

Purchase terms and conditions

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1. Offers

If the supplier receives a request for quote, he must strictly observe the conditions mentioned in the proposal with respect to type, quantity and quality, and clearly indicate if there are any deviations. The proposals must be free of cost.

2. Order placement

Orders and agreements are binding only if they are specified on the ordering form of the ordering party with proper signature and are confirmed by the supplier within a period of 10 days. Modifications must follow the same process. If an order is not confirmed within the stipulated period of 10 days, the ordering party is free to withdraw from the agreement. Transfer of the order to a third party without the approval of the ordering party is not permissible. Product modifications or changes in the production of the supplier that lead to changes in the specification, drawings or quality standards or that has an effect in some other way on the operational safety and functioning of the products or the ordering party, are permissible only with the prior written approval of the ordering party. If there are differences in the delivery confirmation, these purchase terms and conditions will apply even if the ordering party does not contradict them. Deviations will be accepted only if the supplier indicates the differences expressly in a separate communication and these are acknowledged expressly in writing by the ordering party. If the supplier indicates the deviations in a separate letter, the ordering party can withdraw from the agreement without exposing himself to claims of any type.

3. Delivery and service dates

The delivery will be made on the dates defined by the ordering party in the orders, individual requests or delivery schedules conditioned by the serial production that are essential components of the agreement. Delivery dates will be binding even if the supplier does not contradict the request of the ordering party within 7 days. In case of delayed fault-free delivery, the ordering party can seek, at his own discretion, (subsequent) delivery or (subsequent) delivery along with compensation for delay, or after defining a reasonable grace period and its expiry, he can demand compensation for non-delivery, or withdraw from the agreement. Acceptance of the delayed delivery or service does not in any way imply that the ordering party cannot raise further compensation claims for the delay. Even if the supplier is not responsible for the delay, the ordering party can withdraw from the agreement without setting a grace period, if the urgency of the delivery requires such a step on account of the latter's own date commitments. Expected delivery delays should be reported to the ordering party as early as possible.

4. Payment terms and payment periods

Payment will be made 14 days after the submission of the bill with 3% discount, or 90 days after bill submission net through bank transfer, check, banks acceptance outstanding or note receivable. If the goods arrive later than the bill, the discount period will be considered from the date of goods receipt. In continuous deliveries, the ordering party will have the right, even if a separate bill is issued for each individual delivery, irrespective of any special regulations, to combine the amounts at the end of a week, without thereby losing the benefit of the discount. Even in case of payments via banks acceptance outstanding or note receivable, the ordering party will not lose its claim on the discount. Complaints against a delivery will give the ordering party the right to withhold payments that are due. Besides, the ordering party is authorized to settle his demands against counter deliveries. Cessation to a third party without the written approval of the ordering party is not permissible.

5. Freight, packaging, insurance and risk transfer

The deliveries are free buyer's factory address, including packaging and freight, unless something else has been agreed to in writing. The risk of the shipment will be borne by the supplier under all circumstances. For all standard trade terms the Incoterms, Edition 2000, are valid. In case of "ex-factory deliveries" the risk will be transferred to the ordering party:

- a) In case of mail, express- or railway bulk goods transportation, with transfer of the material to the Mail service, the railways or the shipping service provider.
- b) In case of truck - or rail shipment, on the date of completion of the proper loading on the means of transport.

The packaging will be returned only if this has been agreed to earlier and the value of the same was specified in the shipping document.

6. Receipt check and quality control

The supplier must subject the products to an extensive check with regard to quality and quantity before delivering the products. Test certifications are an integral part of the full delivery, if the order so specifies. In case of weight-based orders, each item must be indicated separately. Notwithstanding any kind of guarantee obligation on the part of the supplier according to Section 9, a spot-check type of receipt control by the ordering party regarding numbers, dimensions and weights is sufficient. The acceptance is subject to checks to confirm correctness and viability, and according to the quality specifications of the ordering party.

7. Guarantee

It is assumed that the delivered goods comply with the agreed product-specific specifications (DIN) with respect to dimensions, quality etc. The observation of such specifications will be guaranteed by the supplier expressly.

8. Fault reporting

Defective deliveries must be reported by the ordering party to the supplier in writing and without any delay, provided the defects were detected in the course of a proper business process. The supplier will desist from raising any objections to delayed notice of defects. Payment of the bill amount does not mean recognizing that the goods were free of defects.

9. Warranty

The ordering party is entitled to legal warranty claims without any restrictions; in any case, the ordering party will have the right (according to his choice) to ask for fault repair or delivery of a new item. The right to claim damages, especially in place of service, will remain expressly reserved. The ordering party is authorized to take remedial action at the cost of the supplier, if there is a risk of delay or the repairs are required urgently. The limitation period is 24 months calculated from the date of risk transfer. In case of replacement or fault repair, the guarantee period will start afresh. Acceptance or toleration of the presented drawings does not mean the ordering party is surrendering his guarantee claims. Besides, the legal provisions are also applicable. The supplier will be responsible for observing the accident prevention specifications or the safety recommendations of the trade associations, the industrial supervisory centres, etc. The supplier will be liable for violation of third party ownership rights on the delivered objects or on their use. Other legal claims of the buyer will be unaffected. If the buyer is enlisted by a third party about infringement of an industrial property right, the supplier is obliged to indemnify the buyer from these claims at first request, including all expenses necessary in context with the claims and the defence against them. The statute of limitation for such rights of recourse shall be 3 years calculated from the date when the ordering party becomes aware of the claim by the third party, but 10 years after the delivery of the object at the latest.

If a claim is asserted against the ordering party for damages by third parties owing to product damage for which the supplier is responsible, the supplier shall release the ordering party from all claims of third parties including the costs necessary for defending these claims at first request, if the cause falls within the supplier's domain and organisation. If the ordering party has to implement a product callback because of a case of damages in the terms of the above section, the supplier shall be obliged to reimburse the ordering party for all costs incurred due to or in connection with the callback action. Other legal claims of the buyer will be unaffected.

10. Spare parts procurement obligation

The supplier promises to continue to execute wear part orders for a minimum of another 10 years, and other spare part orders for a minimum of 7 years after the last delivery.

11. Production resources / material supply

Production resources like models, samples, dies, tools, gauges, drawings etc. that are given to the supplier by the ordering party, or that are produced according to his specifications and at his cost by the supplier, as well as material and resources provided by the ordering party free of cost to the supplier for processing within the framework of an order will remain the property of the ordering party and should not be forwarded to third parties in any way, handed over to a third party for use, or used for a third party without the written approval of the ordering party. The same applies to objects manufactured with the help of the mentioned production resources and of production resources for which the ordering party has paid only a proportion of the costs. The supplier will be liable for loss or damage. He must treat the material with the proper care characteristic of a merchant and must inform the ordering party without any delay in case of attachment, the impending risk of an attachment or the claim is endangered in any other way. If there are deviations between the provided production resources, e.g., between sample and drawing, the ordering party must be informed about the deviations before production is started.

12. Retention of title

The material supplied by the ordering party will remain the unrestricted and sole property of the ordering party irrespective of the extent to which it is processed by the supplier. In case of processing, he will be the owner of the intermediate or end products, i.e., will be treated as the manufacturer of these products in the sense of §950 Section 1 BGB (German Code of Civil Procedure). The supplier is only the custodian. This condition will apply even if the new products are of a higher value than the delivered materials. Of course, the processed goods will serve as security of the ordering party amounting only to the value of the materials delivered under retention of title.

13. External labour

Workers from foreign companies employed on the premises of the ordering party must accept and observe the relevant applicable company specifications. The calculation of performed work hours will be recognized only on the basis of job tickets that are signed by the commissioned officer of the ordering party. The supplier will be liable for any accident in his area of responsibility.

14. Force Majeure

Operational disturbances of all types, strikes or lockouts and other causes or events that lead to a limitation or damage of the operation of the ordering party will authorize it to postpone the fulfilment of acceptance obligations or to withdraw from the agreement fully or partially. The supplier cannot claim compensation under these circumstances.

15. Confidentiality

The supplier must treat orders and details associated with orders in strict confidence. The supplier should not use business relations with the ordering party for advertising or publicity purposes.

16. Data protection

The ordering party has the right to process the personal data received within the framework of the business relations in conformity with the Federal Data Protection Law.

17. Place of execution and jurisdiction

Place of execution is the relevant head office of the factory to which the delivery is to be made. The court of jurisdiction for all factories is Everswinkel, and hence, the Warendorf District Court or the Münster Regional Court. The ordering party will have the right to invoke the courts in the city of the head office of the supplier. Application of the Hague Convention dated 01.07.1964 and the provisions of the agreement of the United Nations dated 11.04.1980 about international goods purchase is ruled out. The law of the Federal Republic of Germany will be applicable.

18. Partial invalidity

If existing individual clauses of the agreement are ineffective or become ineffective, this factor will not affect the validity of the remaining provisions of the agreement.