

General Terms and Conditions

of Gebr. Faller GmbH, Kreuzstrasse 9, 78148 Gütenbach (hereinafter referred to as the "Contractor"),

Tel.: +49 (0) 7723/651-0, Fax: +49 (0) 7723 / 651-123,

Email: info@faller.de

for distance selling via www.faller-create.de (as at 02/2020)

1. Scope of application, consumers, entrepreneurs

1. The following General Terms and Conditions apply to all contracts concluded as part of electronic business transactions between the Contractor and the orderer via the website www.faller-create.de.
2. These General Terms and Conditions apply equally to orderers who are consumers as well as to entrepreneurs. A consumer means every natural person who enters into a legal transaction for purposes that are predominantly outside his or her trade, business or profession (§ 13 German Civil Code [BGB]). An entrepreneur means a natural or legal person or a partnership with legal capacity who or which, when entering into a legal transaction, acts in exercise of their trade, business or profession (§ 14 German Civil Code). Where the order serves both purposes, then the purpose that prevails shall be decisive for the classification.
3. If the orderer is an entrepreneur, the following applies: these General Terms and Conditions apply exclusively for all - including future - deliveries and services. Unless it acknowledges them in writing, no conflicting or additional terms of the orderer are binding on the Contractor, even if the Contractor does not object to them in the individual case. In cases where there has been written acknowledgement of other terms, these only apply to the respective individual agreement. This does not affect any separate agreements between the Contractor and the orderer.

2. Conclusion of the contract

1. The service descriptions on the website www.faller-create.de do not represent an offer of the Contractor to conclude a contract, but instead are non-binding requests to place orders.
2. The orderer can create 3D objects using the online configurator and collect them in a virtual shopping basket using the "Shopping Basket" button. This process is non-binding and does not constitute an offer of a contract. In the shopping basket, the orderer can view the goods, edit the 3D object further, change the quantity and remove the goods from the shopping basket. Via the "Order" button, the orderer can proceed to the further order process and can enter an invoice address and, if required, a different delivery address, as well as select a payment service provider. During and at the end of the order process in the order overview, the orderer can check the details of the billing address, delivery address and goods and change them if necessary.
3. Using the button "Order and pay", the orderer submits a binding application for the purchase of the goods in the shopping basket at the prices shown there and in accordance with the payment terms specified there. The order can only be placed if the orderer confirms by checking the box that they agree with the terms and conditions, have taken note of the data privacy policy and have independently checked its design within the configurator. The General Terms and Conditions and the data protection information are stored as hyperlinks and can be called up by the orderer.

4. After submitting a binding request for the purchase of the goods in the shopping basket by the orderer, the Contractor sends an automatic confirmation of receipt by email (order confirmation). The automatic confirmation of receipt contains all relevant data regarding the order, the General Terms and Conditions and a notification of the legally required information in text form. The orderer can save and print this information out. The contract data is also available within the user account on www.faller-create.de. The automatic confirmation of receipt merely documents that the orderer's order has been received by the Contractor and does not constitute acceptance of the orderer's offer.
5. A contract for the production and delivery of a 3D object created in the online configurator is only concluded with the express declaration of acceptance by the Contractor in a separate email (order and shipping confirmation). The Contractor reserves the right to decline the order.
6. The place of performance for the manufacture and delivery of the 3D objects ordered via the website www.faller-create.de is the registered office of TinkerToys GmbH in Breitschneidstr. 51, 39114 Magdeburg.
7. The contract is concluded in the German language.
8. The contract is concluded with:

Gebr. FALLER GmbH

Kreuzstrasse 9

78148 Gütenbach

Tel.: +49 (0) 7723/651-0

Fax: +49 (0) 7723 / 651-123

Email: info@faller.de.

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3. No right of revocation

The orderer has no right of revocation, since the 3D objects are not prefabricated and an individual determination by the orderer is required for their production (§ 312g Para. 2 No. 1 BGB).

4. Prohibited 3D objects

1. The orderer may not have 3D objects manufactured by the Contractor which:
 1. breach rights of third parties, in particular copyrights, trademarks, utility models or patent rights,
 2. breach other statutory provisions or official regulations, for example § 23 Trade Secrets Act (disclosure of trade secrets), § 204 Criminal Code (exploitation of secrets of another), § 130 Criminal Code (incitement to hatred), § 86a Criminal Code (using symbols of unconstitutional organisations)
 3. or breach public policy in any other way.
2. In the event of a breach by the orderer of essential contractual obligations (in particular from Clause 4.1), the Contractor may interrupt the production and delivery of the 3D object in whole or in part, provisionally or permanently and/or withdraw from the contract. When choosing which measure to take, the Contractor must also consider the interests of the orderer, in particular the type and extent of the breach of obligation.
3. Furthermore, the Contractor is entitled to suspend if a third party credibly shows that the manufacture of the 3D object by the orderer has resulted in a rights violation or if there are indications that the

orderer's obligations pursuant to Clause 4.1 have been breached; the Contractor does not have to verify whether the rights violation asserted is justified; the orderer is obliged to mount a legal defence for itself, e.g. by taking appropriate action against the third party.

4. The Contractor will inform the orderer of any suspension without undue delay and request him to provide a statement.
5. The orderer will indemnify and hold the Contractor harmless from all claims which third parties assert against the Contractor as a result of a breach of the orderer's obligations pursuant to Clause 4.1 and will also compensate the Contractor for all damage which results therefrom.

5. Manufacture and delivery of the parts, retention of title

1. The Contractor will start to manufacture the parts after receiving payment.
2. The manufacture and delivery time is 6 to 10 days from the date of receipt of the order confirmation within the meaning of Clause 2.5, provided the purchase price has been paid in advance. The Contractor shall deliver using a suitable logistics company, but not to packing stations.
3. The orderer must independently inspect its construction for completeness, accuracy and suitability for the use it intends to put it to, taking the technical framework conditions into account which apply when manufacturing the 3D objects on the relevant 3D printers.
4. The 3D objects will be manufactured according to the orderer's construction and represents the machine-readable dataset it has produced. Errors in the construction and data preparation are therefore the sole responsibility of the orderer. The Contractor does not provide the orderer with any advice about the construction or the use of the parts. In addition, the orderer will not inspect or make improvements to the construction or the specification. In particular, the online configurator does not check whether individual components are correctly arranged and/or are connected to one another without gaps. It is the sole responsibility of the orderer to check this and, if necessary, to adjust it using the control options contained in the online configurator (such as display of a grid scale, zoom and rotation functions of the display, change of perspective, etc.).
5. If the orderer is a consumer, the risk transfers to it as soon as it takes receipt of the delivery. If the orderer is an entrepreneur, the risk will transfer to it as soon as the Contractor has handed the items to be delivered over to the transporter, the freight carrier or other person/institute designated to carry out the shipment.
6. The term stated in the order confirmation is non-binding, unless it has been expressly assured or agreed. If a binding delivery appointment is communicated, the Contractor assumes no liability for late delivery by the respective logistics company (post, DHL, UPS, freight forwarder).
7. If the orderer is not found at the specified delivery address, the following persons are – unless special arrangements have been made – deemed authorised to accept the delivery for the orderer:
 1. in the case of delivery to the orderer's residence, adult family members, persons employed in the family, and adult permanent fellow occupants encountered there;
 2. in the case of delivery to the orderer's business premises, the persons employed there;
 3. in the case of delivery to a community facility in which the orderer lives, the head of the facility and authorised representatives.
8. The goods remain the property of the Contractor until the purchase price has been paid in full. The exercise of the rights arising from the retention of title or a request for the return of the goods are considered a declaration of withdrawal. The orderer is obliged to notify the Contractor immediately in writing in the event of seizure or other access or attempts by third parties to access the purchased item, so that the Contractor can exercise its rights arising from the retention of title.

6. Payment and shipping conditions

1. The payment of the purchase price is payable immediately upon conclusion of the contract.
2. All prices on www.faller-create.de are understood to include the statutory value added tax applicable at the time. Liabilities of the Contractor are payable in EURO, with no deductions. The orderer may make payments using PayPal or an immediate transfer of funds. Payment via the sending of cash or cheques is not permitted. In individual cases, Faller also reserves the right to direct you to use another payment method.
3. The orderer is shown the shipping costs as part of the ordering process. The shipping costs are to be borne by the orderer.
4. The Contractor ships to the entire European Union (not Norway or Liechtenstein) as well as to the United Kingdom. For shipping within Germany, the Contractor charges a shipping cost of 5.95 EUR per delivery. The shipping costs for the remaining EU countries (except Norway and Liechtenstein) can be found in the following table:

Belgium	19.00
Bulgaria	19.00
Denmark	19.00
Estonia	19.00
Finland	19.00
France	19.00
Greece	19.00
Ireland	19.00
Italy	19.00
Croatia	19.00
Latvia	19.00
Lithuania	19.00
Luxembourg	19.00
Malta	19.00
Netherlands	19.00
Austria	19.00
Poland	19.00
Portugal	19.00
Romania	19.00
Sweden	19.00
Sweden	19.00
Slovakia	19.00

Switzerland	32.00
Spain	19.00
Czechia	19.00
Hungary	19.00
United Kingdom	19.00
Cyprus	19.00

5. The orderer only has the right to offset if its counterclaims have been judicially determined or if they are undisputed. The orderer is only entitled to exercise a right of retention if its counterclaim originates from the same contractual relationship.

7. Claims due to a defect in the goods

1. If there are any defects, the orderer has the statutory rights arising from the contract for the supply of work (§ 650, 433 ff. BGB).
2. If the orderer is an entrepreneur, the following also applies:
 1. The orderer is subject to the inspection and notification obligations under commercial law (§ 377 German Commercial Code).
 2. If a consumer takes action against the orderer or if an entrepreneur pursues recourse claims against the orderer due to defects in the goods, it must notify the Contractor of this without undue delay. Recourse against the Contractor is only possible to the extent that the orderer has not concluded any agreement with its buyer that goes beyond the statutory liability claims for defects.
3. The orderer's claims relating to defects become time-barred after one year, which constitutes a deviation from the statutory warranty. This does not apply to claims for damages due to personal injury or damage to health or claims which are based on intentional or grossly negligent conduct by the Contractor or its agents. § 479 Para. 1 BGB also remains affected.

8. Liability

1. The Contractor does not assume any liability for slightly negligent breaches of non-material contractual obligations. For slightly negligent breaches of material contractual obligations (in particular the obligation to make deliveries in a timely manner and free of defects), its liability is limited to the foreseeable damage which is typical for the type of contract. However, the Contractor bears unlimited liability for personal injury, death or damage to health incurred by the orderer and culpably caused by the Contractor, as well as for intentional and grossly negligent conduct and for the absence of warranted characteristics.
2. The Contractor's liability under the Product Liability Act is not affected.
3. If the orderer is an entrepreneur, the following also applies: the statute of limitation for the orderer's claims for damages which do not result from a defect in the goods, is one year. The statutory time-barring of claims due to intentional and grossly negligent conduct as well as for personal injury and damage to health and under the Product Liability Act are unaffected.

9. Transport damage

1. The orderer is obliged to immediately complain to the delivery agent about goods with obvious transport damage and to inform the Contractor about the transport damage.
2. For the orderer who is a consumer, the failure to file a complaint or provide a notification in accordance with paragraph 1 has no consequences for his warranty rights. For entrepreneurs, § 377 HGB (German Commercial Code) applies.

10. Information according to the German Consumer Dispute Resolution Act (VSBG)

1. The Contractor is neither prepared nor obligated to participate in dispute resolution proceedings before a consumer arbitration board within the meaning of the German Consumer Dispute Resolution Act (VSBG).

11. Information on online dispute resolution

1. The EU Commission provides a platform for online dispute resolution on the Internet at the following link: <http://ec.europa.eu/consumers/odr/> The Contractor's email address is: info@faller.de.

12. Applicable law, place of jurisdiction, data protection, severability clause

1. German law applies; the application of UN Sales Law (CISG) is excluded. However, the choice of law shall not apply to consumers insofar as this would deprive the orderer of the protection granted to him or her by those provisions from which the law of the country in which the orderer has his or her habitual residence may not be deviated from by agreement.
2. If the orderer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction is agreed to be at the location of the Contractor's registered office (Gütenbach). This shall also apply if the orderer does not have a general place of jurisdiction in Germany or if the habitual residence is not known at the time the lawsuit is filed. The Contractor is also entitled to bring an action at the location of the orderer's registered office.
3. If one or several of these terms is/are or become invalid, this does not affect the validity of the other terms. The ineffective clauses, if any, shall be replaced by the statutory provisions. If this would represent an unreasonable hardship for one of the contracting parties, the contract as a whole shall become ineffective.

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