

General Terms and Conditions of Purchase

As of May 2021

1. General information

Our Terms and Conditions of Purchase apply exclusively; any general terms of business of the supplier which oppose or deviate from our Terms and Conditions of Purchase will only be recognised if we have granted our express consent to them in written form.

Our Terms and Conditions of Purchase apply to future orders without explicitly having to include them as part of the contractual contents agreed upon.

The acceptance of goods/services of the supplier (hereinafter the “contractual object”) or payment therefor does not constitute consent.

2. Conclusion of contract and amendments to the agreement

2.1 Orders, deals and call-offs, as well as changes and additions to them must be made in written form.

2.2 Verbal agreements of any kind – including subsequent amendments and addenda to our Terms and Conditions of Purchase – must be confirmed by us in writing in order to be effective. The same applies to side agreements and additional agreements. Verbal agreements or assurances on the part of our employees have no binding effect on us.

2.3 Remote data transmission or fax also fulfils the written form requirement.

2.4 Cost estimates are binding and not to be paid unless explicitly agreed upon otherwise.

2.5 We remain bound by our written orders for a period of two weeks as of order date. Order confirmations which we receive after this term has elapsed shall be deemed to be a new offer which requires our written acceptance.

2.6 Call-offs during order and call-off planning become binding if the supplier does not object to them within two business days as of receipt.

3. Delivery

3.1 The contract enters into effect upon our receipt of written order confirmation from the supplier or upon our acceptance of the delivery. If the content of the order confirmation differs from the content of the order, the supplier will have to explicitly indicate separately that it has accepted the conclusion of a different agreement. In this case, a contract will only be established once our written consent has been granted.

3.2 The place of performance is the place of delivery specified by us; shipping shall be at the supplier’s expense. In case of carriage free delivery to the place of delivery we specify, the supplier shall cover the cost of transport insurance at no expense to us. Dates and deadlines agreed upon are binding; if delivery periods have been specified, they begin running as of the date of order. The receipt of the goods at the agreed place of delivery is the decisive factor for compliance.

- If the delivery is not agreed upon as carriage free to the specified place of delivery, the supplier shall provide the goods in good time in observance of the usual times for loading and shipping. In the case of call-offs, the delivery dates are binding according to the same principles, unless the supplier objects to this without delay.
- 3.3 If the supplier has assumed the setup or installation work, unless otherwise agreed upon, the supplier shall assume all necessary ancillary costs such as travel expenses, tool supply and daily allowances, although different arrangements may be made.
- 3.4 Statutory regulations shall apply if any agreed deadlines are not met. If the supplier anticipates any difficulties in terms of production, primary material supply, compliance with delivery deadline, or similar circumstances which could stand in the way of timely delivery or delivery in the agreed quality, the supplier shall inform our department which placed the order without delay. In the event of a delayed delivery, we have the right to withdraw from the contract or demand damage compensation in lieu of performance should a reasonable deadline elapse without result. In the event of default on the part of the supplier, we shall be entitled to demand a contractual penalty of 1.0% of the total order value for each week or part thereof that the delivery deadline is exceeded, albeit no more than 10% of the total order value, taking further claims for damages into account.
- 3.5 The unconditional acceptance of the delayed delivery or service shall not constitute a waiver of the claims to compensation to which we are entitled on account of the delayed delivery or service; this shall apply until we have paid the remuneration due for the delivery or service in question in full.
- 3.6 Partial deliveries are generally not permissible, unless we have granted our express consent to this, or they are reasonable for us.
- 3.7 The values we determine during our incoming goods inspection are the decisive factor for numbers of units, weights and volumes, unless other proof can be rendered. Excess deliveries which have not been agreed upon entitle us to purchase the excess goods delivered at the corresponding value of the invoices, or to store them at the supplier's expense until the supplier collects them, or to return them at the supplier's expense.
- 3.8 An extended or expanded retention of title on the part of the supplier – in particular the retention of title to the delivered goods until full payment of all claims resulting from the overall business relationship – is excluded.
- 3.9 We have the right of use to software which is included with the product, including documentation thereof, the extent permissible by law (Sections 69a et seq. of the Copyright Act [UrhG]).
- 3.10 We also have the right to use such software (including documentation) with the performance features agreed upon and to the extent necessary for the contractual use of the product. We shall also be allowed to make a backup copy, even without an explicit agreement to do so.

4. Force majeure

- 4.1 Force majeure, such as war, transport or operational disruptions, currency-related issues or other delivery hindrances beyond our control, relieves us from our obligation to accept the goods on time for the duration of the force majeure event. During such events as well as two weeks after their end, we shall be entitled – without prejudice to our other rights – to withdraw from the contract in whole or in part if said events are of significant duration and our demand is significantly reduced due to the need to procure the goods elsewhere as a result.
- 4.2 The provisions of Paragraph 4.1 also apply in the event of labour strikes.

5. Delivery notification and invoice

The specifications in our orders and call-offs. The invoice is to be sent in single copy to the address printed on the invoice, stating the invoice number and other allocation specifications. It is not to be enclosed with the shipments.

6. Pricing and transfer of risk

Unless a special agreement has been made, prices include delivery to the specified location (DAP as per Incoterms 2010) as well as packaging. Value-added tax is not included. The supplier shall bear the material risk until acceptance of the goods by us or our agent at the place of delivery according to the order.

7. Payment conditions

- 7.1 Payment is to be rendered net within 30 days, unless agreed upon otherwise. The term for payment shall not commence until the goods have been received as per contract, including proper delivery bills and invoices.
- 7.2 The supplier may only assign his claims or have them collected by third parties with our prior written consent.
- 7.3 The time of payment has no effect on the supplier's guarantee or on the right of reprimand. In the event of faulty delivery, we shall be entitled to withhold payment in proportion to the value until the order has been fulfilled properly.

8. Claims for defects and recourse

- 8.1 The duty to inspect the goods and give notice of any defects shall always commence once the delivery has been received at the destination specified in the order and proper documents (in particular dispatch notification and delivery bill) are on hand. We are entitled to give notice of defects within 14 business days after receiving the goods. In the case of hidden defects, we are entitled to give notice within 14 working days after discovering the defect.
- 8.2 Unless agreed upon otherwise, the guarantee shall end no earlier than two years after delivery of the ordered goods. The time limit for guarantee claims shall be suspended from the time of notification of the defect and shall not resume until the guarantee has been expressly rejected or negotiations on the matter have been terminated.

The guarantee period shall be extended proportionally in the event of subsequent performance.

- 8.3 We shall always have the right to choose the type of subsequent performance. The supplier is not entitled to refuse the type of subsequent performance we request. If repair or subsequent delivery proves unsuccessful, is unreasonable for us or the same goods are delivered in defective condition again, we shall be entitled to reduce the purchase price or to withdraw from the contract, including, as the case may be, for the volume of delivery that has not been fulfilled.
- 8.4 In urgent cases, in particular to avert acute danger or avoid major damage, if the supplier does not begin to remedy the defect immediately upon our request to do so, we shall be entitled to remedy the defect ourselves or have it remedied by a third party at the supplier's expense.
- 8.5 The supplier shall indemnify us from third-party claims against us based on from manufacturer's liability, if the supplier would also be directly liable itself. This also applies to liability regardless of negligence or fault, e.g. pursuant to the Product Liability Act (Produkthaftungsgesetz). The supplier shall maintain sufficient insurance for purposes of this indemnification.
- 8.6 Claims for defects shall lapse – except in cases of fraudulent intent – after three years, unless the item was used as intended for constructing a building and caused the building to be defective. The limitation period begins upon delivery of the contractual object (transfer of risk).
- 8.7 If the supplier fulfils its subsequent performance duty by replacement delivery, the limitation period shall start anew for the replacement goods after their delivery, unless the supplier has expressly and expediently reserved the right at the time of subsequent performance to make the replacement delivery only as a gesture of goodwill, to avoid disputes or in the interest of continuing the supply relationship.
- 8.8 If we incur any costs as a result of defective delivery of the contractual object, in particular transport, travel, labour, installation, removal, material costs or costs for an incoming goods inspection which exceeds the usual scope, then the supplier shall bear these costs.
- 8.9 If we have notified the supplier that we are purchasing the goods for export, the place of delivery notified for this export transaction shall be deemed to be the place of performance, and we shall be entitled to accept the goods without inspection and forward them. All inspection and complaint periods shall only commence at the time the foreign buyer is able to inspect the goods, albeit upon unloading at the place of delivery at the earliest.

9. Quality assurance

The delivered goods must comply with the applicable provisions of domestic and foreign law as well as the characteristics and quality requirements specified in the order.

The supplier is obliged to inform us in writing of any potential restrictions of use of the goods delivered. The same applies to any declaration duties for finished goods which are made using the delivered goods.

10. Product liability

- 10.1 In the event that claims are asserted against us on the basis of product liability, the supplier shall be obliged to indemnify us of such claims if and to the extent that the damage was caused by a defect in the contractual object delivered by the supplier. In cases of culpable liability, however, this shall only apply if the supplier is at fault. If the cause of the damage is within the supplier's sphere of responsibility, the supplier must prove that it is not at fault.
- 10.2 In cases of Paragraph 9.1, the supplier shall bear all costs and expenses, including the costs of any legal action.
- 10.3 Otherwise, the statutory provisions shall apply.

11. Right of withdrawal and termination

- 11.1 Beyond the statutory rights of withdrawal, we are entitled to withdraw from or terminate the contract with immediate effect if
- the supplier has ceased to supply its customers,
 - a significant deterioration in the supplier's financial circumstances has taken place or is impending, thus jeopardising fulfilment of a delivery obligation,
 - the supplier becomes insolvent or overindebted, or
 - the supplier ceases to make its payments.
- 11.2 We shall also be entitled to withdraw from or terminate the contract if the supplier files for insolvency or comparable proceedings on its assets for the settlement of debts.
- 11.3 If the supplier has rendered partial performance, we shall only be entitled to withdraw from the entire contract if we have no interest in the partial performance.
- 11.4 If we withdraw from or terminate the contract on the basis of the aforementioned contractual rights of withdrawal or termination, the supplier shall compensate us for any damages incurred as a result, unless the supplier bears no responsibility for the reason why we asserted our rights of withdrawal or termination.
- 11.5 Statutory rights and entitlements are not limited by the provisions of this Paragraph 10.

12. Provisions

We retain ownership of any materials, parts, containers and special packaging we provide. These items may only be used for their intended purpose. The use of materials and assembly of parts we provide are to be done on our behalf.

13. Documents and confidentiality

- 13.1 a) All business or technical information we make accessible (including features which can be inferred from any items, documents or software transferred, and other knowledge or experience) shall be kept confidential from third parties, provided that they are not demonstrably public knowledge and, within the supplier's own company, may only be made available to such persons who need to use them in order to delivery to us and who are also obliged to maintain the confidentiality thereof; they shall remain our exclusive property.

Such information may not be reproduced or used commercially without our prior written consent, except for deliveries to us. All information originating from us (including any copies or records made thereof) and items provided on loan must be returned to us immediately and in full or destroyed upon request.

b) We reserve all rights to such information (including copyrights and the right to apply for industrial property rights, such as patents, utility models, semiconductor protection, etc.). If such information was made accessible to us by third parties, this reservation of rights shall also apply in favour of said third parties.

- 13.2 Products which are manufactured according to documents drafted by us, such as drawings, models, etc., or based on our confidential information or with our tools or tools copied from us may neither be used by the supplier himself nor offered or delivered to third parties. This also applies accordingly to our printing orders.

14. Export control and customs

The supplier is obligated to inform us in its business documents of any licensing requirements for (re-)exports of its goods in accordance with German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of its goods. For this purpose, the supplier shall provide the following information in at least its offers, order confirmations and invoices for the goods in question:

- the export list number as per Annex AL to the German Foreign Trade Ordinance (AWV) or comparable list items of relevant export lists,
- for US goods, the ECCN (Export Control Classification Number) in accordance with the US Export Administration Regulations (EAR),
- the commercial origin of its goods and components thereof, including technology and software,
- whether or not the goods were transported through the U.S., manufactured or stored in the U.S., or manufactured using U.S. technology,
- the statistical goods number (HS code) of its goods, and
- a contact person at its company to handle any queries we may have.

At our request, the supplier is obliged to provide us with all further foreign trade data relating to its goods and their components in writing and to notify us in writing of any changes to the above data without delay (before the goods concerned are delivered).

15. Compliance

The supplier undertakes to comply with the relevant statutory provisions on employee treatment, environmental protection and work safety.

16. Place of performance

The place of performance is the location where the goods are to be delivered or where the service is to be rendered according to the order.

17. General provisions

- 17.1 Should one provision of these terms and conditions and any other agreements made prove to be invalid, it shall not affect the validity of the other provisions. The contracting parties undertake to replace the invalid provision with an arrangement which approximates the economic intent of the invalid one as closely as possible.
- 17.2 The contractual relationships are exclusively governed by German law.
- 17.3 The legal venue for any legal disputes arising directly or indirectly from contractual relationships based on these Terms and Conditions of Purchase is Stuttgart. Stuttgart District Court (70190 Stuttgart) is competent for proceedings before district courts. We are furthermore entitled to take legal action against the supplier at the court of its registered office or branch office or at the court of the place of performance at our discretion.