

General terms and conditions
(Status 07/2017)

I. General provisions

1. These general terms and conditions of sale (T&Cs) apply to all commercial relationships between Cartesy GmbH (hereafter referred to as: Cartesy) and its customers. The T&Cs only apply if the customer is a company (§ 14 BGB; German Civil Code), a legal entity subject to public law or a special public fund.
2. The T&Cs apply particularly to contracts regarding the sale and/or delivery of movable goods (hereafter referred to as "goods"), regardless of whether Cartesy manufactures the goods in-house or purchases them from sub-suppliers (§§ 433, 651 BGB). Unless otherwise agreed, the T&Cs in the version valid at the time at which the customer places an order, or in all instances in the version in text form provided to the customer as a framework agreement, shall also apply to all similar future contracts without any requirement for Cartesy to refer to them again on an individual basis.
3. Cartesy provides all deliveries and services exclusively on the basis of these general terms and conditions. General terms and conditions of the customer that deviate from, contradict or supplement these terms and conditions shall form no component of the contract, even where knowledge of these exists, unless Cartesy expressly confirms their validity in writing. This consent requirement shall apply in all instances, for example also if Cartesy carries out the delivery to the customer without reservation and with knowledge of their T&Cs.
4. Individual agreements reached with the customer (including ancillary agreements, supplements and changes) in individual cases shall have priority over these T&Cs in all instances. A written contract or our written confirmation shall be decisive for the contents of such agreements, subject to evidence to the contrary.
5. References to the validity of statutory regulations shall only have clarifying significance. Even without such clarification, the legal provisions shall therefore apply unless directly amended or expressly excluded in these T&Cs.

II. Quotations/delivery

1. Orders shall only qualify as accepted by Cartesy if they are confirmed by Cartesy in writing or if delivery takes place. Cartesy shall immediately confirm receipt of the customer's inquiry or order by email. Such a confirmation email shall not constitute any binding acceptance of the order unless the contents of the email include not only confirmation of receipt but also acceptance.

III. Prices and payment conditions

1. Prices are ex works (EXW, in accordance with Incoterms) excluding packaging, and are subject to the respective valid statutory sales tax.
2. If Cartesy has agreed to install or assemble the delivery, unless otherwise agreed the customer shall pay not only the agreed remuneration but also all applicable ancillary costs (e.g. travel costs, the costs of transporting the tools).
3. Payments shall be made free of transaction charges to Cartesy's account. Payment terms: 14 days net after receipt of the invoice or in accordance with agreement.
4. The customer can only offset such receivables as are undisputed or legally effective. The customer is only entitled to exercise a right of retention insofar as their counter-claim is based on the same contractual relationship.

5. If the customer fails to meet with their payment obligations or circumstances are identified, which justify concerns regarding the customer's creditworthiness or ability to pay then Cartesy is entitled to invoice for payment of the entire outstanding debt or demand appropriate security.

IV. Retention of title

1. Cartesy retains ownership of all goods that have been delivered until the customer has settled all present and future receivables arising from the commercial relationship.

The retention of title also includes spare and wearing parts, such as engines, control units, etc., even if these have been installed and are therefore essential components in accordance with § 93 BGB. For payments involving a cheque/bill of exchange method, retention of title also applies after payment by cheque to the point of discharge from the endorser's liability.

In the event of a current account relationship (business relationship), Cartesy retains ownership until all payments from the existing current account relationship have been received; the proviso relates to the acknowledged balance; in such cases the provisions of this article apply accordingly.

2. If the customer acts in violation of the contract, particularly in the case of delayed payment, Cartesy is entitled to take back the goods after a period of grace has passed without remedy. Repossession shall only constitute withdrawal from the contract if an appropriate period of grace set by Cartesy elapses without remedy and withdrawal is explicitly stated.

The costs incurred by Cartesy through repossession (in particular transport costs) shall be borne by the customer.

Cartesy is also entitled to prohibit the customer from any onward sale or processing, combining or mixing of goods supplied subject to the retention of title, and to revoke the direct debiting mandate (number 5).

The customer is only able to demand the delivery of goods taken back without express notification of withdrawal after full payment of the purchase price and all costs.

3. The customer is required to handle the goods carefully (including the requisite inspection and maintenance work).
4. The customer is not entitled to pledge the delivery item and their associated receivables, or to transfer or assign these as security. In the case of seizure of the goods or other interventions by third parties, Cartesy must be informed in writing without delay so that Cartesy can commence legal proceedings in accordance with § 771 ZPO (German Civil Procedure Code).

Regardless of a successful outcome, the customer shall bear any outstanding costs incurred by Cartesy in accordance with § 771 ZPO.

5. The customer is entitled to sell the purchase item within the framework of an ordinary commercial transaction, process or combine it; however, the customer hereby transfers to Cartesy all receivables arising from the onward sale, processing, combination, or on any other legal grounds (in particular arising from insurance policies or unlawful acts) to the value of the agreed final amount owing (including VAT). If the delivered goods are sold on together with other goods that do not belong to the customer, the customer transfers the resultant receivables to Cartesy to the value of the agreed gross price.

The customer remains authorised to collect these receivables also after this transfer, whereby the right of Cartesy to collect the receivables remains unaffected.

However, Cartesy undertakes not to collect the receivables as long as the customer fulfils their obligations to make payment from the proceeds collected, does not fall into payment arrears, and does not file for insolvency and does not discontinue payment.

However, if this is the case, upon request the customer shall inform Cartesy of the assigned receivables and the debtors, provide all information necessary for the collection, hand over the relevant documents and inform the debtors (third parties) of the transfer.

6. The reservation of title also extends to products at their full value, which are created as a result of the processing or combination of our goods. If the ownership rights of third parties remain intact with the processing or combination with their goods, the customer shall grant Cartesy co-ownership in relation to the objective value of these goods; it is hereby agreed that the customer shall carefully safeguard the goods for Cartesy in this case.

If goods subject to the retention of title are combined with other movable goods to produce homogeneous goods or if they are inseparably mixed and if the other goods are then to be considered the principal item, the customer shall grant Cartesy proportionate co-ownership insofar as the principal item belongs to them; the customer shall safeguard the resulting (co-)ownership for Cartesy. Further to this, the same shall apply to goods resulting in this manner as to goods delivered under retention of title.

7. To secure Cartesy's claims against them, the customer shall also assign to Cartesy such receivables as arise against third parties through the combination of the purchased items with real estate. Cartesy hereby accepts this assignment.
8. If the realisable value of the securities exceeds our receivables by more than 10% then Cartesy shall release securities of our choosing upon request by the customer.
9. Where the reservation of title in the country of destination is associated with special conditions or formal regulations, the customer assumes responsibility for their fulfilment.

V. Delivery deadlines, delay

1. Compliance with the delivery periods requires the on-time receipt of all documents to be supplied by the customer, the required permits and releases, especially of plans, as well as compliance with the stipulated payment terms and other obligations by the customer. If these preconditions are not satisfied in a timely manner, the deadlines shall be extended by an appropriate period; this does not apply if Cartesy is responsible for the delay.
2. If unforeseeable impediments should arise, which are outside the sphere of influence of Cartesy and which Cartesy is unable to avert despite the application of due diligence according to the circumstances of the case - regardless of whether these occur with Cartesy or their subcontractors - such as force majeure (e.g. war, mobilisation, riots, fire and natural disasters), delays in the delivery of essential preliminary products and raw materials, etc. - Cartesy is entitled to withdraw in whole or part from the delivery contract, or to extend the delivery period by the duration of the impediment. Cartesy has the same entitlements in the event of a strike or lockout at Cartesy or its subcontractors. Cartesy shall inform the customer of such circumstances with immediate effect. In such cases the customer is not entitled to withdraw or invoke any agreed contract penalty. If Cartesy should withdraw then any consideration previously provided by the customer shall be reimbursed immediately.
3. All deliveries are subject to the correct and timely delivery of our own supplies. The customer shall be notified with immediate effect of any delays. If Cartesy is not supplied correctly or promptly by its suppliers and Cartesy is not

responsible for this delay then the delivery time shall be extended by a corresponding period. In this case, Cartesy can also declare withdrawal from the contract as a result of the undelivered goods. Insofar as permissible under competition law, Cartesy shall transfer to the customer their claims against the supplier as result of a failure to supply in accordance with the contract. In such cases the customer is not entitled to withdraw or invoke any agreed contract penalty. Cartesy shall reimburse any consideration provided by the customer immediately.

4. In the event of a delivery delay, after an appropriate period of grace has passed without remedy, the customer can withdraw from the contract; if performance is impossible then the customer is also entitled to withdraw without granting a period of grace.
5. In the event of delivery delay the customer is obligated, when asked by Cartesy, to state within an appropriate period whether they wish to withdraw from the contract or await delivery.
6. If delivery or dispatch are delayed by more than one month after notification of readiness for dispatch per the customer's request, the customer may be billed for storage costs amounting to 0.5 % of the price of the delivery objects for each month commenced, although no more than 5 % in total. Cartesy is entitled to provide proof of greater loss or costs; the customer is entitled to prove that significantly lower losses or costs, or no losses or costs, were incurred.

VI. Transfer of risk

1. The risk is transferred, also with deliveries carriage paid, as follows:
 - a) With deliveries without installation or assembly, when these are dispatched or collected. Upon request by the customer, Cartesy shall insure shipments against the customary transport risks at the expense of the customer;
 - b) With deliveries with installation or assembly on the day of handover on the company's own premises, or following a faultless test run if this is agreed.
2. If shipping or collection are delayed or become impossible through no fault of Cartesy, the risk transfers to the customer with the notification that the goods are ready for dispatch/collection.
3. If the customer is delayed with acceptance then the risk passes to them.

VII. Installation and assembly

Unless otherwise agreed in writing or unless special assembly conditions apply, the following provisions apply to installation and assembly:

1. The customer must perform and complete the following at their own costs and in good time:
 - a) All earthworks, construction and other non-industry ancillary works, including provision of the necessary assistant and auxiliary personnel, construction materials and tools,
 - b) The materials and equipment required for assembly and commissioning, such as scaffolding, lifting equipment and other devices, fuel and lubricants, energy and water at the place of use, including connections, heating and lighting,
 - c) At the assembly site sufficiently large, dry, suitable and lockable rooms for the storage of machine parts, apparatus, tools, etc., and appropriate working and recreation rooms for the assembly personnel including sanitary facilities appropriate for the circumstances; furthermore the customer shall also implement measures to protect the property of Cartesy and the assembly personnel on the construction site,

commensurate with those they would implement to protect their own possessions,

- d) Protective clothing and protective equipment necessary due to the special circumstances at the assembly site.
2. Prior to starting the assembly work the customer shall make available the necessary information regarding the position of concealed electricity, gas and water lines, or similar systems, as well as the necessary structural information without request.
3. Before commencing with the installation or assembly, the provisions and objects required for starting the work must be present at the installation or assembly site, and all preparatory works must be sufficiently advanced before work commences, such that the installation or assembly work can start as agreed and can proceed without interruption. Access roads and the installation or assembly area must be level and clear.
4. If installation, assembly or commissioning are delayed due to circumstances for which Cartesy is not responsible then the customer shall cover appropriate costs for waiting times and additional travel by the assembly personnel.
5. The customer is required to confirm the working hours of the assembly personnel on a weekly basis, as well as the end of the installation, assembly or commissioning works without delay.
6. If Cartesy demands acceptance of the delivery after completion then the customer must conclude this within two weeks. If this does not take place without a justified reason existing for non-acceptance then acceptance is deemed to have taken place. When requesting acceptance, Cartesy shall inform the customer that their silence shall also constitute acceptance. Acceptance is also deemed to have taken place if the delivery - where applicable after the completion of an agreed test phase - is put into operation by the customer. Cartesy shall inform the customer that their silence shall also constitute acceptance.

VIII. Test run/test version

1. A test run can be agreed with Cartesy. For this purpose, the customer shall be furnished with a test device. Cartesy expressly states that the test devices exclusively serve the purpose of enabling testing of the function desired by the customer. Cartesy only provides a guarantee here for the technical data specified in the product documentation (in particular in the data sheet, quotation, operating manual) on condition of compliance with the framework conditions stipulated there. Cartesy does not guarantee that the test devices are suitable for the customer's desired purpose and/or a certain application of the customer, unless Cartesy has expressly guaranteed this.
2. The customer is responsible for performing the test run with consideration to the customary diligence and under real application conditions, and to check the test devices for suitability for their application and their intended purpose.
3. If the customer decides to purchase a product from Cartesy then Cartesy shall not be liable for ensuring that the purpose/success targeted by the customer (e.g. savings) is achieved, unless Cartesy has expressly assured this and/or is responsible for the damages incurred by the customer.

IX. Warranty

Cartesy shall be liable as follows for defects in delivery as far as the customer is a merchant, but only in case of proper compliance with the obligations of examination and objections under § 377 HGB (German Commercial

Code) (the complaint shall be made in writing):

1. The customer may not reject acceptance due to insignificant defects.
2. If the purchased item is defective, Cartesy shall have the right to choose between rectifying the defect or supplying a new item free of defects (supplementary performance).

A prerequisite is that this concerns a not insignificant defect.

If one of the two or both types of this supplementary performance should be impossible or unreasonable, Cartesy shall be entitled to refuse it.

The customer must give Cartesy the time and opportunity necessary for the due supplementary performance, and must in particular hand over the goods for which a complaint was made for purposes of inspection. In the event of a replacement delivery, the customer must return the faulty object to Cartesy in accordance with statutory regulations. The supplementary performance does not include the disassembling of the defective goods or the subsequent installation if Cartesy was not responsible for carrying out the original installation.

The expenses necessary for the purpose of inspection and supplementary performance, in particular transport, travel, work and material costs (not: disassembly costs and subsequent installation costs) shall be borne by Cartesy, if a defect is found to be present. Otherwise Cartesy is able to demand that the customer reimburse any costs incurred by Cartesy (in particular test and transport costs) arising from the unjustified demand for rectification of defects, unless the lack of defect could not be detected by the customer.

In urgent cases, e.g. where there is a risk to industrial safety or for the prevention of disproportionately large damages, the customer is entitled to rectify the defect themselves and demand that Cartesy reimburse the costs objectively required for this. Cartesy shall be informed about these independent activities as soon as possible, in advance if possible. There is no right to carry out independent rectification, if Cartesy would have been entitled to refuse supplementary performance in accordance with the statutory provisions.

3. Should the supplementary performance indicated in paragraph 2 be impossible or unsuccessful, the customer shall have the right to either reduce the purchase price accordingly or to withdraw from the contract according to the statutory provisions at their discretion; this shall apply especially in case of culpable delay or refusal of supplementary performance, also if it is unsuccessful for a second time.
4. No warranty cover is provided for damages incurred due to the following reasons: Improper use or use other than intended use, incorrect assembly by the customer and/or a third party, normal wear and tear, incorrect or negligent handling by the customer and/or a third party, unsuitable operating materials, faulty construction work, unsuitable construction ground, chemical, electrochemical or electrical influences (insofar as they are not the responsibility of Cartesy), any modifications or repair work on the part of the customer or third parties that are unprofessional and have been carried out without prior approval by Cartesy.
5. Any claims for defects shall fall time expired in one year after delivery of the goods. The statutory limitation shall be 5 years for a product that has been used according to its usual application for a building and has caused its defectiveness.
6. Warranties and guarantees shall only be provided effectively if Cartesy grants them explicitly. In particular,

Cartesy is not liable for the purpose/success desired by the customer unless Cartesy has expressly confirmed this success.

X. Industrial property rights and copyrights, rights of use

1. Cartesy reserves the unlimited exploitation rights, ownership rights and copyrights to cost estimates, drawings and other documents (hereafter referred to as: Documents). The documents may only be made accessible to third parties after prior consent by Cartesy, and if Cartesy is not awarded the contract then they shall be returned to Cartesy immediately upon request. This applies likewise for documents of the customer; however, they may be made accessible to those third parties to which Cartesy has admissibly transferred deliveries.
2. Cartesy is the legal owner of all rights to the software/programs covered by this contract, or is authorised by the owner to further dispose of the respective software/programs. The customer obtains the non-exclusive right to their use with the agreed performance features in unaltered form, on the agreed devices (license). The customer is entitled to perform data backups and to make the required backup copies according to standard engineering practice. The customer is not entitled to modify or remove existing copyright marks. The license does not include any right for the customer to edit or modify the program.
3. Unless otherwise agreed, Cartesy is obligated to render delivery free from industrial property rights and copyrights of third parties (hereafter referred to as: Industrial property rights) only in the country of the place of delivery. If a third party raises justified claims against the customer due to the infringement of industrial property rights arising from contractually used deliveries supplied by Cartesy then Cartesy shall be liable to the customer within the period determined in Article IX. 5, as follows:
 - a) Cartesy shall, at their cost and discretion, either obtain a right of use to the deliveries concerned, or change them such that the industrial property rights are not infringed, or replace them. If Cartesy is unable to do so under reasonable conditions, the customer shall be entitled to the statutory rights of withdrawal or reduction.
 - b) The above-mentioned obligations shall only exist insofar as the customer immediately notifies Cartesy in writing of the claims lodged by the third party, does not admit an infringement, and if all defence measures and settlement negotiations are reserved for Cartesy.
 - c) If the customer stops using the delivery for reasons of mitigation of damage or on other important grounds, they shall be obligated to indicate to the third party that stopping use is not connected with the admission of an infringement of an industrial property right.
4. Claims by the customer are excluded insofar as they alone are responsible for the infringement of the industrial property right.
5. Claims by the customer shall be further excluded insofar as the infringement of the industrial property right is caused by specific requirements of the customer, by an application not foreseeable by Cartesy, or due to the fact

that the delivery was changed by the customer or used together with products not supplied by Cartesy.

XI. Liability

1. Cartesy shall be liable for deliberate and grossly negligent violation of obligations, as well as for violation of substantial contractual obligations (cardinal obligations) in case of minor negligence. In the latter case, the liability of Cartesy shall be limited to the damage typically foreseeable at the conclusion of the contract.
2. Cartesy shall not be liable in case of slightly negligent violations of minor contractual obligations.
3. Statutory liability for damages arising due to injury to life, limb or health and according to product liability law remains unaffected. The exclusion and limitation of Cartesy's liability shall also apply for Cartesy's legal representatives and vicarious agents.
4. The exclusion of liability shall not apply insofar as Cartesy has maliciously concealed a defect or has provided a guarantee of the condition of the goods.
5. Cartesy shall only be liable for the loss of data if this would not have been unavoidable with reasonable data backup measures, and if this is not caused by disturbances and influences of third parties.
6. The customer is only able to withdraw from or terminate the contract owing to a violation of obligations that does not consist of a defect, if Cartesy is responsible for the violation of obligations. A free right of termination on the part of the customer (in particular per §§ 651, 649 BGB) is excluded. Moreover, the statutory pre-requisites and legal consequences shall apply.
7. Cartesy shall not be liable for damages caused by products (software/hardware) supplied to the customer by Cartesy, if the damage is the result of changes to a significant characteristic of the product made by the customer or a third party.

XII. Place of performance, place of jurisdiction, applicable law and distribution of the burden of proof, data protection and gender equality

1. Place of performance is the place of shipment (place of works or storage).
2. In as far as the customer is also a merchant, a legal entity subject to public law or a special public fund, the exclusive place of jurisdiction shall be the place of Cartesy's registered office for all direct and indirect disputes relating to this contractual relationship. However, Cartesy is also entitled to raise an action at another permissible place of jurisdiction.
3. The legal relationships arising in conjunction with this contract shall be subject to German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws of the EGBGB (introductory law to the BGB).
4. Cartesy shall use all customer data exclusively for the purposes of commercial transactions and according to the requirements of the respective valid provisions on data protection. All terms and definitions used are to be understood as gender-neutral.