

General Terms and Conditions

1. Goods are sold and services rendered by AMETEK exclusively on the basis of the following General Terms and Conditions. These form a part of all contracts concluded by AMETEK with other contracting parties for the goods or services offered by it. If the other contracting party is an entrepreneur within the meaning of sec. 14 BGB (German Civil Code), these General Terms and Conditions apply also to all future deliveries of goods or services even if not again separately agreed on.

2. All General Terms and Conditions used by orderers or third parties are excluded even if AMETEK does not separately object to their applicability in a specific case. Deviating agreements are valid only if they are concluded separately in writing. The General Terms and Conditions of AMETEK apply also if AMETEK unconditionally delivers to the orderer with knowledge of the orderer's general terms and conditions inconsistent with or deviating from its own. Even if AMETEK refers to a letter containing or referring to the orderer's or a third party's terms and conditions, this does not constitute its consent to the applicability of those terms and conditions.

A. General Provisions

I. Offer and Delivery

1. AMETEK retains full ownership and all copyrights to all cost estimates, plans, drawings, operating instructions and training materials as well as other documents, also if they are stored on data carriers; they may be made accessible to third parties only with the prior written consent of AMETEK. If no order is placed, the documents including any copies must be returned promptly to AMETEK at its request.

2. The conditions for the delivery of goods and the rendering of services by AMETEK follow from the confirmation of the order. In case of an offer binding for a limited period of time, the offer applies, provided it is accepted in time and no separate confirmation of the order is made.

3. If the orderer is an entrepreneur within the meaning of sec. 14 BGB, deviations customary in trade or commerce and deviations which are made on the basis of legal provisions or which represent technical improvements are admissible, likewise the replacement of components by parts of equal value, provided the usability for the contractually intended purpose is not impaired.

II. Prices and Terms of Payment

1. The prices are understood "ex works" without assembly or installation and excluding packaging, plus VAT. Payment is to be made free at the place of payment within 30 days of the invoice date. Invoices for services, maintenance and calibration work must be paid within 15 days.

2. The orderer can set off its claims from AMETEK's claims only if they have been awarded by final judgement, are undisputed or have been recognized by AMETEK in writing. The orderer has a right of retention only in respect of claims arising from the same contractual relationship.

3. If the orderer cancels an order without good reason before readiness for shipment or before the service or maintenance or calibration work is performed, AMETEK can demand 25% of the sales price or of the remuneration for the costs caused by processing the order and for lost profits, without prejudice to its right to demand compensation for an actual greater loss. If the order is cancelled after readiness for shipment or after the beginning of work, 35% of the sales price or of the remuneration shall be paid. The orderer retains the right to prove a smaller loss.

III. Delivery and Performance Period

1. The time for delivery or performance in accordance with I.2 can be observed only once all technical questions have been cleared up and all documents to be made available by the orderer are received in time, e.g. export papers, permits, certificates, approvals, plans, and provided the agreed terms of payment have been observed and other obligations fulfilled. Otherwise the period must be reasonably extended. The defence of non-performance of the contract is reserved.

2. If shipment is agreed on, the delivery periods and delivery dates relate to the time of the hand-over to the carrier, forwarder or other third party charged with the transportation. Should delivery be delayed for reasons with the orderer is responsible for, the time of the notification of readiness for shipment shall be deemed to be the day of delivery.

3. If the shipment or the actual delivery is delayed at the orderer's request, AMETEK can demand a storage fee of 0.5% of the invoice amount for every beginning of a month or a provable higher storage fee, beginning 4 weeks after the notification of readiness for shipment.

IV. Passing of the Risk

The risk shall pass over to the orderer, also if freight-free delivery or return shipment was agreed on, as soon as the consignment is shipped by AMETEK (hand-over to the carrier) or is collected by the orderer. Deviating from this, the risk shall pass over in case of a purchase of consumer goods within the meaning of secs. 474 et seq. BGB only at the time of the hand-over of the goods to the orderer. Best care must be exercised in packaging the goods, the shipment must be arranged at AMETEK's best discretion. At the orderer's request and expense, the consignment will be covered by transport insurance. If the shipment, the beginning of installation or assembly work or such work is delayed at the orderer's request or for reasons that the orderer is responsible for, the risk shall pass over to the orderer at the beginning of the delay.

V. Installation and Assembly

1. AMETEK is obliged to install and assemble only if this is expressly agreed on.

2. If AMETEK undertakes to install or assemble for separate remuneration, the following applies:

a) The orderer will pay to AMETEK the agreed rates for working time and surcharges for extra work, work at night or on Sundays or public holidays, for work under difficult conditions and for planning and supervision. Preparatory and operating times as well as reports back shall be deemed to constitute working time.

b) Furthermore the following costs will be remunerated separately:

Travelling costs, costs for the transportation and insurance of workmen's tools and personal baggage, costs for overnight accommodation and meals.

VI. Acceptance of Delivery

1. Goods delivered are to be accepted by the orderer. This applies even if the goods delivered have evident defects, the statutory duties to report and complain apply.

2. AMETEK has the right to make partial delivery only if (a) the partial delivery is useful for the orderer for the contractually intended purpose, (b) the delivery of the remaining ordered goods is ensured and (c) no considerable amount of extra work or additional costs arise for the orderer (unless AMETEK declares its willingness to pay these costs).

3. The orderer undertakes to take care of the disposal of packaging at its own expense and releases AMETEK from all legal obligations in connection with packaging waste in accordance with the regulation for the avoidance of packaging waste.

VII. Retention of Title

1. If the orderer is an entrepreneur within the meaning of sec. 14 BGB, AMETEK retains title to the object of purchase or to parts brought in for repairs and service work until all claims (including all claims to the balance on current accounts) under the contract and for any legal reason which AMETEK may have against the orderer now or in future have been received. If the orderer is a consumer within the meaning of sec. 13 BGB, AMETEK retain title to the object of purchase until full payment of the purchase price for this thing. In case of breach of contract by the orderer, especially default in payment, AMETEK has the right to demand that the things sold subject to retention of title be handed over, provided we cancelled the contract. AMETEK has the right to realize the thing after it is taken back and to set off the realization proceeds from the orderer's liabilities, deducting reasonable realization costs.

2. The orderer is obliged to carefully treat the thing and to insure it for the reinstatement value against fire, water and theft at its own expense. If maintenance and inspection work is necessary, the orderer must carry out such work in time at its own expense.

3. In case of a levy of execution or other third-party interference, the orderer must inform AMETEK promptly in writing to enable AMETEK to take legal action or seek legal remedies. The orderer is liable for damages if the third party is not able to compensate AMETEK for the court and/or out-of-court costs.

4. The orderer has the right to resell the object of purchase or the repaired thing in the ordinary course of business; however the orderer hereby already assigns to AMETEK all claims in the full invoice amount including VAT arising for the orderer from the resale against his customers or against third parties, regardless of whether the thing was resold without or after further processing. AMETEK accepts the assignment. The orderer remains entitled to collect this claim even after the assignment. The right of AMETEK to collect the claim itself remains unaffected. However, AMETEK will not collect the claim as long as the orderer discharges his payment obligations out of the proceeds, is not in default in payment and especially no application for the institution of composition or insolvency proceedings is made or payments are discontinued. If any of the above events occurs, AMETEK can demand that the orderer inform it of the assigned claims and the debtors, provide all information necessary for the collection of the claims, hand over the related documents, and inform the debtor (third party) of the assignment. AMETEK also has the right to notify the debtor of the assigned claim itself.

5. The processing or conversion of the thing by the orderer always takes place for AMETEK as the manufacturer within the meaning of sec. 950 BGB. If the thing is processed with other things not belonging to AMETEK, AMETEK acquires co-ownership of the new thing in the proportion between the value of the thing (invoice amount including VAT) and the other processed things at the time of processing. The same provisions apply analogously to the thing created by processing.

6. If the thing is inseparably mixed with other things not belonging to AMETEK, AMETEK acquires co-ownership of the new thing in the proportion between the value of the thing (invoice amount including VAT) and the other mixed things. If the things are mixed in such a way that the orderer's thing is to be regarded as the principal thing, it is agreed that the orderer will transfer co-ownership to AMETEK proportionately. The orderer shall safeguard the sole ownership or co-ownership thus arising for AMETEK.

7. The orderer also assigns to AMETEK the claim as security for its claims against the orderer which arise against a third party from a combination between the object of the purchase and a piece of real estate. AMETEK accepts the assignment.

8. If further measures are necessary in the orderer's country to make retention of title effective, the orderer is obliged to carry out these measures or to co-operate in their implementation.

9. AMETEK will release its security at the orderer's request if the realizable value of the security held by AMETEK persistently exceeds the claims to be secured by more than 20%; the selection of the security to be released is made by AMETEK.

VIII. Liability for Defects

1. The orderer's warranty claims are contingent upon the performance of the statutory obligation to examine and complain by the orderer. There is no warranty if the orderer changes the delivery item or has it changed by third parties without the consent of AMETEK and remedial work is thereby made impossible or unreasonably difficult. The orderer must in any case bear the extra costs for remedial work caused by the changes.

2. In case of a defect, AMETEK has the option to perform subsequently either by remedying the defect or by delivering a new defect-free thing. In case of a purchase of consumer goods within the meaning of secs. 474 et seq. BGB, the statutory provision in sec. 439 (1) BGB remains applicable. If AMETEK chooses to remedy the defect, AMETEK must bear all expenses necessary for the purpose of remedying the defect, in particular transportation, travelling, labour and material costs. This shall leave unaffected the right of AMETEK to refuse the kind of subsequent performance chosen by the orderer in accordance with sec. 439 (3) BGB if that would involve disproportionate costs. Apart from that, the orderer must bear the costs. If subsequent performance fails, the orderer can cancel the agreement or reduce the price.

3. The limitation period for warranty claims is 12 months from the time of the passing of the risk. This does not apply to damage claims arising from defects which were caused with intent or through gross negligence or resulted in wrongful death or physical injury or harm to human health; in these cases the statutory periods apply. In case of a purchase of consumer goods within the meaning of secs. 474 et seq. BGB, the limitation period counting from the time of the passing of the risk is two years for newly manufactured things and one year for used things. The limitation period in case of recourse against the supplier pursuant to secs. 478, 479 BGB shall remain unaffected.

IX. Orderer's Rights to Cancel the Contract, Further Limitation of Liability

1. In case of a disruption of business due to force majeure, strikes or a shortage of raw materials, AMETEK can cancel the agreement unless the event only temporarily prevents performance. The rights of AMETEK under sec. 313 BGB shall remain unaffected.

2. The orderer can cancel the agreement if it definitely becomes impossible for AMETEK to perform entirely prior to the passing of the risk. The same applies if AMETEK is unable to perform. The orderer can also cancel the agreement if a number of things of the same kind was ordered and it becomes impossible to deliver a number of these things, and the orderer has a legitimate interest in rejecting the partial delivery; if that is not the case, the orderer can reduce the amount of payment accordingly.

3. If the impossibility arises during a time of default in acceptance or through the orderer's sole or primary fault, the orderer remains obliged to perform, unless the impossibility was caused by wilful intent or gross negligence of AMETEK during the time of default in acceptance.

4. AMETEK is liable for wilful intent or gross negligence on the part of its directors, legal representatives, employees or other persons employed by it in the performance of its contractual obligations or for any culpable violation of essential contractual duties. Such duties are the obligation to punctually deliver the delivery items essentially free from major defects as well as duties to advise, protect and take care, enabling the orderer to use the things in accordance with the contract or intended to protect the life or health of the orderer's staff or to protect its property against serious damage. In case of a slightly negligent violation of essential contractual duties, AMETEK is liable only for the damage which is typical of contracts of the kind concerned and is reasonably foreseeable. If the orderer is an entrepreneur within the meaning of sec. 14 BGB, this applies also in case of gross negligence. Indirect damage and consequential loss arising in consequence of a defect are recoverable only insofar as such damage is typically to be expected from the intended use of the thing. The liability of AMETEK under guarantees or for a procurement risk, because of wrongful death or physical injury or harm in accordance with the Product Liability Act shall remain unaffected. Any liability going beyond this is excluded.

X. Export Control

The products which are delivered can contain technology and software governed by the export control legislation of the Federal Republic of Germany as well as the control legislation of the United States of America or of the countries into which the products are delivered or where they are used. The orderer undertakes to strictly observe these provisions. Under these laws, certain products must in particular not be delivered to certain users or delivered to or licensed in certain countries which are involved in activities in connection with weapons of mass destruction or genocide. The orderer knows that the export control rules provide for different restrictions and are regularly amended, depending on the acquired goods. The orderer represents that the provisions currently in force will be checked and observed prior to any exportation or re-exportation of the products. AMETEK has the right to cancel the contract at any time if export rules are violated.

B. Special Provisions for Calibration Services

AMETEK maintains calibration laboratories. Here, in addition to general services in connection with the traceable calibration of measuring and test equipment, special calibration services are performed on the basis of an accreditation by Deutsche Akkreditierungsstelle GmbH (DAKKS). These calibration services are governed supplementarily to and, in case of contradictions, with priority over the provisions in Part A of these conditions by the following provisions.

1. Insofar as DAKKS calibration work is performed, the scope and content of the accreditation of AMETEK follow from the accreditation document as well as the related annex to the document, in each case as amended. The accreditation document and the annex are available at all times on the website of AMETEK under www.ametek.de. The accreditation allows AMETEK to issue DAKKS calibration certificates. Details are set out in the annex to the accreditation document. See www.ametek.de. AMETEK has the right to record the calibrations performed by it, to store these data and to pass them on to the accreditation entity in order to perform its documentation duties.

2. If the orderer places the order with reference to a written cost estimate by AMETEK, and the completeness of the object to be calibrated as well as its ability to be calibrated are determined upon receipt of the object to be calibrated, the orderer will receive a written order confirmation. However, the calibration will begin only after the presentation of all necessary documents, especially the operating instructions, and only once the necessary accessories have been received. If documents or accessories necessary for calibration are missing, AMETEK has the right to reject the calibration order.

3. AMETEK will in general charge a lump sum for its services, determined on the basis of prior experience and documented in a price list. Furthermore, prices can be charged on the basis of hourly rates multiplied by the number of the hours of work, plus the necessary materials. If prices are calculated on the basis of hourly rates and materials used, the invoice amount for the orderer follows from the addition of the necessary working time for the calibration work, e.g. for shipment, in the calibration laboratory, for other necessary work etc., multiplied by the hourly rate fixed by management. If it is determined in the course of the calibration work that the object to be calibrated is not capable of calibration, about the order processing will be informed in writing and the costs incurred up to that time will be calculated. The defect is to be documented and the calibration order to be rejected with reasons. If additional adjustment work is necessary for calibration, the orderer must be informed by telephone or in writing about the extra expenses caused thereby. If the orderer wants a separate cost estimate or an amended order confirmation for this, the calibration process will be suspended for the necessary time period. Materials and packing materials used in the course of the preparations and the actual calibration process and to send the equipment to the orderer as well as postage and transport costs will be charged separately.

4. If the calibration fails entirely or partly or cannot be performed in the form desired by the orderer, AMETEK retains the full payment claim provided AMETEK informed the orderer before or when the order was placed about the risk of failure, unless the missing or limited success is due to the defective conduct of the calibration process. If the calibration fails because of a defect of the device to be calibrated, AMETEK must be compensated for the time of work until then. If the agreed delivery period changes in the course of the processing of the customer's order, due to unforeseeable circumstances such as failure of the reference standards, temporary inability of the laboratory staff to work or defects in the final evaluation in the QM test, the orderer will be informed promptly by telephone or in writing. If calibrations are necessary to perform the order which cannot be carried out because of the range of services of the calibration laboratory or unforeseeable circumstances, laboratories able to perform the calibration tasks concerned can be used as subcontractors. These calibration laboratories must satisfy the requirements of DIN EN ISO/IEC 17025 or successor provisions. For this purpose the head of the calibration laboratory will obtain an offer from the calibration laboratory in question and then decide whether to use the subcontractor after consulting the orderer. If the subcontractor is chosen by the orderer or by a public authority, the responsibility for the work to be done is upon the orderer or, as the case may be, the authority.

5. If the device provided by the orderer has a defect which impairs the technical function or the ability to be calibrated, AMETEK will at the orderer's request send the device to the manufacturer/supplier for repairs. For the sake of simplicity, the repair order will be placed in the name and for the account of AMETEK, unless the orderer expressly demands in advance that the order be placed in its name. Regardless of who formally places the order, AMETEK has the right, in addition to external costs to be paid, to charge the orderer a handling fee, the amount of which is stated in the current price list (see www.ametek.de). Packaging expenses as well as shipment or transport costs can be separately charged by AMETEK.

Complaints regarding the nature, quality and result of calibration work must be addressed to the calibration laboratory in writing within a preclusive period of six months after the calibration certificate is issued.

In case of slight negligence the liability of AMETEK for damages is limited to € 250,000 for property damage and € 50,000 for financial loss.

The limitation of liability applies also as between the orderer and employees, persons employed by AMETEK in the performance of its contractual obligations, and suppliers as well as other persons involved in the calibration process. The limitation of liability does not apply in case of a culpable violation of essential contractual duties. In these cases AMETEK shall be liable – except in case of wilful intent or gross negligence – only for the damage typically to be expected of this kind of contract and reasonably foreseeable. Apart from that, the provisions in A.IX.4 apply.

C. Final Provisions

1. If any provisions of the Agreement are invalid, the other parts remain valid.

2. The law of the Federal Republic of Germany is applicable. The court language is German. The applicability of U.N. sales law is excluded. The court at the domicile of AMETEK has exclusive jurisdiction in case of any and all disputes arising from the contractual relationship, provided the orderer is a merchant within the meaning of secs. 1 et seq. HGB (German Commercial Code). AMETEK also has the right to sue at the orderer's domicile. Mandatory legal provisions on exclusive jurisdiction remain unaffected by this provision.