

Terms and conditions of purchase

1. Scope of application

These General Terms and Conditions of Purchase shall apply to all business relationships with our suppliers and shall form part of the purchase contract concluded with us.

Unless otherwise agreed, the General Terms and Conditions of Purchase in the version valid at the time of our order or in any case in the version last communicated to the supplier in text form shall also apply as a framework agreement for similar future contracts without us having to refer to them again in each individual case.

These General Terms and Conditions of Purchase shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of Business of the supplier shall only become part of the contract if and insofar as we have expressly agreed to their validity in writing. This requirement of consent shall apply in any case, even if the supplier refers to its general terms and conditions in the order confirmation and we do not expressly object to them.

Individual agreements and specifications in our order shall take precedence over the General Terms and Conditions of Purchase.

2. Offer

The quotations must correspond exactly to our inquiries. If deviations are unavoidable, this must be specifically pointed out in the offer.

Quotations, visits and other elaborations are free of charge and non-binding for us.

3. Order and order confirmation

Only written orders and changes to orders are binding for us. Verbal agreements require written confirmation. The acceptance of our order is unconditional, as otherwise the order is not placed in accordance with § 150 para. 2 BGB. We are not obliged to respond if the supplier submits an order confirmation that deviates from the order.

Acceptance of our order shall be deemed as acknowledgement of our Terms and Conditions of Purchase.

The contractor is obliged to check the parts ordered by us to ensure that the technically correct and latest design has been selected. If he lacks technical information for this assessment, he must request this from us. We cannot recognize any limitations of the warranty due to previously unknown technical data.

4. Prices

Unless otherwise agreed, the prices stated by us in the order shall be binding. All prices are understood to include statutory value added tax if this is not shown separately.

Unless otherwise agreed in individual cases, the price shall include all services and ancillary services of the supplier as well as all ancillary costs.

Price increases due to a possible price reservation shall only be recognized by us if the cost increase is proven by the supplier and is considered reasonable by us and confirmed in writing.

5. Delivery time and right of termination

The agreed delivery times shall be binding and shall be deemed fixed dates. If the supplier culpably fails to meet a bindingly agreed deadline, it shall be in default without further ado, without the need for a reminder or setting of a deadline. The supplier shall be liable for any damage incurred by us as a result of late delivery if the supplier is at fault.

As the ordering party, we reserve the right to withdraw from the contract if we deem it necessary for special reasons. In this case, the supplier shall receive that part of the remuneration which corresponds to the services it has provided up to the time of withdrawal, including the imputed profit lost.

Force majeure, labor disputes or other unavoidable and unforeseeable events shall only release the supplier from its performance obligations for the duration of the disruption and to the extent of its effect.

Events of force majeure shall entitle us to postpone our obligations for the duration of the hindrance and a reasonable start-up period. Other unforeseeable, extraordinary circumstances for which we are not responsible, such as strikes, lockouts and other circumstances which make it substantially more difficult or otherwise impossible for us to fulfil our obligations, regardless of whether they occur at our premises or those of a third party, shall be deemed equivalent to force majeure. The supplier may demand a declaration from us as to whether we wish to withdraw from the contract or set a reasonable grace period.

Excess deliveries are not permitted. In the event of over-delivery, we shall be free to

- a) to refuse acceptance, or
- b) to accept it and, at our discretion, to pay either the price of the contract or the current price.

6. Warranty

The statutory provisions and, exclusively in our favor, the following supplements and clarifications shall apply to our rights in the event of material defects and defects of title of the goods (including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the supplier.

In accordance with the statutory provisions, the supplier shall be liable in particular for ensuring that the goods have the agreed quality when the risk passes to us. In any case, those product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or have been included in the contract in the same way as these General Terms and Conditions of Purchase shall be deemed to be an agreement on the quality.

The supplier shall be liable for all defects and damage attributable to inferior material and faulty workmanship.

Acceptance of delivery is always subject to quantity and quality control. We are obliged to inspect the goods for any defects within a reasonable period of time. A notice of defects shall be deemed to have been made in good time if it is received by the supplier within a period of 20 working days after delivery in the case of recognizable defects or, if the defect was not recognizable during a proper inspection, within a period of 20 working days after discovery.

In the event of a defect, we shall be entitled, at our discretion, to demand that the supplier rectify existing defects or provide a replacement delivery within a reasonable period of grace.

Subsequent performance shall also include the removal of the defective goods and reinstallation, provided that the goods were installed in another item or attached to another item in accordance with their nature and intended use before the defect became apparent. Our statutory claim to reimbursement of the corresponding removal and installation costs shall remain unaffected.

The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs as well as any removal and installation costs, shall be borne by the supplier. If the supplier defaults on subsequent performance at our first request, we shall be entitled to carry out such subsequent performance ourselves or have it carried out by third parties at the supplier's expense in order to avert acute danger or to avoid excessive damage.

Otherwise, in the event of a material defect or defect of title, we shall be entitled to reduce the purchase price or to withdraw from the contract and to claim damages and reimbursement of expenses in accordance with the statutory provisions.

The suppliers undertake to carry out the work in their own workshops.

The passing on of our order including samples, drawings and copies to subcontractors who are not vicarious agents is only permitted with our prior express written consent. In the absence of such consent, we shall be entitled, subject to further claims, to reject the work at any time and to carry out the order ourselves or have it carried out by third parties at your expense.

Claims of the supplier arising from the contract may not be transferred to third parties in whole or in part without our written consent.

The supplier shall indemnify and hold us harmless against all claims for infringement of third-party property rights.

The supplier shall guarantee the ordered items for 16.000 operating hours during day and night operation, counting from the day of commissioning.

7. Supplier recourse

In addition to the claims for defects, we shall be entitled to our statutory claims for expenses and recourse within a supply chain without restriction. In particular, we are entitled to demand exactly the type of subsequent performance from the supplier that we owe our customer in the individual case. Our statutory right to choose according to § 439 para. 1 BGB is not restricted by this.

Before we acknowledge or fulfill a claim for defects asserted by our customer, we shall notify the supplier and request a written statement, briefly explaining the facts of the case. If a substantiated statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by us shall be deemed to be owed to our customer. In this case, the supplier shall be responsible for providing evidence to the contrary.

Our claims arising from supplier recourse shall also apply if the defective goods have been combined with another product or further processed in any other way by us, our customer or a third party through installation, attachment or installation or in any other way.

8. Product liability

The supplier shall be obliged to observe the latest state of the art in science and technology when processing the delivery and manufacturing the delivery items and to comply with all mandatory legal provisions, to carry out a thorough functional and quality check before delivery of the product and to adequately document all measures taken to fulfill these obligations.

Insofar as the supplier is responsible for product damage, he shall be obliged to indemnify us against claims for damages by third parties upon first request if the cause lies within his sphere of control and he himself is liable in relation to third parties.

The supplier shall take out and maintain product liability insurance with a lump sum cover of at least EUR 5 million per personal injury/property damage.

9. Right of control

As the customer, we have the right to inform ourselves at any time of the contractual execution of the delivery during ongoing production, to inspect the execution documents, to satisfy ourselves that the delivery deadlines are being met and to demand all other necessary information. If we carry out tests on the delivery items at the supplier's plant, the equipment etc. required for the tests shall be provided to us by the supplier free of charge.

10. Provided materials

Materials provided for the execution of our orders shall remain our property and shall be stored, labeled and managed separately by the supplier.

In the event of combining, mixing or processing of our supplies with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our materials and parts to the other processed items at the time of combining, mixing or processing.

The drawings and calculations, as well as the documents prepared according to our specifications, may not be further utilized or duplicated, nor made accessible to third parties. This shall not apply or shall no longer apply if the information contained therein has become common knowledge without the supplier's consent. The supplier shall be liable for all damages resulting from a violation.

11. Shipment

The supplier must immediately submit a dispatch note for each individual consignment. The notification must include the order reference, the department and the description of the goods. All deliveries shall be made "free domicile" at the supplier's risk to the place specified in the order, which will normally be our works in Oberhausen. The respective place of destination is also the place of performance for the delivery and any subsequent performance. Freight, waybill stamps and transport insurance shall be borne by the supplier. Freight etc. shall not be disbursed by us.

Any packaging costs incurred shall not be borne by us, but shall in any case be included in the price. If, in a special case which requires our express written confirmation, packaging costs are charged once, we reserve the right to deduct the specified amount from the invoice in the event of carriage paid return. The risk of accidental loss and accidental deterioration of the goods shall only pass to us upon handover at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk.

12. Payment

A dispatch note and an invoice in duplicate must be sent to us immediately upon dispatch of each individual consignment. If we have contracts in progress, the respective status shall be listed in the invoices.

The supplier's claim shall become due when the delivery item has been received in full at the place of destination or the service has been rendered in full. This must be accompanied by acceptance, insofar as this is provided for by contract or by law, and the issue of an invoice.

In the event of defective or incomplete delivery, we shall be entitled to withhold payment in proportion to the value until proper fulfillment.

In principle, we shall make payments 14 days after receipt of the invoice with a 3% discount or within 30 days net; however, the period shall not commence before the supplier has rendered the service in full.

Settlement shall be made at our discretion either in cash or in bills of exchange. In the latter case, the discount rate of the national central bank shall be reimbursed. A precondition for payment is that the invoice is received by the 5th of the month following delivery and that it is possible to check the delivered items for conformity with the contract between the date of receipt of the invoice and the date of payment.

We shall be entitled to set off due claims which we have against the supplier or a company in which the supplier holds an interest.

The supplier shall only have a right of set-off or retention on the basis of legally established or undisputed counterclaims.

13. Transfer of ownership by way of security

We shall be entitled at any time to demand that our advance payments be secured by the assignment as security of the assets created or acquired with our advance payment, including the materials and the work in progress.

The supplier undertakes to do everything in its power to effect such security. If a transfer of ownership by way of security is not possible, we shall be entitled to demand other securities in the corresponding amount.

14. Retention of title by the supplier

The transfer of ownership of the goods to us must always be unconditional and without regard to the payment of the price. If, in individual cases, we nevertheless accept an offer of transfer of title from the supplier conditional on payment of the purchase price, the supplier's reservation of title shall expire at the latest upon payment of the purchase price for the delivered goods. We shall remain authorized to resell the goods in the ordinary course of business even before this payment of the purchase price for the delivered goods, assigning the resulting claim in advance. This excludes all other forms of retention of title, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to further processing. A reservation of title shall only be deemed binding if it has been confirmed by us in writing outside the supplier's terms and conditions of business.

15. Choice of law, place of performance, place of jurisdiction

The applicable law for these General Terms and Conditions of Purchase and the contractual relationship between us and the supplier is the law of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods, unless otherwise confirmed by us in writing.

For all rights and obligations arising from this transaction, Oberhausen shall be the place of performance and fulfilment as well as the place of jurisdiction for both parties.

16. General

Should any of the agreements made with our supplier be null and void, this shall not affect the validity of the remaining agreements.

Status: 01. December 2023

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