



General Terms and Conditions of Purchase

I. General

1. All (existing and future) legal relationships between the supplier and ourselves shall be exclusively governed by the following General Terms and Conditions of Purchase, in conjunction with any general agreements (framework contracts). Conflicting conditions or any contrary or additional conditions on the part of the supplier shall not be applicable, even if there has been no explicit objection to them in an individual case. Likewise, neither the tacit acceptance of the supplier's supplies or services nor any payment effected by us shall constitute an agreement to conflicting, contrary or additional conditions on the part of the supplier.

II. Orders and agreements, conclusion of contract

1. Orders or agreements or changes and amendments to such shall only be applicable if they are issued or confirmed by us in writing. Correspondence must only be exchanged with our purchasing department.
2. The supplier must confirm our orders in writing immediately. If we have not received proper order confirmation after 7 days, calculated from the receipt of our order, we shall no longer be bound by the order. The supplier cannot derive any claims therefrom.
3. The following information must be explicitly included on all delivery documents (e.g. order confirmation, delivery note, invoices and any other correspondence):
 - Order number
 - Item number

If available, the project number and an Invest number must also be explicitly provided.
4. All documents must be checked to ensure that the correct company is stated in the purchase order header. This is of particular importance for the delivery address and associated invoicing.
5. Any delivery documents that do not meet these requirements shall be returned without being posted in the system.
6. To ensure their validity, verbal orders, assignments, confirmations, guarantees, or contractual amendments etc. with employees outside the purchasing process must always be confirmed in writing by the purchasing department.
7. The safety instructions for external companies must be requested from the supplier prior to the start of work, if they are not already available. Compliance with and training on the safety instructions for external contractors and the prevailing laws and regulations for health and safety, fire and environmental protection are incumbent upon the supplier and their subcontractors and is mandatory. The person in charge of work at Gerhardt shall provide instruction on the operating conditions on site at Gerhardt.
8. Prior to order acceptance, the supplier must always name any subcontractors (sub-supplier) that may be deployed by him, and shall undertake to relay all applicable statutory and official requirements and any special product and process-related features along the supply chain, right up to the actual place of production.

III. Delivery dates, delivery and delay

1. All agreed dates and deadlines are binding. Decisive for compliance with the dates and deadlines is the receipt of defect-free goods at the place of acceptance or utilisation specified by us or the acceptance of the delivery or service by us.
2. The delivery note must be included with the consignment. Following the dispatch of the goods, the supplier must immediately send us a dispatch notice. Dispatch notices and delivery notes must contain quantity and/or weight specifications, as well as article numbers, drawing status and date of origin. Furthermore, the aforementioned formal provisions shall apply accordingly.
3. The supplier must immediately inform the purchasing department in writing as soon as it identifies any difficulties in keeping to dates, in production, in material supply or in similar circumstances, which could prevent it from delivering on the scheduled date or from delivering the agreed quality, and must state the reasons for the delay and its anticipated duration. This does not affect the obligation to comply with the agreed dates.
4. Should the supplier fail to meet the date specified, he shall be in default, even without having received a reminder notice. Should the supplier also fail to deliver within a subsequent deadline period set by us, we shall be entitled, without notification, to refuse acceptance, to withdraw from the contract or to claim damages for non-fulfilment. We are also entitled to withdraw from the contract even if the supplier is not to blame for the delay. Any additional costs incurred by us due to the delay, in particular as a result of having to buy in the goods elsewhere on those grounds (replacement delivery), shall be borne by the supplier.
5. The acceptance of the late supply/service does not constitute a waiver of any claims to compensation.
6. We reserve the right, until final payment, to request an agreed contractual penalty for insufficient fulfilment (Section 341 German Civil Code).
7. Where delivery ensues earlier than agreed, we reserve the right to return said delivery at the cost of the supplier. If we do not return the delivery, the goods will be stored with us or with a third party at the supplier's risk and expense. In this case, we reserve the right to make the payment only on the agreed due date.
8. In principle, partial deliveries are not permissible unless we have expressly given our consent thereto. The supplier must then list the remaining outstanding quantity and inform us thereof in writing.
9. Unless expressly agreed otherwise, the goods must be delivered without charge for shipping and packaging costs ("DDP, Incoterms 2010") to the address specified by us in the shipping address.

IV. Prices, payment terms, invoices

1. The prices stated in our orders are fixed prices and shall exclude any additional claims for payment of any kind. All public charges, such as for example, taxes, duties etc., shall be borne by the supplier.
2. The cost of packaging, freight and transport shall be included in the price. We shall not assume the costs for goods in transit insurance, including on the invoices of freight forwarders commissioned by the supplier.
3. Payments shall be made, unless otherwise agreed in writing, within 14 days with 3% discount, or after 30 days net cash, following the supply/service and correct receipt of invoices. Invoices must be submitted, in duplicate, immediately after the supply or service.
4. Invoices that are not submitted properly shall only be deemed to have been received by us from the date of correction. Section 286 III German Civil Code shall not apply.
5. In the case of defective supply or service, we shall be entitled to withhold the payment proportionate to the value until proper fulfilment.
6. We have the right to select the means of payment.



General Terms and Conditions of Purchase

7. We are entitled to offset against counterclaims, to invoke the objection of non-fulfilment of contract and to exercise rights of retention – for example, also due to defects that affect supplies other than those invoiced. The supplier shall only have the right to offset and/or to withhold in the case of res judicata or undisputed counterclaims.
8. Without our explicit written consent, the supplier is not entitled to assign claims against us, in advance or in retrospect, or to transfer the recovery of debts that exist against us to third parties.

V. Guarantee and liability

1. The supplier shall assume the risk that his supply or service has both the contractually agreed quality and the guaranteed properties, corresponds precisely to the specifications and documents underlying the order, such as drawings, specification sheets, descriptions, samples etc., the relevant DIN standards, the latest accepted good engineering practice as well as the relevant prevailing statutory provisions and is free from material and legal defects, which cancel out or reduce the value of the suitability for the customary or contractually stipulated use.
2. We are entitled to the statutory warranty claims in full. Irrespective thereof, we are entitled to request that the supplier provide a remedy, either in the form of corrective action or replacement delivery, at our discretion. In this case, the supplier must bear any costs required for the purpose of corrective action. The right to claims for damages and withdrawal shall remain unaffected thereby.
3. Should the supplier also fail to rectify the fault within a reasonable period of grace set by us, we can withdraw from the contract or reduce the payment and, in addition, demand damages in each case. In urgent cases (in particular where operational safety is at risk or to avert unusually high damages), in order to remedy minor defects and in the case of a delay in remedying a defect, we are entitled, after giving advance notification and after expiration of an appropriately short extended deadline, to remedy the defects and any damage incurred as a result ourselves or to have them remedied by third parties at the supplier's cost. This shall also apply if the supplier delivers or renders too late and we have to remedy defects immediately in order to avoid our own delivery delay.
4. If a claim is made against us for infringement of official safety regulations or of domestic or foreign product liability regulations or product liability laws due to defectiveness of our products, and if this defectiveness is attributable to a defect in the item supplied by the supplier, the supplier shall release us from any third-party claims for damages upon our first written request. Moreover, the supplier shall release us from all claims for damages and warranty claims, insofar as the claims are based on defects in the supplied goods or services or fault on the part of the supplier; this shall also apply to consequential damages and costs and also includes inter alia the costs for any product recalls or similar measures to prevent, avert or reduce damage.
5. The supplier guarantees that the deliveries are free of third-party rights and that no patents or third-party industrial property rights are infringed by the deliveries and the use. If a claim is brought against us for infringing such rights, we are entitled to demand that the supplier pay compensation for the damage incurred by us in accordance with the provisions of the law applied against us (principles of liability), insofar as the damaged was caused by its supplies and services.
6. We will carry out an identity and quantity check and check the delivery for obvious damage in transit immediately following receipt of the delivery. We shall notify the supplier immediately should we discover any defects thereby. We will notify the supplier of any defects not discovered during these checks within a reasonable period of time, as soon as said defects are determined in the normal course of business. In this respect, the supplier shall waive any objection to a late notification of defects.
7. The supplier shall - unless we stipulate otherwise – carry out a quality control that in type and scope conforms with the latest state of the art. The supplier must constantly adjust the quality of his goods to be supplied to us in accordance with the latest state of the art and inform us of any potential improvements or technical modifications.
8. Unless otherwise prescribed by law, the supplier shall be liable for any defects occurring within 36 months from the date we receive the delivery or from acceptance (if such an acceptance is legally or contractually determined). If the parties have individually and separately agreed a longer period of limitation, this period shall apply.
9. Our rights and claims shall otherwise remain unaffected.

VI. Manufacturing means and drawings etc.

1. Manufacturing means, models, matrices, drawings etc., which we make available to the supplier, shall remain our property.
2. Documents, in particular drawings, drafts, EDP programs, files, CAD data etc. prepared for us by the supplier according to our instructions, shall become our property without separate payment being effected. The specified documents may not be used for purposes other than those stated, copied or made accessible to third parties.
3. The supplier shall be liable for the loss and damage or improper use and for the unauthorised use for and by third parties.
4. After completion of the order, all documents and objects must be returned or given back to us in accordance with clause IV.

VII. Ownership upon provision of material

1. Material provided by us or supplied by us for handling or processing shall remain our property. Our contractual party handles or processes the materials for us and waives the acquisition of title in accordance with Section 950 German Civil Code.
2. The materials handed over by us are to be marked as our property and stored separately, insured sufficiently against fire, water, theft and disasters at the expense of our contractual party and may only be used in accordance with their intended purpose.

VIII. General provisions

1. The place of fulfilment for supplies and services shall be the destination specified by us.
2. The place of jurisdiction is Lüdenscheid. This shall also apply to liabilities from bills of exchange and checks. However, we are also entitled to bring legal action against the supplier at a different court of competent jurisdiction.
3. The law of the Federal Republic of Germany shall apply exclusively to the exclusion of the conflict of laws and of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
4. Should a provision of these terms and conditions of purchase or of the remaining conditions of the contract, which are to be set out in writing, be or become wholly or partially ineffective, the validity of the rest of the contract will not be affected thereby. The contracting parties shall in this case undertake to make all reasonable effort in good faith to replace the ineffective provision with a provision that is equivalent in its economic purpose, insofar as this does not substantially alter the content of the contract.