

General Terms and Conditions of Purchase Version: 06.03.2008

1. General

Our Terms and Conditions of Purchase shall apply exclusively to all our orders; we shall only recognise Supplier terms and conditions that are contrary to or different from our General Terms and Conditions of Business insofar as we have expressly agreed to such in writing. Supplier terms and conditions shall not be effective either even if we have not objected to them in individual cases. The acceptance of Supplier products or services (hereinafter Subject of the Agreement) or payment for them shall not constitute acceptance of the Supplier's terms and conditions of business. Our Terms and Conditions of Purchase shall only apply to traders.

2. Conclusion of contract and changes to contract

2.1 Orders, business deals and delivery schedules as well as changes or additions to these shall be required in writing.

2.2 Verbal agreements of any kind, including subsequent changes and additions to our Terms and Conditions of Purchase shall require written confirmation from us in order to be effective.

2.3 The written form requirement shall also be met through remote data transmission or fax.

2.4 Quotes shall be binding, but not to be paid unless expressly agreed otherwise. We shall not accept any costs or make any payments for visits, planning or other advance services provided by the Supplier in connection with the submission of tenders unless this is agreed separately in individual cases.

2.5 If the Supplier fails to accept an order within two weeks of receipt, we shall be entitled to withdraw the respective order.

2.6 Delivery schedules in the context of order and schedule planning shall be binding unless the Supplier raises an objection within two working days of receiving said schedules.

3. Delivery / Delivery deadlines

3.1 Deviations from our deals and orders shall only be permitted following prior written agreement from us.

3.2 Agreed dates and deadlines shall be binding. Crucial to the meeting of a delivery deadline or delivery period shall be the receipt of goods by us. If delivery is not agreed 'ex works', the Supplier shall make goods available on time taking into account the time for loading and dispatch to be agreed with the forwarding agent. In the case of call orders, the Supplier may only deliver following a written call-off.

3.3 If agreed deadlines are not met, then legal regulations shall apply. If the Supplier envisages difficulties with production, supply of basic materials, meeting of delivery deadlines or similar circumstances, which could prevent it from delivering on time or delivering the agreed quality, the Supplier shall notify our central purchasing department immediately.

3.4 Unconditional acceptance of late deliveries or late performance shall not constitute a waiver of any claims for compensation to which we are entitled on account of the late delivery or late performance; this shall apply until payment in full of the amount owed by us for the respective delivery or performance.

3.5 Part deliveries shall not be permitted in principle unless we have expressly agreed to such deliveries, consider these reasonable or have expressly arranged them. In the event of part deliveries, all additional costs resulting therefrom, in particular packaging and dispatch costs shall be borne by the Supplier.

3.6 The values determined by us during incoming goods inspections shall prevail in terms of quantity, weight and dimensions.

4. Force majeure

Force majeure, industrial disputes, equipment failure not resulting from negligence, unrest, official action and other unavoidable events shall exempt us for their duration from the obligation of timely acceptance. During such events, as well as for a period of two weeks after they are over, we shall be entitled, irrespective of our other rights, to withdraw from the Agreement, either in full or in part, unless these events last for a significant period and our requirement is considerably reduced on account of the resulting need to procure items elsewhere.

5. Delivery note and invoice

5.1 Invoices shall be sent in duplicate indicating the respective invoice number and other classification features, in particular the order number, to the printed address; invoices may not be enclosed with deliveries.

5.2 Careful attention must be paid to our shipping address and agreed shipping method, where appropriate. Delivery notes must be presented immediately in duplicate on dispatch of each individual delivery. A shipping note or packing slip must be enclosed in the event of shipment by parcel post or parcel service. Our order number must be specified on consignment notes and other shipping documents.

6. Pricing and transfer of risk

If no specific arrangement has been made, prices shall be duty paid ex works including packaging. Packaging shall only be paid for if such payment has been expressly agreed in writing. Prices shall be fixed prices unless a price clause or a price reservation is expressly agreed in writing. In the case of annual or on-going orders, the agreed prices shall be maximum prices. VAT shall not be included. The Supplier shall bear the risk of accidental loss, destruction or deterioration until goods are accepted by us or our authorised representatives at the site where the goods are to be delivered as instructed.

7. Payment terms

Provided no specific arrangement has been made, invoices shall be settled either within 14 days deducting 3% discount or within 30 days without deduction from the payment claim due date and receipt of both the invoice and the goods or provision of service respectively. Payment shall be subject to the checking of invoices. Payment shall be considered made on time if we have instructed the bank to pay on the last day of the payment period or, in the case of payment by cheque, posted the respective cheque.

8. Claims arising from defects and recourse

8.1 Acceptance shall be subject to an inspection to ensure that goods are free from defects, in particular also to ensure correctness and completeness, insofar as and as soon as this can be done during the regular course of business.

The period during which obvious or other defects should be indicated following their discovery shall be two weeks. Defects shall be notified by us immediately upon discovery.

8.2 The Supplier shall owe goods and services that are free from defects. Goods and services must display the agreed characteristics, comply with the duly intended purpose, current state of the art and generally recognised safety regulations issued by authorities and professional bodies and be consistent with relevant statutory provisions.

8.3 The statutory provisions concerning material defects and defects in title shall apply unless stipulated otherwise below.

8.4 We shall be entitled in principle to choose the nature of subsequent performance. The Supplier may refuse the nature of subsequent performance selected by us only if said subsequent performance is possible at disproportionate cost.

8.5 If the Supplier fails to commence rectifying a defect immediately after we have requested such rectification, we shall be entitled to proceed with this ourselves or arrange rectification by a third party at the Supplier's expense in urgent cases, notably in order to prevent serious risks or greater damage.

8.6 In the case of defects in title, the Supplier shall also exempt us from any third party claims unless it is not responsible for the defect in title.

8.7 Claims arising from defects shall expire by limitation, except in cases of fraudulent intent, within 3 years, unless the item has been used in accordance with its standard use in structural work and has caused the defectiveness of the latter.

The period of limitation shall commence upon delivery of the contractual item (transfer of risk).

8.8 If the Supplier meets its obligation of subsequent performance by making a replacement delivery, the period of limitation shall recommence in respect of the replacement item delivered, upon the delivery of said item, unless the Supplier has expressly and, where relevant, reserved the right for subsequent performance only to make replacement deliveries out of goodwill to prevent disputes or in the interest of preserving the supplier relationship.

8.9 If we incur costs as a result of defective delivery of contractual items, in particular transport costs, labour costs, material costs or costs for incoming goods inspection over and above those normally incurred, the Supplier shall accept such costs.

9. Product liability

9.1 In the event that a claim is made against us on account of product liability, the Supplier shall be obliged to exempt us from such claims, if and insofar as the damage has been caused by a defect in the contractual item delivered by the Supplier. In cases of liability resulting from negligence, this shall only apply if the Supplier is at fault. If the cause of the respective damage is the responsibility of the Supplier, it shall have the burden of proof in this respect.

9.2 The Supplier shall accept all costs and expenses, including any legal costs in the cases indicated in Section 9.1.

9.3 Moreover, statutory provisions shall apply.

9.4 Prior to a recall campaign, which is partially or entirely the result of a defect in a contractual item delivered by the Supplier, we shall notify the Supplier, give it the option to be involved and discuss efficient implementation of such a campaign with it, unless notifying or involving the Supplier is not possible due to particular urgency. If a recall campaign is the result of a defect in a contractual item delivered by the Supplier, the Supplier shall accept the costs of the recall campaign.

10. Provision

Materials, parts, containers, drawings, tools and special packaging provided by us shall remain our property. Such items may only be used as per instructions. Materials shall be processed and parts assembled on our behalf. It is agreed that we shall be co-owner of the products manufactured from our materials and parts, which are stored by the Supplier on our behalf in this respect, to the value of the items provided in proportion to the value of the overall product.

11. Documents, confidentiality and third party industrial property rights

11.1 All commercial or technical information made accessible by us (including features which can be gleaned from items, documents, drawings or software provided, and other knowledge or experience) must, unless such information is already in the public domain and evidence of this can be provided, be kept confidential in respect of third parties, and may only be made available within the Supplier's own business operations to parties who need to be aware of such information for the purpose of delivery to us and who are also obliged to maintain confidentiality; such information shall remain our exclusive property. Such information may not be reproduced or used commercially, except for the purpose of making deliveries to us, without our prior written permission. All information that has come from us (where applicable, including any copies or drawings) and items provided on loan shall be returned to us immediately and in full on request or destroyed.

We shall reserve all rights to such information (including copyright and the right to register industrial property rights, such as patents, utility models etc.). Provided these rights have been made available to us by third parties, this reservation of rights shall also apply in favour of said third parties.

11.2 The Supplier shall ensure that we are not in breach of copyright, patents or other third party intellectual property rights by using or selling its supplies and/or services as agreed. The Supplier shall exempt us from any claims that are made against us on account of a breach of industrial property rights and shall accept the costs of safeguarding rights if said claims are based on a culpable breach of obligations by the Supplier. We shall inform the Supplier immediately in the event of a claim.

12. Export check and customs

The Supplier shall be obliged to inform us in its business documentation of any licensing requirements in the event of (re) exports of its goods in accordance with German, European, US export and customs regulations as well as export and customs regulations in the country of origin of its goods. The Supplier shall provide in particular the relevant certificates of origin insofar as deliveries meet the conditions of origin in the EU preferential agreement. The Supplier shall undertake at our request to notify us in writing of any other foreign trade data in respect of its goods and their components and to inform us immediately (prior to delivery of the relevant goods) in writing of any changes to existing data. The Supplier shall appoint a contact person within its company to answer any questions.

13. Place of performance

The place of performance shall be the place to which goods are to be delivered or services are to be provided as instructed.

14. Data protection

We shall be entitled to save and process all data, which is required by the Supplier in the context of fulfilling the contractual relationship with the latter, unless such data constitutes personal information.

15. References /Advertising

The Supplier shall not be entitled without our written permission to use information about intended or existing contractual cooperation for reference or advertising purposes.

16. General provisions

16.1 In the event that a provision in these Terms and Conditions or any other agreement reached shall be or shall become ineffective, the validity of the remaining provisions shall not be affected. The contracting parties undertake to replace the ineffective provision with one that most closely reflects the financial purpose of the original one.

16.2 German law, with the exception of conflict law and the United Nations Convention on Contracts for the International Sale of Goods (CISG), shall apply exclusively to the contractual relationship.

16.3 The place of jurisdiction for any legal disputes arising directly or indirectly from the contractual relationship on which these Terms and Conditions of Purchase are based shall be Würzburg. We shall be further entitled to bring actions against the Supplier at our discretion in a court in the place where the Supplier has its registered address or a branch address or in court in the place of performance.