

General Terms and Conditions of Purchase

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1. **Scope**
 - 1.1 These General Terms and Conditions of Purchase shall apply to all business transactions (deliveries and services) with the supplier even if no express reference is made to these terms. We do not acknowledge any general terms and conditions used by the supplier.
 - 1.2 Our Purchase Conditions shall only apply with respect to entrepreneurs within the meaning of § 310 [1], sentence 1 of the German Civil Code [BGB].
 - 1.3 Our Purchase Conditions shall also apply to all future deliveries and services of the supplier, even if in specific cases we have made no reference to the same.
 - 1.4 Any individual agreements entered into with the supplier in a given specific case (including collateral agreements, supplements and modifications) shall always have priority over these Purchase Conditions. The contents of such agreements shall be governed by a written contract or our written confirmation.
2. **Conclusion of Contract**
 - 2.1 Preparation and submission of offers and quotations by the supplier shall in all respects be free of charge for us.
 - 2.2 The order shall be deemed placed with our written order and the acceptance of the supplier. If the supplier does not acknowledge our order in writing within a time period of 10 working days at the latest we shall have the right to cancel our order.
 - 2.3 If the acknowledgement of order deviates from the order, in particular as regards price or delivery dates, the supplier undertakes to notify us thereof separately. Such deviations shall only become an integral part of the contract if confirmed by us in writing.
3. **Prices, Payment, Assignment**
 - 3.1 The agreed prices shall be fixed prices and shall be inclusive of freight, packaging as well as other ancillary costs free to the point of delivery specified by us.
 - 3.2 Unless otherwise agreed in writing, payment shall be effected in accordance with our orders.
 - 3.3 The supplier may only offset claims and/or enforce a right of retention for counterclaims that are recognised by declaratory judgement or are undisputed or are ready for decision in proceedings pending at law.
 - 3.4 The supplier shall not be entitled to assign its claims arising from the contractual relationship to any third party. Such shall not apply in case of monetary claims.
4. **Deadlines and Delay in Delivery**
 - 4.1 The deadlines for delivery or performance stipulated in the order shall be binding.
 - 4.2 As soon as the supplier becomes aware that there may be delays in delivery the supplier shall be under the obligation to immediately inform us thereof in writing, specifying the reasons for such delay as well as the expected duration of the delay. Such shall have no effect on the binding character of the agreed date of delivery.
 - 4.3 If delivery is made before the date specified we shall have the right to reject the goods. We may also reject partial deliveries unless we have expressly agreed to them.
- 4.4 The unconditional acceptance of delayed deliveries or services shall not constitute a waiver of any claims to which we may be entitled on account of the delayed delivery or service.
5. **Passing of risk**
 - 5.1 Delivery shall be effected "free domicile" to the location specified in our order. If the point of destination is not specified and unless otherwise agreed, delivery shall be made to our principal place of business. The respective point of destination shall also be deemed to be the place of performance.
6. **Type and Scope of Delivery and Services**
 - 6.1 Any information provided in our order and in our call-off orders with respect to type, quality, dimensions, weight, quantities, scope etc. of the delivery/service shall be binding and must without fail be observed by the supplier.
 - 6.2 Within the bounds of what may be expected of the supplier, we may demand changes with respect to the deliveries/services from the supplier. Appropriate arrangements shall be mutually agreed as regards the consequences, in particular with respect to additional or lower costs as well as to performance deadlines or dates of delivery. If an agreement cannot be reached within a reasonable time period we shall decide using equitable discretion.
7. **Incoming Goods Inspection**
 - 7.1 To the extent applicable the obligation to inspect goods and to notify defects stipulated for merchants shall be governed by the provisions laid down by law (§ 377 of the German Commercial Code [HGB]), subject however to the following conditions: our duty to inspect shall be limited to obvious, clearly manifest defects (e.g. transport damage, wrong and short deliveries). Our commercial obligation to give notice of defects shall be deemed prompt and on time if such notice is given within 10 working days.
8. **Liability for Defects**
 - 8.1 The deliveries and services must comply with the state of the art applicable at the time of delivery and foreseeable for the future as well as with other statutory provisions, technical testing specifications and accident prevention regulations. If a certain product requires a manufacturer's declaration or a CE declaration of conformity within the meaning of the EC Directives the supplier must prepare and provide such declaration(s) to us without delay and at its own expense.
 - 8.2 We shall be entitled to all and any claims for defects laid down by law, without restrictions. We shall have the right, at our discretion, to select the type of subsequent performance, i.e. either to demand remedy of the defect or a replacement. The supplier shall bear all and any expenses necessary in order to remedy the defect or to deliver a replacement. If the supplier fails to remedy the defect or to deliver a replacement within a reasonable period of time or if the supplier's performance is inadequate or if, for a pressing reason, immediate remedy of the defect is necessary, we may remedy the defects at the expense of the supplier either by ourselves or by a third party or may purchase goods to cover our needs at the expense of the supplier.
 - 8.3 The period of limitation shall be 36 months, from passing of risk. If longer deadlines are stipulated by law such longer deadlines shall apply.
 - 8.4 The period of limitation for claims for defects shall be suspended as soon as our written notification of defect is received by the supplier. If replacements or newly manufactured products are delivered and defects are remedied the statute of limitations for replacements or newly manufactured and repaired parts shall commence anew.

9. Product liability

- 9.1 If the supplier is responsible for a product damage the supplier shall be under the obligation to indemnify us and hold us harmless from and against any claims for damages of any third party to the extent that the cause of such damage is derived from its area of control and organisation and the supplier is liable vis-à-vis third parties.
- 9.2 Within the framework of its liability in cases of damage within the meaning of item 9.1 above the supplier shall also be under the obligation to repay any expenses which may result from or in connection with a recall carried out by either ourselves or one of our customers. If possible and if it can be reasonably expected of us, we shall inform the supplier on the content and scope of the required recall measures and will give the supplier the opportunity to provide its comments. Any other claims laid down by law shall be unaffected hereby.
- 9.3 The supplier undertakes to maintain product liability insurance with adequate coverage for personal injury and damage to property; if we are entitled to any further claims for damage, such shall remain unaffected hereby. Upon request, the supplier shall at any time be under the obligation to send us a copy of the insurance policy or, on special request, a current confirmation of insurance coverage.

10. Industrial Property Rights, Confidentiality

- 10.1 The supplier shall be responsible for ensuring that no industrial property rights of any third party, whether in Germany or abroad, are infringed. The supplier undertakes to indemnify us and hold us harmless from and against all and any claims which may be asserted against us by any third party on account of an infringement of industrial property rights and to compensate to us all and any necessary expenses incurred by us in the connection with such claim. Such entitlement shall exist irrespective of any fault of the supplier.
- 10.2 All and any business or technical information disclosed by us to the supplier shall be treated as confidential and shall be kept secret from any third party – unless and insofar as it can be demonstrated that such information is in the public domain – and shall only be made available by the supplier to such persons who need to be informed for the purpose of the delivery to us and who are also bound to confidentiality and secrecy. Without our prior written consent such information may only be used for the purpose of the delivery to us. Upon our request, all and any information originating from us shall be immediately returned to us in its entirety or be destroyed. Information within the meaning of this agreement shall include all and any data, plans, programs, knowledge, experience, knowhow, irrespective of how such information is documented, stored or transmitted and also irrespective of whether such information has been designated – either expressly or implicitly – as secret or confidential. The supplier shall not be entitled to any right of retention.

11. Goods Provided by us

We shall retain title to all and any goods provided by us. Such goods may only be used as intended. The supplier shall inspect the goods provided by us upon receipt and shall inform us of the results of such incoming inspection in writing. If our goods are processed by the supplier we shall be deemed the manufacturer without any further obligations and shall acquire ownership of the new product resulting from such processing. If the goods are processed together with other materials we shall acquire co-ownership in proportion to the invoiced amount of our goods and the other materials used. If our goods are combined, mixed or blended with an item belonging to the supplier in such a way that the item of the supplier is to be considered as the main item co-ownership of the product shall pass to us in proportion to the invoiced amount of our goods and the invoiced amount – or, if such does not exist – the current market value of the main item. In such cases, the supplier shall store the item for us free of charge.

12. Place of Performance, Place of Jurisdiction, Applicable Law

- 12.1 For both parties, place of performance for all and any claims arising out of or in connection with the present agreement shall be our principal place of business or such place of performance as may be designated by us.
- 12.2 As regards merchants, place of jurisdiction for all and any legal disputes arising out of the contractual relationship as well as its creation and effectiveness shall for both parties be the court having jurisdiction at our principal place of business. At our discretion, we may also bring an action at the supplier's seat.
- 12.3 The contractual relationship shall be governed by German law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.