



Stahlkontor GmbH & Co. KG

General Terms and Conditions of Purchase

1. Scope and General Principles

1.1 Our terms and conditions of purchase apply exclusively. Deviating, conflicting or supplementing General Terms and Conditions of the supplier shall only be integral part of the contract if and to the extent that we have given our express written consent concerning their validity. This requirement of approval applies in any case also, for example, if in the knowledge of the General Terms and Conditions of the supplier we accept the shipment of the supplier without reservation. They also apply to all future business with the supplier, even if they are not separately agreed anew.

1.2 Solely authoritative for the legal relationship between the supplier and us is the contract concluded in writing including this present General Terms and Conditions. This reproduces in full all agreements between the contracting parties concerning the object of agreement.

1.3 Any declarations and notices relevant in law that have to be provided to us by the supplier subsequent to concluding the contract (for example, deadlines, reminders, declaration of rescission, etc.) require the written form in order to be effective.

1.4 Commitments or agreements deviating from the present General Terms and Conditions, require - in order to be effective - the approval of our management or that of the authorized signatories in a number entitled to act as representatives.

2. Conclusion of Contract

2.1 Our order is deemed firm at the earliest when submitting or confirming it in writing. The supplier undertakes to inform us about any obvious errors (typing or calculation errors) or incomplete information concerning the order for the purpose of being corrected and/or to be completed prior to its acceptance. Otherwise, the contract is regarded as not concluded.

2.2 Our offer represents a firm contractual offer to the supplier. Provided that our offer does not expressly specify a commitment period, we are bound to our offer 1 (in words: one) week as from the date of the offer. For the timely acceptance of the offer, which can only take place by confirming the order in writing, the receipt of it in our company is relevant. A delayed acceptance is deemed a new offer of the supplier and requires acceptance by us.

3. Delivery Period and Default in Delivery

3.1 The delivery period specified by us in the order (delivery deadline or date) is binding. The supplier undertakes to immediately inform us in writing by mentioning the new delivery date if circumstances become apparent or arise due to which the agreed delivery dates - for whatever reasons - can presumably not be met.

3.2 If the supplier does not render his services or not within the agreed delivery period or if he defaults, our rights shall be determined according to the unrestricted statutory provisions.



3.3 If the supplier is in default we are entitled to charge liquidated damages amounting to 0.25% of the net price of the goods or services respectively, with which the supplier is in default, per completed calendar day, however, all in all not more than 5% of the net price of the aforementioned goods or services. In addition, our legal claims, especially asserting damage exceeding the liquidated damages, remain unaffected. If we accept the delayed delivery we will claim the liquidated damages with the final payment at the latest.

3.4 If the supplier delivers the goods earlier in time or renders the services earlier in time respectively without our express prior consent, our period allowed for payment tied to the agreed delivery date remains unaffected.

4. Service, Delivery and Transfer of Risk

4.1 Unless not otherwise agreed all deliveries shall be "delivered duty paid" (DDP) to our production facility in Hagen-Haspe pursuant to the Incoterms 2010.

4.2 Without our express prior written approval the supplier is not permitted to have these services owed or parts hereof rendered through a third party, especially not by subcontractors.

4.3 Deliveries have to be made to the place of delivery to be specified by us. If no place of delivery is specified separately, delivery shall be made to our company headquarters Hagen-Haspe. The respective place of delivery is also place of performance (debt to be delivered to the creditor).

4.4 The delivery shall be supplemented by a delivery note including all agreed documents. If the delivery note is missing or incomplete, especially with respect to the aforementioned specifications, we shall not be responsible for the delays in the processing and payment resulting from it. We shall be immediately notified about the dispatch of the shipment. The dispatch note has to include the same specifications as the delivery note.

4.5 The supplier is not entitled to any partial deliveries.

4.6 In any event, the risk of accidental perishing and accidental deterioration of the object is only transferred to us when handing the goods over to us at the place of performance. Provided that acceptance has been agreed, this is relevant for the transfer of risk. Handing over or acceptance is treated identically if we are in default of acceptance, for the occurrence of which the legal provisions apply. The supplier shall expressly offer his goods or services to us if a certain or determinable time according to the calendar has been agreed for an action or cooperation on our part. In case of delayed acceptance the supplier is entitled by statutory provisions to demand compensation for his additional expenses. In the event that the delivery consists of non-fungible goods, the supplier is only entitled to any further rights if we committed ourselves to participation and if we are responsible that the latter remained undone.

4.7 If we provide the supplier with material for producing the goods to be delivered, the supplier undertakes to deliver the goods by using the packaging of receipt. The supplier bears the risk of storing the material provided and of keeping it safe.



4.8 If the supplier has to produce parts according to specifications (drawings, plans, etc.) predefined by us, only the specifications predefined by us are to be used exclusively. Amendments or deviations are not even admissible if these are claimed to be of an identical nature.

5. Prices and Terms and Conditions of Payment

5.1 Prices are understood as “delivered duty paid” (DDP) pursuant to the Incoterms 2010 to our company headquarters Hagen-Haspe, unless otherwise agreed.

5.2 Unless not otherwise agreed, the agreed prices are fixed prices which especially include – notwithstanding the regulation pursuant to clause 5.1 – all services and additional services of the supplier (for example, assembly, installation) as well as all additional costs (for example, correct packaging, transport and liability insurance, and similar). Upon our demand the supplier shall take back packaging material. In the event that we have to bear the delivery costs due to a deviating special and express agreement and in the event that no mode of shipment was agreed, the supplier has to coordinate the mode of shipment with us. If the agreed price does not include the costs of packaging due to a deviating special and express agreement and if a price for the packaging has not been agreed, the supplier has to reasonably calculate it at cost price. We reserve the right to accept the calculation. In any event, the supplier has to take back the packaging upon our request and at his own expense.

5.3 The agreed price shall be payable as of complete delivery and/or service (including an acceptance which had possibly been agreed) as well upon receipt of a proper invoice within 60 calendar days and without discount, or within 14 calendar days with a discount of 3% or within 21 calendar days with a discount of 2% on the net amount.

5.4 If we are responsible for a delay, the statutory provisions apply. In any event a reminder submitted by the supplier is necessary. Interest after due date shall not be owed. Default interest annually amounts to 5 percentage points above the base interest rate.

6. Ownership, Retention of Title, Confidentiality

6.1 As far as all illustrations, plans, drawings, calculations, instructions of implementation, product descriptions and miscellaneous records and documents are concerned which were made by us or for us, we reserve all rights of ownership, as well as copy- and commercial protection rights. The above-mentioned documents are exclusively intended to be used for the purpose specified in the contract and have to be handed over to us on our request, or subsequent to the performance of the contract at the latest. The documents have to be kept confidential towards any third party, even after termination of contract. This obligation does not exist or does not exist any longer if the know-how specified in them (without violating this obligation of confidentiality) is common knowledge or is generally accessible.

6.2 The regulation outlined in clause 6.1 applies to materials and substances, especially also to software, as well as to tools and samples which we make available to the supplier thus enabling the performance of contract. These items have to be stored at the expense of the supplier and have to be insured to a reasonable extent against loss, damage or destruction.



6.3 We reserve the right of title concerning items provided. Processing of the items provided will be implemented on our behalf as manufacturer. In case of processing, mixing or connecting the items provided we acquire direct ownership or, in case rights of title of any third party still exist, we acquire joint ownership ad valorem of our items provided, otherwise we are legally entitled to the rights pursuant to §951 German Civil Code (BGB).

6.4 Transfer of ownership of the goods by the supplier to us shall be unconditionally made and particularly independent from the payment of the agreed price. In any case, all possible forms of extended or prolonged reservation of ownership are excluded. As far as the supplier has declared a simple reservation of ownership effective, it only applies to the goods delivered to us based on the specific agreement, and only until complete payment of these goods.

7. Defective Delivery

7.1 In the event of defective delivery or service (including delivery of goods other than stipulated, short shipment as well as improper assembly or insufficient assembly-, operating- or instruction manual) as well as in the event of other breaches of duty on the part of the supplier, the statutory regulations apply unconditionally unless otherwise agreed in the following.

7.2 The supplier is especially liable According to the statutory provisions for the agreed quality of the goods. The agreement concerning the quality is above all based on the product descriptions which (by designation or reference in the order) are the subject matter of the respective contract or which are included respectively. Hereby it is immaterial where the respective product description originates from.

7.3 In case of defects the supplier undertakes to immediately provide supplementary performance according to our choice either by remedying the defect (subsequent improvement) or by delivering an item free of defects (subsequent delivery). In the event that the supplier does not fulfil his obligation of supplementary performance within an appropriate grace period set by us, we are entitled to remedy the defect ourselves and to demand payment from the supplier for the expenses incurred or to demand a respective advance disbursement. In the event that supplementary performance implemented by the supplier fails or is unacceptable to us, especially in case of special urgency, of endangerment of the operational safety or of impending disproportional damage, it is dispensable to set a deadline. In these cases the supplier shall be informed immediately.

7.4 We are even entitled to claims for defects deviating from § 442 German Civil Code (BGB), if the defect in the course of concluding the contract remained unknown to us due to gross negligence.

7.5 Unless otherwise agreed in the following, those statutory regulations apply that govern our commercial obligations of inspection as well as our obligations to give notice of defects. Our obligation of inspection is limited to defects becoming obvious in the course of our usual incoming-lot control (external screening including the shipping documents) as well as in the course of our quality control during random sampling (for example, damage caused during shipment, wrong or short delivery or false measurements). Our obligation to notify a defect for those defects detected at a later stage remains unaffected hereof. In all cases, our notification of defects is deemed immediate and in due time if the supplier receives it within 7 working days subsequent to detecting the defect.



7.6 The supplier shall also bear the costs incurred for the purpose of inspection or improvement, if it turns out that there was in fact no defect. Our obligation to pay damages in case of unjustified demand for remedying defects remains unaffected hereof. This, however, only applies if we realized or did not realize due to grossly negligent behaviour that there was no defect.

7.7 In addition, according to the statutory provisions, we are entitled to reduce the purchase price or to rescind the contract in case of material defects or legal defects. Moreover, according to the statutory provisions we are entitled to claim damages as well as the repayment of expenses.

7.8 The general period of limitation for a claims arising from defects amounts to 3 years as from transfer of risk, and 5 years for buildings respectively. If acceptance has been agreed, the period of limitation commences with the acceptance.

8. Product Liability

8.1 The supplier is responsible for any damage resulting from a faulty product he delivered and undertakes, therefore, to indemnify us from any claims of a third party.

8.2 Within the context of his obligation to indemnify pursuant to clause 8.1 the supplier has to reimburse expenses resulting from necessarily invoking a third party including recall actions initiated by us, provided that we did not overlook the fault due to gross negligence in the course of the further production process. In such a case the obligation to reimburse is to be reduced by the share of our own fault. We will inform the supplier about the respective recall actions as long as this is possible and reasonable. Further legal claims remain unaffected.

8.3 The supplier undertakes to take out a product liability insurance with sufficient coverage customary in trade and to provide proof of it on our request.

9. Protection Rights

9.1 The supplier guarantees that his deliveries and services as well as our contractual use of the delivery or service do not infringe any protection rights of a third party, thus indemnifying us from all claims of any third party.

9.2 If protection rights of a third party are affected, we are entitled to obtain the consent for the contractual use of the delivery or the service from the authorized party at the expense of the supplier, provided that the supplier does not immediately obtain it himself upon request.

10. Spare Parts

10.1 The supplier undertakes with respect to the goods and services delivered by him to provide spare parts required to ensure their operability for a period of at least 6 years as from the date of delivery.

10.2 If the supplier does no longer fulfil his principal obligation to provide spare parts - notwithstanding clause 10.1 - he undertakes to immediately inform us about it.



11. Miscellaneous

11.1 For these Terms and Conditions of Purchase as well as for all legal relationships between the contracting parties the law of the Federal Republic of Germany exclusively applies under the exclusion of the provisions of Private International Law. The German Civil Code (BGB) exclusively applies for providing construction services under exclusion of the VOB (official contract terms for the awarding of construction contracts).

11.2 Place of jurisdiction for disputes arising between the contracting parties that result directly or indirectly from the underlying agreement, is Hagen. In fact, we are also entitled to sue the supplier at his own place of jurisdiction. Mandatory statutory provisions concerning exclusive places of jurisdiction remain unaffected.

11.3 The supplier undertakes to treat strictly confidentially the circumstance that he delivers goods to us or is in a business relationship with us, as well as all information he receives from us in the context of this business relationship, especially information about our business (hereinafter referred to as "confidential information"). The supplier shall take all necessary measures to protect confidential information from any unauthorized access. The supplier shall pass on confidential information only to those employees who require such information for the intended purpose within the context of the contractual tasks of the supplier, and he shall impose those respective obligations on his employees that are imposed on him in this clause 11.3. The aforementioned obligation to confidentiality is not applicable if the confidential information is known to the public or if it came to the supplier's notice by means other than us, and if, therefore nobody has violated an obligation to confidentiality. For each and every culpable breach of obligation to confidentiality the supplier shall pay liquidated damages in the amount of 10,000.00 EUR to us. The principles of a continued relationship are excluded. By paying liquidated damages the right to assert omission or damages exceeding this on submission of appropriate proof are not excluded. Liquidated damages are set off against possible damages.

11.4 In the event of individual provisions of the present agreement being or becoming ineffective, the effectiveness of the remaining provisions shall remain unaffected hereof.

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