

General Purchasing Conditions

1. General Information

- 1.1 All of our purchase orders, particularly orders for deliveries and services under purchase contracts, contracts to produce a work and service contracts, including consulting and all related ancillary services (hereinafter referred to as "Delivery/ies"), are executed exclusively based on these General Purchasing Conditions (hereinafter referred to as "Purchasing Conditions"). Any terms and conditions of the contractor (hereinafter referred to as "Contractor"), which differ from these Purchasing Conditions or from statutory provisions or supplement these Purchasing Conditions or statutory provisions, apply only to the extent that they are explicitly accepted by us in writing. We do not accept any such terms and conditions of the Contractor, even if we do not object to them after having received them or if we accept Deliveries without reservation or make payments without reservations. In the context of a continuing business relationship, these Purchasing Conditions also apply to all of our subsequent orders for Deliveries with the Contractor.
- 1.2 These Purchasing Conditions apply only to commercial transactions with entrepreneurs, legal entities under public law, and special funds under public law.

2. Offers, Conclusion of Contract, Rescission, Form

- 2.1 The conclusion of a contract requires our written order. We should receive the order confirmation no later than 1 week after the order has been received by the Contractor. To the extent that the content of the order confirmation deviates from our order, the Contractor will especially emphasize this in the order confirmation; any such deviations will only become content of the contract to the extent that we accept these in writing.
- 2.2 Offers of the Contractor are free of charge to us. We are entitled to accept an offer from the contractor within two weeks after its submission. Until the end of this time period, offers are binding for the Contractor. Our silence does not allow the Contractor to rely on the conclusion of a contract. If the Contractor receives our acceptance of the offer late, he shall inform us about this fact without undue delay.
- 2.3 The drawings and other documents referred to in an order are part of the order. They become an integral part of the contract, unless the Contractor specifically provides otherwise in the order confirmation corresponding to the order; Clause 2.1 sentence 3 applies accordingly.
- 2.4 Subcontracting of Deliveries performed under contracts for work and services, with the exception of transport personnel, is not permitted without our written consent and entitles us, subject to the preconditions of the law, to rescind the contract in whole or in part and to demand damages from the Contractor.
- 2.5 Any commercial terms shall be interpreted in accordance with the Incoterms applicable at the time the contract is concluded.
- 2.6 To the extent that written form is required according to these Purchasing Conditions or in other integral parts of the contract, text form in the sense of Section 126 b of the German Civil Code (BGB) (e.g. fax or e-mail) is sufficient to comply with the written form requirement.

3. Acceptance, Transfer of Risk

- 3.1 Deliveries require acceptance only, if this was explicitly agreed upon or if required by statutory provisions.
- 3.2 Unless agreed otherwise, we may declare acceptance until six weeks after the Contractor has announced the completion of the Delivery.
- 3.3 Partial acceptances are excluded. The examination of interim results as well as the approval of partial payments (e.g. pursuant to a milestone plan) do not constitute acceptance. A partial acceptance shall occur upon our request only if Deliveries could otherwise not be subject to a subsequent technical check due to the continuing execution of the order.
- 3.4 The commissioning or use of a Delivery does not constitute acceptance. Any presumption of acceptance is excluded.
- 3.5 In case of a defective Delivery, we are entitled to refuse acceptance. Beyond that, our duties during the acceptance are governed by the provisions of the law.
- 3.6 In the case of Deliveries without assembly and installation, the risk passes to us upon delivery at the contractually agreed place of delivery. In the case of Deliveries with assembly and installation, the risk passes to us upon acceptance or, to the extent that we do not owe acceptance, upon handover after assembly and installation.

4. Execution of the Delivery, Dates, Default in Delivery

- 4.1 Unless otherwise agreed, Deliveries shall be made DDP (Incoterms 2010). The Contractor is obliged to safely package the goods to be delivered and to effect an insurance for the shipment.
- 4.2 Our respective order number, the order date, and – to the extent available – our item number as well as the place of unloading shall be stated in all bills of delivery, shipping papers, and invoices; the Contractor shall bear the costs caused by the failure to provide this information, unless he is not responsible for the lack of this information.
- 4.3 Unless agreed otherwise, the Contractor is not entitled to partial deliveries.
- 4.4 Delivery dates stated in the order are binding. If the order contains a delivery period instead of a specific delivery date, it commences on the date of our order. After the conclusion of contract, delivery deadlines may be extended only if we explicitly consent to such an extension.
- 4.5 As soon as the Contractor realizes that he will not be able to perform the entire or part of an order in time, he shall notify us thereof in writing without undue delay, stating the reasons and the expected duration of the delay. The Contractor's obligation to meet the agreed delivery dates remains unaffected by this.
- 4.6 If the Contractor fails to perform the Delivery or performs the delivery late, we are entitled to the rights arising from this under the law without any restriction. In case of Contractor's delay we may additionally – without prejudice to any other right due to this delay – assert a contractual penalty for each commenced week of delay in an amount of 0.5 % of the net price agreed with the Contractor, however, no more than 5% of that net price. We explicitly reserve the right to assert any further damages. Any paid contractual penalties will be set off against further damages. We may also assert a contractual penalty if a reservation was not declared when Delivery was accepted, however, beyond the final payment for the Delivery only, if we reserved the right to do so with the final payment.
- 4.7 The Contractor is only entitled to offset and retention rights to the extent that his counterclaim is undisputed or has finally been decided.

5. Prices, Invoices, Payments

- 5.1 Agreed prices are binding. The agreed prices are "free to place of delivery" plus statutory value-added tax applicable at the time of the Delivery, including packaging, insurance, freight and storage costs, customs, taxes, assembly costs, and all other incidental costs, unless explicitly agreed otherwise.
- 5.2 Unless agreed otherwise, our payments are due within 30 days after the complete and defect-free Delivery or, to the extent that acceptance is required, its acceptance and after receipt of a proper reviewable invoice; we shall have the right to deduct a cash discount of 3% from payments made within 14 days.
- 5.3 The time we carry out the transaction is decisive for the timeliness of our payment.
- 5.4 Payments do not constitute an acceptance of the Delivery nor acknowledgement of the invoice or of the Delivery as defect-free and/or in time.
- 5.5 To the extent permitted by law, we are entitled to set-off and retention rights without any restriction. The Contractor is entitled to assign claims only with our prior written consent.
- 5.6 If a significant decline in the Contractor's financial situation becomes apparent after the conclusion of the contract, which places any of our claims at risk, particularly in the case of suspension of payments, filing of an application for the commencement of insolvency proceedings for the customer's assets, or any bill or check protest, the Contractor shall provide security for any prepayments to be made by us. If the Contractor does not provide the security within a reasonable period of time set by us, we are entitled to rescind the entire or a part of the contract or to terminate it; we explicitly reserve any and all further rights.

6. Reservation of Title, Provision of Own Materials and Equipment

- 6.1 All deliveries become our irrevocable property at the time when the risk passes to us. If a reservation of title is agreed for the benefit of the Contractor, this will have the effect of a simple reservation of title.

- 6.2 If the Contractor reserves ownership in breach of contract, we retain our claim to unconditional transfer of ownership, even if we accept the Delivery.
- 6.3 If we provide the Contractor with materials, tools, or other means of production for the fulfillment of his contractual obligation, we retain the ownership thereof (Reserved Goods). The Reserved Goods must be stored separately, marked and managed free of charge. It may only be used for our orders. In the case of depreciation or loss, the Contractor is required to provide a replacement/compensation. Maintenance and repair work in respect to provided tools or other means of production shall be carried out by the Contractor at his own expense.
- 6.4 The Contractor is required to insure the Reserved Goods at his own cost against theft, breakage, fire and water damage and to provide us with proof thereof upon request. He authorizes us already now to assert claims in respect to our property under these insurance policies against the insurers.
- 6.5 The Contractor only has the right to process, combine or mix the Reserved Goods upon our prior written consent. Any adaption or processing of the Reserved Goods shall be carried out for us as manufacturer within the meaning of Section 950 of the German Civil Code (BGB) without obligating us. The processed goods shall be deemed Reserved Goods in the sense of Clause 6.3. In the case the Reserved Goods are being processed, combined or mixed with goods that are not owned by us, we will acquire co-ownership of the new items. The extent of this co-ownership shall be determined by the ratio of the invoice value of the Reserved Goods to the invoice value of the other goods. If our ownership expires due to the combination or mixing, the Contractor shall transfer to us already now all ownership rights to which he is entitled in respect to the new item corresponding to the invoice value of the Reserved Goods and hold them in custody on our behalf free of charge. Our co-ownership rights shall be considered Reserved Goods in accordance with Clause 6.3.
- 6.6 The Contractor shall inform us of any attachment of the Reserved Goods or other third-party infringements without undue delay.
- 7. Quality Assurance, Incoming Goods Inspection**
- 7.1 The Contractor shall independently review any drawings, calculations, specifications, and our other requirements within the limits of his technical and expert knowledge for any ambiguities, contradictions and/or errors. The Contractor shall notify us about any concerns without undue delay so that we can undertake a joint clarification afterwards.
- 7.2 The Contractor shall establish and maintain a quality assurance system, which corresponds to the latest standards of the relevant supplier industry. The Contractor shall carry out quality assurance measures including the required documentation in his own responsibility. The Contractor shall provide us with this documentation upon request. The Contractor shall store the documentation in accordance with the legal requirements, however, at least for a period of ten years.
- 7.3 Our statutory obligation to inspect incoming goods in the case of a bilateral commercial purchase is limited to the examination of the Deliveries with respect to their quantity, type, externally visible defects (e.g. shipping damage), and other obvious defects without undue delay after their delivery. We may object to obvious defects for up to two weeks after the delivery and to hidden defects for up to two weeks after their discovery.
- 7.4 Further examination and objection obligations beyond those mentioned above do not apply. Unless agreed otherwise, we are particularly not required to carry out laboratory examinations such as material testing, x-ray, and ultrasound tests. Insofar, the Contractor waives the objection of any violation of the inspection obligation and regarding the late objection against defects.
- 8. Defects**
- 8.1 Deliveries shall in all respects comply with the contractually agreed quality, the product and environmental laws, the applicable safety provisions, regulations and specifications of public authorities and professional association as well as the state of science and technology, be of high quality as far as their nature and quality are concerned, and be suitable for the contractually agreed or customary use.
- 8.2 If the Contractor's Delivery is defective, we are entitled to the statutory rights accruing from defects without any restriction. We particularly have the right to demand – notwithstanding our further rights based on defects – rectification of the defects or supply of a Delivery free of defects resp. reproduction.
- The Contractor shall bear the costs of the subsequent performance, including the costs caused by the movement of the delivered object to a different place than the place of delivery. The Contractor furthermore bears the costs and risk of returning defective Deliveries.
- 8.3 We are entitled to carry out the rectification of defects ourselves at the cost of the Contractor and notwithstanding the latter's liability for defects, if delay would lead to danger or if a particular urgency exists. In any such case, we will inform the Contractor about the corresponding defects in advance, to the extent that this is possible and reasonable.
- 8.4 Third parties shall not be able to assert any rights in respect to the Deliveries, particularly no rights in rem and intellectual property rights such as patent, brand, utility, design, and copyrights or other restrictions under public law.
- 8.5 If a third party asserts any claims against us because of an infringement of intellectual property rights or copyrights in respect to a Delivery of the Contractor, the Contractor shall at his cost, according to our choice and notwithstanding any further rights we may have, either obtain a usage right, modify the Delivery so that it does not infringe upon the proprietary right, or replace his Delivery with a new one.
- 8.6 The Contractor indemnifies us of third parties claims for damage and expenses, which are asserted against us according to the third-party's statement due to a defective Delivery of the Contractor, for which the latter is responsible. The Contractor indemnifies us against any and all third-party claims, which are asserted against us according to a third party's statement due to an infringement of a proprietary right in respect to a Delivery of the Contractor.
- 8.7 The Contractor shall reimburse us for all costs and expenses resulting from the fact that we are obliged to recall a product, conduct a field campaign, issue a warning, or inform our customers or third parties in any other manner because of a defective Delivery of the Contractor.
- 8.8 The limitation period for claims based on defects is 36 months from the transfer of risk, unless a longer limitation period is required by law.
- 8.9 Any complaint about defects during the limitation period suspends the limitation period until agreement has been reached between us and the Contractor about the rectification of the defect and any consequences; the suspension ends, however, six months after the final rejection of the complaint about defects by the Contractor. Claims based on defects become statute-barred not earlier than three months after the end of the suspension, however, in no case prior to the expiration of the limitation period pursuant to Clause 8.8.
- 9. Documents, Confidentiality, Reports, Data Protection**
- 9.1 We reserve all ownership and intellectual property rights such as patent, brand, utility, and design model rights as well as copyrights to any images, forms, molds, patterns, designs and design proposals, models, profiles, drawings, standard sheets, print masters, gauges, know-how, calculations, work materials, and other documents and materials ("Materials"). Unless our prior written consent, the Contractor shall use Materials only for the contractually intended purpose. The same applies to objects created in accordance with the Materials.
- 9.2 The Contractor shall treat our documents and our business and industrial secrets (hereinafter referred to as "Information") confidential. In particular, Contractor is not entitled to forward any Information to third parties or to make it available to them without our prior written consent. To the extent that we have agreed to orders being passed on to third parties, Contractor shall commit the aforementioned third parties to such terms in writing accordingly. This confidentiality agreement remains in force for a period of ten years after the termination or the performance of the contract. It does not apply to the extent that Information a) was already known to the Contractor upon conclusion of the contract or becomes known to later on and the disclosure was not caused by a violation of a confidentiality obligation, or b) was already public knowledge upon conclusion of the contract or becomes publicly known later on.
- 9.3 We have a justified interest in inspecting audit and examination reports of the Contractor that concern a Delivery to us. The Contractor is obliged to allow us the inspection..
- 9.4 The Contractor undertakes to commit the employees entrusted with handling our orders pursuant to Section 5 of the German Federal Data Protection Act and to ensure compliance with the data protection provisions.

- 9.5 The use of this contract for advertising purposes is not permitted without our prior consent.
- 10. Miscellaneous**
- 10.1 Place of fulfillment for Deliveries without assembly and installation is the place of delivery specified by us. Place of fulfillment for Deliveries with assembly and installation is the place where the Deliveries are to be assembled and installed. Place of fulfillment for the subsequent performance (including remedying of defects) is the place where the relevant Delivery is located.
- 10.2 The ineffectiveness of individual provisions of these Purchasing Conditions or of other integral parts of the Contract leaves the validity of the remaining provisions unaffected.
- 10.3 The courts at our registered office (Essen, Germany) have exclusive jurisdiction. We retain the right, however, to file an action against the Contractor at the Contractor's general place of jurisdiction or any other competent court. The above provisions regarding the place of jurisdiction also apply to legal proceedings related to bills of exchange and check.
- 10.4 Any and all legal relationships between us and the Contractor is governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (UN-CISG).