
General Terms and Conditions of Purchase | As of: March 28, 2022 | English Version

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General Terms and Conditions of Purchase

§ 1 Scope

(1) All deliveries, services and offers of our suppliers shall be made exclusively on the basis of these General Terms and Conditions of Purchase, which shall form an integral part of all contracts concluded by us with our suppliers for the deliveries or services offered by them. They shall also apply to all future deliveries, services or offers to the customer, even if they are not separately agreed again.

(2) Terms and conditions of our suppliers or third parties shall not apply, even if we do not specifically object to their application in individual cases. Even if we refer to a letter that contains or refers to the terms and conditions of the supplier or a third party, this shall not constitute an agreement relating to the validity of those terms and conditions.

§ 2 Purchase Orders

(1) Insofar as our offers do not expressly contain a binding period, we shall be bound by them for 10 working days after the date of the offer. Decisive for the timely acceptance is the receipt of the declaration of acceptance by us.

(2) We shall be entitled to change the time and place of delivery as well as the type of packaging at any time by written notification with a notice period of at least 2 months prior to the agreed delivery date. The same shall apply to changes in product specifications insofar as these can be implemented within the framework of the supplier's regular production process without significant additional expense, whereby in these cases the notification period shall be at least 2 months as well. We shall reimburse the supplier for any proven and reasonable additional costs incurred in each case as a result of the change. If such changes result in delivery delays which cannot be avoided with reasonable efforts in the supplier's regular production and business operations, the originally agreed delivery date shall be postponed accordingly. The supplier shall notify us in writing of the additional costs or delays in delivery to be expected from him on careful assessment and in good time before the delivery date, but at least within 10 working days after receipt of our notification.

(3) We shall be entitled to withdraw from the contract at any time by written declaration and stating the reason, if:

(a) we are no longer able to use the ordered products in our business operations or are only able to use them at considerable expense due to circumstances that occurred after the conclusion of the contract and for which the supplier is responsible (such as, for example, the failure to comply with legal requirements), or

(b) the financial circumstances of the supplier deteriorate after conclusion of the contract to such an extent that compliant delivery in accordance with the contract cannot be expected.

§ 3 Prices, Terms of Payment, Invoice Details

(1) The price stated in the order is binding.

(2) Unless otherwise agreed in writing, the price includes delivery and transport to the shipping address specified in the contract, including packaging.

(3) Insofar as the price does not include packaging according to the agreement made and the remuneration for the packaging not provided merely on a lending basis is not expressly determined, it shall be charged at the proven cost price. Upon our request, the supplier shall take back the packaging at its own expense.

(4) Unless otherwise agreed, we shall pay the purchase price within 14 days of delivery of the goods and receipt of the invoice with a 2% discount or within 30 days at the net amount. The receipt of our transfer order at our bank shall be considered sufficient for the timeliness of the payments owed by us.

(5) All order confirmations, delivery documents and invoices shall state our order number, the item number, delivery quantity and delivery address. If one or more of these details are missing and processing by us is delayed as a result within the scope of our regular business process, the payment periods specified in § 4 shall be extended by the period of the delay.

(6) In the event of default in payment, we shall owe default interest in the amount of (five) percentage points above the base interest rate pursuant to § 247 of the German Civil Code (BGB).

§ 4 Delivery Time and Delivery, Transfer of Risk

- (1) The delivery time (delivery date or delivery period) specified by us in the order or otherwise authoritative according to these General Terms and Conditions of Purchase shall be binding. Early deliveries are only permissible after prior agreement in writing.
- (2) The supplier is obliged to inform us immediately in writing if circumstances occur or become apparent that lead to a situation in which the delivery time cannot be met.
- (3) If the day on which the delivery must be made at the latest can be determined on the basis of the contract, the supplier shall be in default upon expiry of this day, without requiring a reminder on our part.
- (4) In the event of a delay in delivery, we shall be entitled to our statutory rights and claims without limitation or reservation, whereby we shall only be entitled to exercise a right of rescission or assert claims for damages in lieu of performance after an expiry of a reasonable grace period.
- (5) In the event of delays in delivery, we shall be entitled, after prior written warning to the supplier, to demand a contractual penalty of 0.5 %, up to a maximum of 5 %, of the respective order value for each commenced week of delay in delivery. The contractual penalty shall be added to the damage to be compensated by the supplier as a result of the delay.
- (6) The supplier shall not be entitled to make partial deliveries without our prior written consent.
- (7) Even if shipment has been agreed, the risk shall only be transferred to us once the goods are handed over to us at the agreed destination.

§ 5 Ownership Protection

- (1) We reserve the ownership or copyright to orders placed by us as well as drawings, illustrations, calculations, descriptions and other documents made available to the supplier. The supplier may neither make them accessible to third parties nor use or reproduce them himself or through third parties without our express consent. He shall return these documents to us in full at our request if they are no longer required by him within the regular course of business or if negotiations do not lead to the conclusion of a contract. In this case, any copies made by the supplier shall be destroyed; the only exceptions to this are storage within the scope of statutory storage obligations and the storage of data for backup purposes within the scope of regular data backup processes.
- (2) Tools and models (in particular molds made of wood and metal, referring to so-called mold sets) which we make available to the supplier or which are manufactured for contractual purposes and are charged to us separately by the supplier shall remain our property or shall pass into our ownership. The supplier shall identify them as our property, keep them in safe custody, protect them to a reasonable extent against damage of any kind and use them only for the purposes of the contract. Production (in particular using our mold sets) for or for the benefit of third parties is expressly prohibited. Unless expressly agreed otherwise, the contracting parties shall each bear half of the costs of their necessary maintenance and repair. However, insofar as these costs are attributable to defects in the items manufactured by the supplier or to improper use on the part of the supplier, his employees or other vicarious agents, they shall be borne solely by the supplier. The supplier shall notify us immediately of any potentially relevant damage to such tools and models. Upon request, he shall be obliged to return them to us in proper condition if they are no longer required by him for the performance of the contracts concluded with us.
- (3) Retention of title by the supplier shall only apply insofar as it relates to our payment obligation for the respective products to which the supplier reserves ownership. In particular, extended or prolonged retentions of title are not permitted.

§ 6 Warranty claims

- (1) In the event of defects, we shall be entitled to all statutory rights and claims without limitation or reservation. The warranty period shall be 24 months from the transfer of risk. The limitation period begins with the delivery of the goods.
- (2) Deviations in quality and quantity shall be deemed to have been notified in good time if we notify the supplier within 2 weeks of receipt of the goods by us.
- (3) We do not waive warranty claims by acceptance or approval of samples or specimens submitted.
- (4) Upon receipt of our written notice of defects by the supplier, the limitation period for warranty claims shall be suspended until the supplier rejects our claims or declares the defect eliminated or otherwise refuses to continue negotiations relating to our claims. In the event of replacement delivery and rectification of defects, the warranty period for replaced and/or rectified parts shall start anew, unless we had to assume from the supplier's conduct that the supplier did not consider itself obliged to take the measure, but only carried out the replacement delivery or rectification of defects as a gesture of goodwill or for similar reasons.

§ 7 Product Liability

The supplier shall be responsible for all claims asserted by third parties for personal injury or property damage attributable to a defective product supplied by him and shall be obliged to indemnify us against any liability resulting therefrom. If we are obliged to carry out a recall action against third parties due to a defect in a product supplied by the supplier, the supplier shall bear all costs associated with the recall action.

§ 8 Industrial Property Rights

(1) The supplier shall be responsible for ensuring that no third-party industrial property rights are infringed by products supplied by him in countries of the European Union or other countries in which he manufactures the products or has them manufactured by third parties. He shall be obliged to indemnify us against all claims asserted against us by third parties due to such infringement of industrial property rights and to reimburse us for all necessary expenses in connection with such claims. This shall not apply if the supplier proves that he is neither responsible for the infringement of industrial property rights nor that he should have been aware of the infringement at the time of delivery if he had exercised due commercial diligence.

(2) Our further legal rights and claims due to defects of title of the products delivered to us shall remain unaffected.

§ 9 Non-Disclosure

(1) The supplier is obliged to keep the terms of the order as well as all information and documents made available by us for this purpose (with the exception of publicly accessible information) confidential and to use them only for the execution of the order. Upon request, he shall immediately return to us the aforementioned documents relating to order execution or related inquiries.

(2) Without our prior written consent, the supplier may not refer to the business relationship in advertising material, brochures, etc. and may not exhibit delivery items manufactured for us.

(3) The supplier shall instruct and oblige its sub-suppliers in accordance with this § 9.

§ 10 Assignment

The supplier shall not be entitled to assign his claims arising from this contractual relationship to third parties. This shall not apply insofar as monetary claims are concerned.

§ 11 Compliance with Laws and Regulations

(1) In relation to this contractual relationship, the supplier shall be obliged to comply with the relevant statutory provisions applicable to it. This applies in particular to anti-corruption and money laundering laws as well as antitrust, labor and environmental protection regulations.

(2) The supplier shall ensure that the products delivered by him comply with all relevant requirements for placing it on the market in the European Union and the European Economic Area. Upon request, he shall provide us with evidence of conformity by submitting suitable documents.

(3) The supplier shall use reasonable efforts to ensure compliance by his subcontractors with the supplier's obligations under this § 11.

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

(1) If the supplier is a merchant, a legal entity under public law or a public special fund, the exclusive place of jurisdiction for all disputes arising from this contractual relationship shall be our place of business. The same shall apply if the supplier does not have a general place of jurisdiction in Germany or if the supplier's place of residence or habitual abode is unknown at the time the action is filed.

(2) The contracts concluded between us and the supplier shall be governed by the laws of the Federal Republic of Germany. The provisions of the UN Convention on Contracts for the International Sale of Goods shall not apply.

(3) Should individual provisions of the contract with the supplier, including these General Terms and Conditions of Purchase, be invalid in whole or in part, it shall not affect the validity of the remaining provisions.