

General Business Terms

DAIKIN Manufacturing Germany GmbH

1. General

These General Business Terms apply exclusively to the orders of the buyer. Confirmation or execution of the order shall be deemed to be acceptance of these General Business Terms. Any other conditions of the contractor shall not apply, even if the buyer does not object. This shall also apply in the event that the contractor states that it only wishes to deliver on its own terms. Other terms and conditions and deviations from these General Business Terms require the written consent of the buyer to become effective. The validity of other conditions cannot be derived from the acceptance of the goods.

2. Order and order confirmation

Orders must be made in writing. Verbal agreements are only legally effective if they are confirmed in writing. Orders must be confirmed by the contractor without delay, stating the reference numbers.

3. Delivery

Delivery shall be made at the supplier's expense and risk to the destination specified by the buyer. The contractor shall choose the most favourable and most suitable means of transport for the buyer. The contractor shall pack, mark and dispatch dangerous products in accordance with the national/international regulations in force. The delivery shall be accompanied by a delivery note in duplicate stating the order number and date of order. The agreed delivery dates are binding. These are fixed dates. As soon as the contractor realises that it will not be able to fulfil its contractual obligations in whole or in part, or not in time, it must notify the buyer in writing without delay, stating the reasons and the expected duration of the delay. If the contractor does not fulfil the order within the agreed delivery period, it shall be liable in accordance with the statutory provisions. The contractor shall immediately notify the buyer in writing of the absence of necessary documents to be supplied by the buyer and set a period of grace for subsequent delivery. In case of earlier deliveries than agreed, the buyer reserves the right to return the goods at the contractor's expense. In the event of early delivery, the goods shall be stored at the buyer's premises at the contractor's expense and risk until the delivery date. The buyer shall only accept partial deliveries after express written agreement. In the case of agreed partial shipments, the remaining quantity must be listed.

4. Shipping instructions and dispatch notes

The shipping documents shall bear the reference marks prescribed by the buyer.

5. Receipt, acceptance and inspection of the goods

Cases of force majeure, strikes and lock-outs entitle the buyer to postpone receipt accordingly. Acceptance shall take place – in the ordinary course of business – immediately after receipt or commissioning, provided that the delivery is in accordance with the contract. Statutory provisions which provide fictitious acceptance are excluded. In the case of excess deliveries that exceed the customary extent, the buyer reserves the right to return the excess goods at the contractor's expense.

6. Payment and invoice

Payment shall be made – to the exclusion of statutory provisions on earlier due dates, e.g. of payment in instalments – at the buyer's option on the 25th of the subsequent month with a 3% discount or 90 days net, in each case calculated from the date of invoice and the complete receipt of goods. The date of receipt of the invoice is the date of the receipt stamp at the buyer. However, the payment periods shall not begin before the agreed delivery date. The buyer is only in default after a reminder. If the buyer makes a payment before the goods or services are handed over, the contractor shall be obliged to provide the buyer, at the latter's option, with a security equal to the amount of the payment and/or to transfer ownership of the item to the buyer. Any advance and interim payments do not constitute recognition of the contractual conformity of the service. Any additional or reduced services must be listed separately on the invoice. Invoices that are not properly submitted shall only be deemed to have been received by us from the time of correction. Insofar as certificates of material tests have been agreed, they shall form an essential part of the delivery and shall be sent to us together with the invoice.

7. Protective provisions

The contractor undertakes to comply with the recognised state of the art and, in particular, the regulations and guidelines issued by the legislator, the supervisory authorities, the trade associations and the VDE with regard to execution, accident prevention and environmental protection. The contractor is liable for ensuring that patents, licences and industrial property rights of third parties are not infringed by the delivery and use of the delivery items. Any licence fees shall be borne by the contractor.

8. Warranty

The contractor warrants that the delivery item has its value or no defects that impair its suitability, has the agreed or guaranteed quality, is suitable for the use presupposed in accordance with the contract, complies with the generally recognised rules of technology, the latest regulations of the authorities, the German Equipment Safety Act, the respectively valid safety-related requirements and the industrial safety and accident prevention regulations. If the delivery item does not comply with this, the purchaser can, at his discretion, demand the elimination of the defect or the delivery of a defect-free item, withdraw from the contract in accordance with the statutory provisions or reduce the purchase price or demand compensation for damages or reimbursement of futile expenses. If the contractor has given a guarantee for the quality or durability of the delivery item, the buyer may also assert claims under the guarantee. The buyer shall notify the contractor immediately of any defects in the delivery item as soon as they are detected in the normal course of business. For services such as assembly, maintenance, etc., the above conditions apply accordingly. Unless expressly agreed otherwise, the statutory periods of limitation apply. The contractor's warranty extends to the parts manufactured by subcontractors. In urgent cases or in case of failure or unsuccessful remedy of defects by the contractor, the buyer may remedy the defects at the supplier's expense or have recourse to the other warranty rights. The contractor shall indemnify the buyer from claims arising from producer liability as well as from the Product Liability Act, insofar as the contractor or its supplier has caused the product defect which triggered the liability. In all other respects the contractor shall be liable in accordance with the statutory provisions. The contractor must carry out quality assurance of a suitable type and scope and in accordance with the latest state of the art and provide evidence of this to the buyer upon request. If necessary, the supplier shall conclude a corresponding quality assurance agreement with the buyer. If the object of purchase is put into operation later than acceptance, the warranty period shall begin on the day of commissioning. For repaired or replaced parts, the agreed warranty period shall begin anew from the time of the elimination of the defect.

9. Industrial property rights

The contractor assumes liability for the fact that the delivery item is free of third-party rights. In the event of an infringement of industrial property rights, the contractor shall be obliged to compensate all damages incurred by the contractor and third parties as a result. In this case, the buyer shall also be entitled to obtain the necessary approval from the owner of such industrial property rights for the delivery, commissioning, use, resale, etc. of the delivery item at the expense of the contractor.

10. Confidentiality – drawings

The contractor is obliged to treat the customer's orders and all related commercial and technical details confidentially. Information provided by the customer, drawings, etc. prepared by the customer or the contractor on the basis of such information may only be used or exploited otherwise with the written consent of the customer. Acceptance or approval of drawings and samples submitted by the contractor shall not affect the contractor's sole responsibility.

The buyer collects and stores contact data and business information of the contractor in order to commission service providers and suppliers and to process contracts. Without the processing of this data, execution of the contract is not possible.

11. Set-off

The buyer is entitled to set off all claims to which he is entitled against the contractor against all claims which the contractor has against the buyer. The contractor may only offset undisputed or legally established claims against claims of the buyer.

12. Assignment

Rights from this order may only be assigned to third parties by mutual consent. The buyer's consent shall be deemed to have been given if the contractor has granted its supplier an extended reservation of title in the ordinary course of business.

If the buyer provides the contractor with parts, the buyer reserves the right of ownership of these parts. Processing, transformation or mixing shall be carried out by the contractor. The buyer acquires co-ownership of the new object in the ratio of the value of the reserved goods to the other processed parts at the time of processing, transformation or mixing. If the mixing is carried out in such a way that the parts are inseparable and if the contractor's item is to be regarded as the main item, it shall be deemed as agreed that the contractor shall transfer the co-ownership to the buyer on a pro rata basis; the contractor shall keep the sole ownership or the co-ownership for the buyer.

13. Vicarious agents

The contractor shall be responsible for the deliveries and services of its suppliers as well as for its own deliveries and services; the contractor's suppliers shall therefore be deemed its vicarious agents.

14. Place of performance, legal venue and jurisdiction

The place of performance for delivery is the place of destination; for payment, it is the registered office of the buyer. In addition to these General Business Terms, German law applies. The applicability of the UN Sales Convention, however, is expressly excluded. The sole place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship (including actions on bills of exchange) shall be Heilbronn. Should individual provisions of this contract be or become invalid, the validity of all other provisions shall not be affected.