defect, unless otherwise stipulated by mandatory legal provisions. Warranty claims shall become time-barred one year after acceptance or handover of the object of performance or contract, unless mandatory legal provisions stipulate otherwise. The defect must be reported immediately, unless mandatory legal provisions stipulate otherwise.

5.3.
Warranty claims against DEF shall be excluded if the customer modifies or tampers with the objects of performance or uses them inadequately. The warranty shall not lapse if the customer can prove that the modifications, interventions or inadequate use are not connected with the defect claimed.

5.4.
The customer shall only be entitled to warranty claims as a direct contractual partner of DEF and shall not be entitled to assign them.

6. place of performance and jurisdiction

6.1.
The place of performance shall be the registered office of DEFSolution GmbH.

6.2.
The place of jurisdiction is the registered office of DEFSolution GmbH.

6.3.
The law of the Federal Republic of Germany shall apply to all legal relationships between us and our contractual partner.

7. granting of rights of use

7.1.
DEF shall be entitled to all exclusive rights of use and exploitation in the context of the provision of the contractual services by DEF. DEF (e.g. copyrights, patents, utility models or registered designs).

7.2.
The rights of use which the customer receives are exclusively for the contractually intended purpose. Any extension of the rights of use, transfer rights or processing rights vis-à-vis the customer shall always require a separate express and written agreement.

8. retention of title

8.1.
DEF shall retain title to the delivered goods and services from the ongoing business relationship until all claims of DEF have been satisfied in full. The goods may not be pledged or transferred by way of security prior to the transfer of ownership. Resale is only permitted in the course of a proper business transaction. In the event of resale of the goods subject to retention of title, the customer shall assign its purchase price claim against the purchaser in full to DEF upon conclusion of the contract.

8.2.
The customer shall no longer be entitled to freely dispose of the goods if the customer is in default of payment in whole or in part, or if the customer ceases to make payments and justified doubts arise as to the customer's solvency or creditworthiness. In such a case, DEF may revoke the customer's authorization to collect from the recipient of the goods. DEF shall then be entitled to demand information about the consignee, to notify the consignee of the transfer of claims to DEF and to collect the customer's claims against the consignee.

9. liability

9.1.

Insofar as the GTC or applicable mandatory legal provisions provide otherwise, all claims for damages and reimbursement of expenses of the customer against DEF, its executive bodies, its legal representatives and/or its vicarious agents shall be assigned, irrespective of the legal grounds.

9.2.

DEF's liability shall be limited to the amount covered by the business liability insurance (max. € 5,000,000.00), limited by the insurance benefit, unless mandatory legal provisions stipulate otherwise. In the event of a breach of material contractual obligations, the scope of liability shall be limited to the order value if DEF, its executive bodies, its legal representatives and/or its vicarious agents are only guilty of slight or normal negligence, unless mandatory legal provisions stipulate otherwise.

9.3.

DEF shall not be liable for the loss of data if the damage would not have occurred in the customer's area of responsibility if the data had been properly backed up. A proper data backup shall be assumed if the customer demonstrably backs up its data in machine-readable form at least daily and thus ensures that this data can be restored with reasonable effort. DEF's liability for the loss of data shall be limited to the typical recovery costs that would have been incurred if the data had been properly backed up.

10. confidentiality and data protection

10.1.

The contracting parties undertake to treat as strictly confidential any business and trade secrets about the other contracting party and/or its business partners that become known to them during their cooperation, regardless of their nature, which are not intended for the general public, and to keep them secret from third parties during the term of the contract and for two years after termination of the contract. This shall not apply if information was demonstrably already known prior to the business relationship.

10.2.

It is clarified that the obligation to maintain confidentiality does not apply to works created by the customer or services provided by the customer, unless these relate to information requiring confidentiality in accordance with clause 10.1.

10.3.

The parties mutually undertake to comply with the statutory provisions on data protection, in particular Section 5 of the German Federal Data Protection Act, and shall ensure compliance therewith. The above obligations shall survive the termination of the cooperation.

11. cooperation of the customer

11.1.

The customer is aware that DEF is dependent on the cooperation of the customer for the provision of the contractual services. Upon reasonable request, the customer undertakes to provide all documents and information necessary for the performance of the contractual services immediately and in full. The customer undertakes to provide DEF's employees as well as any subcontractors or vicarious agents of DEF who are involved in the provision of the contractual services or have been commissioned with the provision of the contractual services with sufficient access to its premises and systems, insofar as this is necessary for the performance of the contract.

11.2.

As part of its duty to cooperate, the customer shall also be obliged, if required, to provide suitable rooms free of charge and in good time for DEF employees involved in the performance of services, in which documents, work equipment or data carriers can also be stored safely.

11.3.

All cooperation services of the customer shall be free of charge, unless expressly agreed otherwise.

11.4.

If the customer fails to fulfill its obligations to cooperate or fails to do so in a timely manner, DEF may set the customer a reasonable deadline for the performance of its obligations to cooperate. If the obligations to cooperate are not fulfilled within the deadline set by DEF, DEF shall be entitled to terminate the contract for good cause. Any further claims of DEF shall remain unaffected in the event of termination.

12. third party rights

12.1.

The customer warrants to DEF that if DEF carries out the order in accordance with the customer's specifications, this will not infringe any third-party rights. The customer shall be obliged to indemnify DEF against all claims if a third party asserts a claim against DEF. The indemnification obligation also applies to all expenses incurred by DEF in connection with the execution of the contract, for projects or services provided by a third party.

13. warranty and guarantees

13.1.

Unless expressly agreed otherwise below, the statutory liability for defects shall apply. For consumers, the limitation period for warranty claims for used goods is one year from delivery of the goods. For entrepreneurs, the limitation period for claims for defects shall be one year from the transfer of risk; the statutory limitation periods for the right of recourse pursuant to § 478 BGB shall remain unaffected. In relation to entrepreneurs, only our own information and the manufacturer's product descriptions included in the contract shall be deemed to be an agreement on the quality of the goods; we accept no liability for public statements made by the manufacturer or other advertising statements. If the delivered item is defective, we shall initially provide a warranty to entrepreneurs at our discretion by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery).

The above restrictions and shortened deadlines do not apply to claims based on damage caused by us, our legal representatives or vicarious agents

- in the event of injury to life, limb or health
- in the event of intentional or grossly negligent breach of duty and fraudulent intent
- in the event of a breach of essential contractual obligations, the fulfillment of which is essential for the proper execution of the contract and on the observance of which the contractual partner may regularly rely (cardinal obligations)
- within the scope of a guarantee promise, if agreed
- insofar as the scope of application of the Product Liability Act is opened. Information on any applicable additional guarantees and their exact conditions can be found with the product.

13.2.

Customer service

You can contact our customer service for questions, complaints and objections by e-mail at info@defsolution.de

14. transport damage

14.1

The following applies to consumers: If goods are delivered with obvious transport damage, please complain about such defects to the deliverer as soon as possible and contact us immediately. Failure to make a complaint or contact us has no consequences for your legal claims and their enforcement, in particular your warranty rights. However, you will help us to assert our own claims against the carrier or transport insurance company.

14.2.

The following shall apply to entrepreneurs: The risk of accidental loss and accidental deterioration shall pass to you as soon as we have delivered the goods to the forwarding agent, carrier or other person or institution designated to carry out the shipment. The obligation to inspect and give notice of defects regulated in § 377 HGB applies to merchants. If you fail to notify us as stipulated therein, the goods shall be deemed to have been approved, unless the defect was not recognizable during the inspection.

examination was not recognizable. This shall not apply if we have fraudulently concealed a defect.

15. payment

15.1

Prepayment, invoice, cash on collection

16. right of withdrawal

16.1.

Consumers are entitled to the statutory right of withdrawal as described in the withdrawal policy. Entrepreneurs are not granted a voluntary right of withdrawal.

17. terms of delivery

17.1

Shipping costs are added to the indicated product prices. You can find out more about the shipping costs in the offers

17.2.

In principle, you have the option of collecting the goods from DEFSolution GmbH, Adam-Opel-Straße 6, 38112 Braunschweig, Germany during the following business hours: Monday through Friday from 8 am to 4 pm, except on public holidays. Please inform us at least two working days before your collection so that we can make the goods available from our warehouse.

18. final provisions

18.1.

Individual deviations, amendments or additions to these GTC must be made in writing, otherwise they shall be null and void.

18.2.

The customer shall only be entitled to assign or transfer claims arising from the existing business relationship to third parties if DEF has given its prior written consent.

18.3.

The respective national law of the country in which DEF's registered office is located shall apply. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the provisions of the conflict of laws which would require the application of a different law shall be excluded.

18.4.

Should a provision of these terms and conditions be or become legally ineffective, the order placed and the remaining provisions of these terms and conditions shall nevertheless remain effective. An invalid provision shall be replaced by a provision that is equivalent to it in terms of economic success. The same applies to the existence of loopholes.