

1. General/Area of application

The terms of business apply to all current and future business transactions. Contrasting, conflicting, or supplementary terms of business of the buyer's are, even with full knowledge, no integral part of the contract unless explicitly approved of in writing. Fezer's general terms of business are also valid if delivery to the buyer is done with full knowledge of conflicting or contrary terms of the buyer.

2. Offers/Offer documents

Offers are subject to change and non-binding. Technical alterations and changes of form, colour and/or weight are within reasons reserved. If the order is classifiably as a tender in accordance with § 145 BGB, Fezer can accept it within 4 weeks. The acceptance shall either be declared in writing or by supplying the goods. Fezer reserves the right of title and copyright to all figures, pictures, drawings, calculations and other paperwork; they must not be passed on to third parties. Forwarding them to third parties requires the written permission by Fezer.

3. Scope of delivery

The supplier's order confirmation in writing will be prevailing for the scope of delivery. This holds true in case of an offer with commitment in terms of time and acceptance of the said offer as long as no confirmation of order has been submitted within the given time period. Side-agreements and changes require the written confirmation by Fezer.

4. Prices/Payment terms

In the absence of a special agreement all prices are „ex works“, including loading in the company, but without packing. A deduction of discounts required written approval. If no other terms are stated in the confirmation/offer the sales price is to be paid net (without any discounts) within 30 days of invoice date. In case of delayed payment Fezer is allowed to claim late interest to the amount of 8 % p.a. above the basic interest rate of the European Central Bank. If higher damages caused by delay can be proved Fezer is allowed to claim this. The buyer has the right to prove that the damages are lower than stated. The buyer's right of offsetting are only allowed if their counter claims have been legally determined, are beyond dispute or accepted by Fezer. The retaining lien is only allowed as long as the counter claim refers to the same contract.

5. Delivery time

The start of the confirmed delivery time implies that all technical questions have been clarified and the buyer's obligations have been fulfilled in time and correctly. The delivery date is met if the delivered product has left the premises or else the readiness for shipment has been confirmed to the buyer by the end of the week that has been stated in the Fezer confirmation. The delivery time is increase in case of inevitable occurrences, force majeure, strikes or other events unless these have been strictly ruled out in the contract. This is also true for occurrences at supplier's sites. Do these events take place during a delivery delay in course this delivery delay is not prolonged. If the buyer is buyer delays the acceptance or violates other obligations to co-operate Fezer is allowed to claim the caused damages including possible additional expenses. In this case the risk of accidental perishing or accidental decline of the goods is passed on to the buyer. Is the delivery of the goods delayed on demand of the buyer Fezer reserves the right to charge expenses for storage with a minimum of 0,5 % of the invoice amount per any started month. Additionally Fezer is entitled to withdraw from the contract at the end of an appropriate time-limit or dispose of the goods at their will and supply at a later date. If the buyer unjustified withdraws from the given order Fezer is entitled to demand 10% of the sales price for expenses caused and loss of profit. The buyer is entitled to prove lower expenses.

6. Transfer of risk, despatch

If the contract does not state differently, delivery is „ex works“. The risk is transferred to the buyer at the latest once the goods are loaded onto the transport means (e.g. truck). This applies as well if Fezer covers the transport costs and installation of the goods. Is the despatch of the goods delayed due to circumstances for which the buyer is responsible the risk is transferred to them on the day that the goods are ready for despatch. Fezer is obligated to procure insurance if desired and paid for by the buyer. Delivered goods have to be accepted even if showing defects if those defects are immaterial. Partial deliveries are allowed.

7. Warranty

The warranty period is 12 months and begins with the risk transfer. For the rest the warranty and liability of Fezer is limited to supplementary performance, at Fezer's own choice either by rectification or replacement. If the supplementary performance fails the buy is authorized to withdraw from the contract. On minor infringement of contract, especially on insignificant defects, the buyer has no right to withdraw. The buyer's right of abatement is excluded. Chooses the buyer to withdraw from the contract due to failed supplementary performance of a defect of title or material he has no right of compensation for damages. Chooses the buyer compensation after a failed supplementary performance the goods rest with the buyer as long as this is reasonable. The compensation is limited to the difference between the sales price and value of the defective goods. This does not apply if Fezer has violated the contract in a fraudulent way. The product descriptions of Fezer are only to be considered as condition descriptions. Public comments, advertisements or promotion do not count as contractual condition descriptions. Also the production description of a manufacturer whose services are used by Fezer count only as condition descriptions. If the buyer receives an inadequate installation instructions manual Fezer is only obligated to supply an adequate one and only so if the defect of the manual is contrary to a proper installation. The buyer can only enforce compensation due to nonfulfillment or withdraw from the contract if Fezer has neither rectified nor replaced the faulty goods or if a rectification or replacement is not reasonable for the buyer. Warranty claims require that the buyer informs Fezer in writing on obvious defects within 2 weeks, calculated from the day of receipt of the goods, and hidden defects within 2 weeks after detection. The buyer does not get any guaranties from Fezer in the juristic sense. Manufacturer's warranties of third parties are not touched by this.

8. Liability limitation

Fezer's liability is limited to negligent breach of duty of type of goods's predictable, contract typical, direct average damage. This applies also for negligent violation of duty of employees, representatives and agents of Fezer's. On slightly negligent violation of immaterial contract obligations liability is excluded. Fezer is not liable for damages that were not caused on the supplied goods, especially not for loss of profit or damages the buyer's assets. The warranty disclaimer does not apply on damages caused to lives, body or health or, if the cause of damage is based on intent or gross negligence or if Fezer is in breach of an essential obligation (material contractual obligation). It does not apply as well if the buyer is justified to claim damages due to a written guarantee by Fezer to pay damages for nonfulfillment. If Fezer violates an essential obligation without negligence the duty to compensate for material and financial damages is limited to the amount insured by the product liability insurance. On request Fezer offers insight into the policy of insurance. For buyer's claims as per §§ 1 and 4 of the German Product Liability Act the forementioned limitations of liability do not apply.

9. Reservation of ownership

Until satisfaction of all accounts receivable (including all claims from the current account), to which Fezer is entitled to based on any legal grounds against the buyer from the business relationship which will be release to Fezer according to their choice, if and insofar as their value exceeds their total claim from the business relationship by more than 20 %. The goods remain their property until complete payment of all receivables. Processing or reshaping will always be performed for Fezer, but without any obligations to him. If the ownership of the seller expires through combination, it is now agreed that the buyer's ownership of the unitary object is transferred to Fezer. The buyer stores Fezer's property free of charge. Goods, for which Fezer is entitled to ownership shall be referred to as conditional goods hereafter. The customer has the right to process and resell the goods in the ordinary course of business provided that he is not in default. Pawnings or the transfer of ownership to third parties are not allowed. Any debts arising out of the resaly or any other legal ground of the goods, including all receivables from current account, shall be assigned by the buyer to the seller already now for security reasons to the full extent. Fezer authorizes the customer revocably to collect the demands transferred to Fezer under his name on Fezer's account. The authorization to collect can only be revoked if the Buyer is not fulfilling his obligation to pay. With the access of a third party to the conditional goods the buyer will refer to the property of Fezer and notify them instantly. If the customer acts in a way contrary to the contract, in particular default in payment, Fezer is entitled to withdraw from the contract and demand the return of the goods.

10. Installation

Fezer is only obliged to install supplied materials based on an independant installation contract. The herein specific agreements apply. Warranty, liability and warranty disclaimer are based, if nothing else was agreed upon, on the forementioned terms of business.

11. Place of performance/court of jurisdiction

Germany law applies. The terms of the UN purchasing right do not apply. Place of performance on delivery contracts is Esslingen a. N., court of jurisdiction, depending on practical competence, either Esslingen or Stuttgart. Should individual provisions of these terms of business be invalid or become invalid, the validity of the remaining provisions remain untouched.