

Terms of Purchase

1. General

These Terms of Purchase form an integral part of all of our commercial/business contracts. They also apply to existing and future business relationships. No further reference to these Terms of Purchase will be necessary when future orders are placed.

Contradictory standard terms and conditions, in particular terms of sale, are hereby expressly rejected with respect to commercial/business transactions. They will only apply if approved by us in writing. Deviating agreements, in particular ones reached verbally, will likewise only be binding if confirmed by us in writing.

The conclusion of a contract will not fail due to contradictory standard terms and conditions.

2. Orders, prices

Orders may only be placed in writing (letter, fax, PC fax, e-mail). Orders placed verbally will only be valid if we acknowledge them in writing.

The Supplier must confirm our orders in writing immediately, specifying prices and the shortest delivery time / the delivery time stipulated by us, unless delivery is made within 8 days.

Prices quoted are fixed and include all ancillary costs, in particular packing, transport and insurance, unless expressly agreed otherwise in writing.

3. Delivery of goods/services, performance

The periods and deadlines stipulated/agreed for deliveries of goods/services must be adhered to. When an order is accepted the delivery period for the goods/services will be assumed to have commenced to run on the order date. If it is impossible to adhere to a delivery period or deadline, the Supplier must notify us immediately of the reasons and the probable duration of the delay. If agreed periods or deadlines for deliveries are not adhered to because of circumstances for which the Supplier is responsible, we will be entitled after setting a reasonable extension of deadline to withdraw from the contract and/or to claim damages. The Supplier must pay all additional costs incurred as a result of late delivery for which the Supplier can be held responsible. The acceptance of late delivery does not represent any waiver of other claims.

Unless expressly agreed otherwise in writing, deliveries will be on a „free domicile“ basis to the destination stipulated/ agreed. In the case of commercial/business transactions the destination will at the same time be the place of performance.

Unless the means of transport is expressly stipulated/agreed, the Supplier must select a suitable means of transport in accordance with the principles of good faith. The Supplier must deal with the necessary formalities for the carrier.

All duties in connection with customs clearance, in particular the processing of export documents, must be fulfilled by the Supplier on his own expenses. The Supplier is obliged to furnish us with the necessary import documents (e.g. export licenses or preferential certificates) at his own expenses.

In case of deliveries from countries with which the E.U. has made preferential arrangements, we expect that the goods of foreign origin are entitled to preferential treatment. If goods should be delivered which do not meet this requirement, the Supplier has to pay the E.U. customs duty.

Unless expressly otherwise agreed in writing, the Supplier is not entitled to make part deliveries or to deliver more or less than the amount ordered.

Part and supplementary deliveries made for reasons for which the Supplier is responsible must be made at the Supplier's expense and accorded top priority, regardless of the invoice value. This does not affect our right to enforce further claims.

Unless expressly agreed otherwise in writing, deliveries of goods must be made during the periods specified below. If they arrive later, unloading will not be possible until the next working day. Any costs incurred as a result of a failure to adhere to the periods specified below must be borne by the Supplier, unless we are responsible for that failure.

Monday to Thursday: 7 AM to 3 PM

Friday: 7 AM to 12 noon

Two copies of the delivery note must be enclosed with each consignment. If a consignment consists of more than one packed item, the item which contains the delivery note must be clearly indicated.

The performance of contractual obligations of the Supplier by third parties is subject to our approval, even if the third party concerned is a company affiliated to the Supplier as defined in § 15 German Companies Law.

4. Packaging

We are entitled at our reasonable discretion to demand that the Supplier dispose of packaging materials in an appropriate way and without charge to us. The Supplier may in all cases only charge durable packaging materials (e.g. crates, bale cords etc.) at cost and must credit 3/4 of their value as charged if they are returned carriage-paid in usable condition within three months.

In case of imports from countries against which the EU has imposed restrictions concerning certain packaging material (e.g. wood from the U.S.A.), the delivery has to be made in appropriate packaging materials which do not fall under such restrictions (e.g. plastic palletes).

5. Passing of risk, transfer of title

Unless expressly agreed otherwise in writing, the risk will not pass until goods/services are received by us.

On principle, title to goods supplied will pass to us when the respective delivery is obtained. Simple reservations of title by the Supplier shall only become part of the contract if we have expressly consented to these in writing. Accordingly, also extended or wider reservations of title will only apply if we have expressly consented to these in writing.

6. Unforeseeable events, force majeure

In the case of unusual, unforeseeable events, in particular force majeure, war and actions taken by sovereign powers, the Supplier must without delay commence negotiations with us regarding their effects on the contractual relationship. There will be no general release from obligations to deliver. Even in these cases it will on principle remain possible to enforce other claims, in particular based on incorrect/incomplete performance.

7. Characteristics, assurances/guarantees, warranty, liability

The quality, quantity, dimensions and other characteristics of goods/services delivered must conform to statutory/ agreed requirements.

In the case of supplies of machines/systems the Supplier is responsible for adherence to the relevant work safety and accident prevention regulations and for perfect design from the safety point of view in accordance with the most recent generally accepted standards of technology.

A reference to recognised standards implies on principle an assurance representing a guarantee of characteristics irrespective of fault, unless expressly agreed otherwise in writing. Samples, patterns, other documentation etc. and information in the form of e.g. photographs, drawings and statements of dimension or weight supplied to us also represent guarantees of characteristics irrespective of fault.

The Supplier also guarantees that the use and/or selling-on of the goods/services supplied by him will not breach industrial property rights of third parties. Under this guarantee he will, at our first request, indemnify us against all claims by third parties based on breaches of industrial property rights. This does not affect our right to enforce any claims above and beyond this which are due to us, in particular claims to damages.

The requirements of § 377 German Commercial Code do not apply.

In the event of incorrect/incomplete performance, we may, at our discretion and taking into account what is reasonable, either initially demand rework/replacement or immediately demand the taking back of the defective delivery and the reimbursement of the price, a reduction of the price, compensation for damages and/or termination of the contract / compensation for wasted work/expenditure.

Guarantee and other claims, in particular ones based on incorrect/incomplete performance, will be as provided by law unless otherwise specified in these Terms of Purchase.

8. Returns, special right to terminate

It is on principle permissible to return goods as long as it is not unreasonable to expect the Supplier to accept this in the individual circumstances. This also applies to custom orders and packs which have been opened.

If the Supplier ceases to make deliveries, if insolvency proceedings are initiated with respect to its assets or if an application for the initiation of insolvency proceedings is rejected due to lack of assets, we will be entitled to withdraw from the contract insofar as this relates to deliveries not yet made.

9. Invoices, payments

Invoices must be submitted to us without delay in duplicate. They must conform to statutory requirements, in particular with respect to the provision of turnover tax details and the quoting of the Supplier's turnover tax identification number.

As long as nothing to the contrary has been expressly agreed upon, we will deduct a 3% discount from payments made within 30 days following receipt of the invoice / the goods, whichever occurs last. Net payment will – again in case that nothing to the contrary has been expressly agreed upon – be made within 60 days, likewise following receipt of the invoice / the goods.

In the case of temporary non-performance we reserve the right to withhold payment in whole or in part to a reasonable extent until the incorrect/incomplete performance in question has been remedied. Payment does not represent confirmation of proper delivery.

10. Secrecy, title to production materials, industrial property rights

The Supplier must regard commercial and technical details which come to his knowledge in connection with an order as business secrets and keep them confidential.

Drawings, models, tools, samples, matrices and other production materials supplied to the Supplier by us for the purpose of filling an order or manufactured by the Supplier on our behalf are our property and may not be used for other commercial purposes, duplicated, sold, pledged or made accessible to third parties in any other way without our prior written approval. The Supplier will store these production materials for us free of charge, insure them as third-party property and return them to us on request without delay, properly packed and in due condition, when the business relationship is terminated. The Supplier's own suppliers must be placed under a corresponding obligation.

Materials supplied by us remain our property. They may only be used for the purpose for which they are intended. Any processing or combination of such materials is done on our behalf. We will become joint owners of any products manufactured using our materials in proportion to the ratio of the value of our materials to the value of the entire product. The product must be stored by the Supplier with the care to be expected from a prudent merchant.

In particular, we reserve all relevant industrial property rights, above all patents and copyright, in illustrations, drawings, calculations and other documentation produced by us. Documents etc. may only be used for filling the order on the basis of the contract concerned and must be returned to us without delay at any time if required.

11. Storage of data

We are entitled to store data relating to the Supplier subject to the requirements of the respective current version of the German Federal Data Protection Act.

12. Legal venue, jurisdiction

For commercial/business transactions the exclusive legal venue for all disputes arising directly or indirectly out of the contract is 56567 Neuwied, Germany.

The legal relationship between us and the Supplier is exclusively subject to German law. Provisions, in particular those of international private law, which could result in the application of other laws, are hereby expressly excluded. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) are also expressly excluded.

13. Validity of terms

Should individual provisions of these Terms of Purchase be legally invalid, this does not affect the validity of the remaining provisions.