

Terms and Conditions of Purchase

Effective: 2016-01-01



§ 1 General

1. Our Terms and Conditions of Purchase have exclusive application. General terms and conditions of a supplier that conflict with or deviate from our Terms and Conditions of Purchase are only accepted to the extent that we have expressly agreed to them in writing. The acceptance of goods and/or services of the supplier or payment for them does not constitute consent. Even if we make reference to a letter that contains or refers to the general terms and conditions of the supplier or a third party, that shall not be construed as consent to the application of any other terms and conditions.
2. The Terms and Conditions of Purchase also apply to future supplies and services ordered by us, unless expressly agreed otherwise.

§ 2 Purchase Order, Order Confirmation

1. Purchase orders must always be confirmed promptly, however no later than seven (7) days after the receipt of the order. Otherwise we (hereinafter also "ordering party") are entitled to withdraw the order. The timeliness of an order confirmation is determined by its receipt by us. Any deviations noted in the order confirmation compared to our purchase order are only valid if they have been expressly recognized by us in text form.
2. Only purchase orders, delivery call-offs and agreements bearing a signature, sent in text form or by electronic means are valid. Orders placed verbally or by phone as well as any changes to existing orders require our confirmation declared in text form or by means of electronic data transfer.
3. Delivery call-offs made within the framework of a purchase order and delivery call-off plan are only binding if the supplier fails to reject them within two (2) workdays after their receipt.
4. We are entitled to withdraw from individual purchase orders and delivery call-offs at any time by a declaration in text form with an indication of the reasons if we are no longer able to use the ordered products in our business operations due to circumstances that have occurred after the formation of the contract. This applies in particular if the underlying economic, technical or legal conditions for the use of the ordered products have fundamentally changed. The supplier shall be compensated for the partial services already performed by him.

§ 3 Prices and Pricing

1. If no particular agreement has been made to the contrary, prices are "delivered duty paid" (DDP in accordance with Incoterms 2010) including packaging. Sales tax is not included.
2. We do not provide any compensation for the preparation of offers and samples. Cost estimates are binding and are not to be compensated, unless expressly agreed upon otherwise.
3. The price agreed upon when a purchase order is placed is binding.

§ 4 Terms of Payment, Exclusion of Right to Transfer and Offset

1. Unless agreed otherwise, we settle invoices either within fourteen (14) days with a three percent (3%) cash discount or within thirty (30) days without any discount starting on the date when the payment claim becomes due and receipt of both the invoice and the goods and/or the performance of the service.

2. If an invoice fails to include one or more details mentioned in para. 6 and processing by us in the course of our normal business operations is delayed as a result, the terms of payment are extended by the period of the delay. Payment is made subject to review of the invoice. We reserve the right to pay by check or using a rediscountable bill of exchange subject to the assumption by us of any costs arising therefrom.
3. Default on payment shall in any event require a warning notice of the supplier.
4. Without our prior written consent, the supplier is not permitted to assign his claims or debts or have a third party recover his claims. The supplier is only entitled to use counterclaims for offsetting which are undisputed or – where such claim has been asserted before a court - ready for adjudication or non-appealable. Counterclaims entitle us to retain payments or offset claims.

§ 5 Delivery, Delay of Delivery and Transfer of Risk

1. Deviations from our purchase orders, delivery call-offs and order requests are only permissible if we have given our prior express consent.
2. Agreed-upon dates and deadlines are binding. The receipt of the goods at the agreed upon site of use/performance indicated by the ordering party is determinative for compliance with the delivery date or deadline, even if it was agreed that the goods shall be shipped. Early deliveries are not permitted. Unless "free delivered" has been agreed upon (DDP according to Incoterms 2010), the supplier shall timely provide the goods taking into account the need to coordinate a time for loading and shipment with the shipping agent.
3. If the agreed upon deadlines are not adhered to, the relevant statutory provisions shall apply. In the event of delayed delivery, we are entitled to the statutory rights without restriction. If the supplier foresees any difficulties relating to production, supply of primary materials, compliance with the delivery date or similar circumstances which could prevent an on-time delivery or delivering the agreed-upon quality, the supplier must notify immediately the department at our company that placed the order.
4. The unconditional acceptance of a late delivery or performance does not constitute a waiver of our right to claim damages arising in connection with or due to the late delivery or performance.
5. Partial deliveries are generally not permitted, unless expressly agreed upon.
6. The quantities determined by us during the incoming goods inspection are determinative for the number of items, weights and dimensions, except where different evidence is provided.
7. The risk for the goods passes to us only upon acceptance of the goods by us or our agent at the location to where the goods are to be delivered in accordance with the contract, even if it was agreed that the goods shall be shipped.
8. We are entitled to demand, after giving prior warning in writing to the supplier in case of late deliveries, a contractual penalty in the amount of 0.5%, but no more than 5% of the respective order value, for every commenced week of delay. The supplier remains entitled to demonstrate that damages did not occur or did not occur to the said extent. More extensive claims due to late delivery remain unaffected. The contract penalty shall be offset

against the damage caused by the delay and which must be indemnified by the supplier. The supplier shall take back packaging material at our request.

§ 6 Delivery Note, Invoicing

1. For every delivery a delivery note shall be completed and sent as well as the invoice, which shall be issued as a single copy to the address indicated by us for delivery and/or invoicing while including the invoice number, order master data and any drawing numbers and item numbers. The invoice shall not be enclosed with the shipments. Costs which we incur due to non-compliance with the forwarding instructions shall be the responsibility of the supplier.
2. The invoice must contain all details permitting an input tax deduction, for instance the tax number or sales tax ID, invoice number and other mandatory information required for invoicing in accordance with Sections 14 and 14a of Usage (German Sales Tax Act). If the invoice does not contain such information, we are not required to pay the stated sales tax. If we are denied the input tax deduction due to an improper invoice, the supplier must reimburse the sales tax paid by us.

§ 7 Quality and Documentation

1. The supplier shall comply with the rules of science and technology that are generally recognized at the time of delivery, the agreed upon technical data, the applicable safety regulations and statutory safety provisions. Changes to the object of delivery require our prior express authorization.
2. The supplier must set up and demonstrate the existence of a suitable quality management system. In his quality records, the supplier must document for all products, when, how and who ensured that the products were manufactured free of defects. In case of products that require an official permit or license, the supplier must record in separate documentation when, how and who tested or examined the objects of delivery with regard to the characteristics required for approval or permits and what were the results of the quality tests. For parts requiring documentation, records must be kept for fifteen (15) years respectively and presented to the ordering party when requested. The supplier agrees to have upstream suppliers accept such requirements with the same scope as far as legally permissible.
3. The quality assurance agreement (QAA) entered into with the supplier applies to all of our purchase orders during the course of the business relationship, even if we fail to make reference to the QAA in the respective purchase order, unless otherwise agreed upon in the QAA.

§ 8 Defect-related Claims (Warranty)

1. The acceptance of delivery or performance is subject to examination as to freedom from defects, especially for correctness and completeness insofar and as soon as it is possible based on the ordinary course of business. Defects shall be reported by us immediately upon their discovery. Acceptance or approval of presented samples or specimens does not constitute a waiver of our warranty rights.
2. The statutory provisions relating to physical defects or defects in title apply unless specified otherwise hereafter.
3. We are generally entitled to select the form and type of replacement performance. The supplier is authorized to reject the selected form of replacement performance if it is only possible with disproportionate expenditure.
4. If the supplier fails to comply with our request for replacement performance within a reasonable time requested by us, in urgent cases, in particular to eliminate any acute hazards or prevent more significant damage, we are entitled at the supplier's expense to perform such work on our own or to have a third party perform such work.
5. In case of defects in title, the supplier shall indemnify us from any possible third-party claims, unless the supplier is not responsible

for the defect in title.

6. Warranty claims become time-barred three years after delivery, unless a longer period of limitation applies based on relevant laws. The statute of limitation for warranty claims is interrupted upon the supplier's receipt of our written notice of defect. If the supplier fulfills its obligations to provide subsequent improvement by way of replacement or defect remediation, the statute-of-limitation period starts again for the product supplied as replacement, unless the supplier when making replacement performance expressly and appropriately reserved the right to provide the replacement only as a gesture of goodwill, to prevent disputes or in the interest of continuing the business relationship. The same applies in the event of supplementary performance if and to the extent the supplier has recognized the replacement performance claim.
7. If we incur any costs as a result of defective delivery of the subject matter of the contract agreement, especially transport, travel, labor, material or any other costs for an incoming goods inspection that exceed the usual scope, the supplier shall reimburse us for these costs within the scope of § 9 (liability). Our rights based on Sections 478, 479 of the German Civil Code remain unaffected.

§ 9 Liability

1. The supplier is obligated to compensate any damages and reimburse the expenses incurred by us directly or indirectly as a result of a defective delivery, due to violation of official safety regulations or other legal grounds, unless the supplier is not responsible for the violation of the obligation. The supplier is liable regardless of fault for damages that occur directly or indirectly as a result of the violation of a warranty.
2. If claims are asserted against the ordering party on the basis of product liability, the supplier shall indemnify it, if and insofar as the damages were caused by a defect in the product delivered by the supplier. In cases of liability based on fault, this applies only when the supplier is at fault. If the cause of damage falls within the scope of the supplier's responsibility, it shall have the burden of proof in this connection. In such cases, the supplier assumes any and all costs and expenses, including the costs of any possible legal action or recall activities.
3. The supplier agrees to obtain and maintain business and product liability insurance with an insurance company certified for the EU while including coverage for any product-related financial loss and recall expenses. The coverage for the scope of personal injuries and property damage as well as product-related financial loss and recall expenses must be appropriate for the contractual objects, but respectively no less than EUR 5 million. The supplier shall demonstrate at our request the existence of adequate insurance at any time.
4. Persons who perform work at our works premises in fulfillment of the contract must observe the provisions of the respective internal company regulations. Liability for accidents in which these persons are involved at the works premises shall be excluded, unless they were caused by intentional or grossly negligent violations of obligations on our part or that of our legal representatives or agents.

§ 10 Acceptance

1. We are entitled to have the ordered objects inspected by our representatives at the supplier's works premises. Invoices cannot be issued prior to the date of the acceptance declared by us. Up to the time of acceptance, the supplier has the burden of proof to show that the objects ordered are free of defects.
2. This acceptance does not release the supplier from its warranty.

§ 11 Retention of Title, Ownership of Deliverables and Tools Belonging to Ordering Party

1. An extended or expanded retention of title on the part of the supplier requires an express separate agreement to be valid.

2. Any materials provided by us remain our property and may only be used for the intended purpose. The processing of materials and assembly of parts is carried out on our behalf. We have co-ownership of the products manufactured using our provided items in the proportion of the value of the provided items to the value of the overall product manufactured using his materials and parts, which to that extent the supplier shall keep on our behalf.
3. Drawings, calculations, matrices, templates, models, samples, dies, tools and other production equipment which we pay for or make available to the supplier for performance of a purchase order, remain or become our property, as applicable. They may not be used nor made available or disclosed for deliveries to third parties without our prior written approval. In addition, such objects may not be duplicated or reproduced beyond the needs of business operations or copyright provisions. Subcontractors must accept corresponding obligations.
4. The objects belonging to us shall be marked by the supplier as our property, carefully stored and protected against any damage and may only be used for purposes set out in the contract. The costs of maintaining and repairing these objects shall be borne equally by the supplier and us, unless agreed upon otherwise. If these costs are attributable to defects of such objects manufactured by the supplier or to improper use on part of the supplier, its employees or other agents, these costs shall be borne by the supplier alone. The supplier shall notify us immediately about any more than insignificant damages to these objects. If requested, the supplier is obligated to hand over these objects to us in a proper state of repair.
5. Products manufactured in this manner may not be delivered to a third party either in a raw state or as semi-finished or completed products without our written consent. The same also applies to parts that the supplier has developed on the basis of our specifications or with our support (e.g. by testing, etc.).
6. Third parties within the meaning of these provisions are also companies or persons that are in any way involved with the sales of our products.

§ 12 Documents and Confidentiality

1. All commercial or technical information made available by us (including features that can be found, for instance, on the objects, documents or software provided as well as other knowledge or experience) is to be kept confidential and not disclosed to third parties if and insofar as it is not demonstrably part of the public domain and may only be made available within the supplier's own company to those persons who must be consulted for the purpose of the delivery to us and who are also subject to a duty of confidentiality. Such information remains our exclusive property. Without our prior written authorization, such information may not be copied or used for commercial purposes aside from for deliveries to be made to us.
2. At our request, all information that comes from us (if applicable including copies or recordings made) regardless of in written, electronic or other form, and objects provided on a loan basis, is to be returned to us immediately and in full or destroyed. We reserve all rights to such information (including copyrights and the right to register intellectual property rights such as patents, utility patterns, etc.) If such information was made available to us by third parties, this reservation of rights also applies in favor of the relevant third parties.
3. The supplier may only use or cite our business relationship for promotional purposes after obtaining our prior written authorization.

§ 13 Industrial Property Rights

1. The supplier guarantees that the delivery and use of the objects delivered by it do not violate any third-party property rights in the member states of the European Union. Otherwise the supplier shall indemnify us from any third-party claims arising in connection with the violation of industrial property rights and is

obligated to reimburse us for all necessary expenses in this regard. Our statutory warranty rights are in no way affected.

§ 14 Export Control and Customs

1. The supplier is obligated to ensure that customs authorities are able to review certificates of origin and supplier declarations at any time and that any official confirmations required are supplied. If the declared origin is not recognized by the authorities, the supplier must indemnify us for the damages incurred thereby, provided that the supplier is responsible for negligence or intent.
2. If the services performed by the supplier are subject to the issuance of an export permit, the supplier must notify us about this situation in writing of his own initiative. If the supplier culpably fails to provide this notice, it is obligated to indemnify us for the damages incurred thereby. The supplier shall provide to us all necessary documents upon request without delay.
3. For all the goods to be supplied and services to be performed, the supplier shall fulfill the respectively applicable requirements of national and international export, customs and foreign trade law (= "FOREIGN TRADE LAW"). The supplier shall obtain the necessary import or export permits, unless instead of the supplier the ordering party or a third party is obligated according to the applicable FOREIGN TRADE LAW to apply for these permits.
4. The supplier shall notify the ordering party in writing as soon as possible, no later than one day prior to delivery, about all information and data that we require for compliance with the applicable foreign trade law for export, shipment and import as well as in case of resale with re-export of the goods and services, in particular for every product and service:
 - the Export Classification Number (ECCN) according to the U.S. Commerce Control List (CCL), provided that the product is subject to the U.S. Export Administration Regulations;
 - All applicable items of the export list (as far as the product is not subject to an item of the export list, this shall be indicated with "EL: N")
 - The statistic product number according to the current product classification of foreign trade statistics and the HS (Harmonized System) Code;
 - The country of origin (non-preferential origin).
 - Supplier declarations on the preferential origin (for European suppliers) or certificates on preferences (for non-European countries).
5. In case of changes in origin, product characteristics or services or the applicable foreign trade law, the supplier shall update as soon as possible, but no later than one day prior to delivery, the export control and foreign trade information and shall notify the ordering party in this regard in writing.
6. The supplier shall bear all expenses and damages which the ordering party incurs due to the absence or inaccuracy of the export control and foreign trade information.

§ 15 Force Majeure

Acts of God, industrial disputes, disruption of operations not arising through fault, unrest, acts by authorities, and other unavoidable events entitle us, without prejudice to our other rights, to withdraw either completely or in part from the agreement, provided that such events continue for more than an insignificant period and result in a significant decrease in our requirements.

§ 16 Final Provisions, Place of Jurisdiction, Applicable Law

1. Should any individual provision or any part of any provision of these terms and conditions or the other agreements entered into be or become invalid, the validity of the remaining provisions hereof shall in no way be affected. The contracting parties undertake to replace the invalid provision with another valid provision coming as close as possible to the economic effect of the invalid provision.

2. The contractual relations are governed exclusively by German law, excluding the principles of conflicts of law and the UN Convention on International Sale of Goods (CISG).
3. The place of fulfillment is the location stated in the purchase order, unless a different delivery address is expressly indicated. The place of fulfillment for payments to be rendered by us is the location of our main office.
4. The exclusive place of jurisdiction for all legal disputes, arising directly or indirectly from the contractual relationship subject to these Terms and Conditions of Purchase, is Munich, Germany.
5. We are also authorized at our discretion to take legal action against the supplier at the court of jurisdiction at the supplier's registered office or the at the location of his branch office or at the court of jurisdiction for the place of performance.