

General Purchase Order Terms and Conditions for Germany

1. Scope

These General Purchase Order Terms and Conditions shall apply to all purchase contracts and contracts for work and materials, which the purchaser concludes with the supplier. Contradictory General Business Terms of the supplier or those which deviate from these terms and conditions will not become part of the contract, even if they appear in order confirmations and are not objected to. These General Purchase Order Terms and Conditions shall also apply to all future deliveries.

2. Conclusion of contract

All contracts as well as their amendment or supplementation shall require a written form in order to be legally valid. This shall also apply to a change to this written form clause.

3. Prices

The agreed prices are fixed prices for the entire delivery time. A price increase is therefore also excluded if longer periods of delivery are agreed. The supplier has to take possible imponderabilities associated with the agreement of longer periods of delivery into account in the calculation of the fixed prices. The principles concerning the lapse of the business basis shall remain unaffected by this provision. The prices shown in this order are deemed plus value added tax in the statutory amount.

Insofar as the supplier regularly grants special conditions to other companies affiliated with the purchaser in the group, e.g. price discounts or cash discounts, the purchaser shall also be entitled to these special conditions.

4. Execution documents

The drawings, plans and static calculations, which are possibly submitted by the purchaser in order to carry out the delivery, are to be checked by the supplier immediately. If execution documents are missing or in case of misgivings regarding their accuracy, the purchaser is to be informed hereof immediately.

Drawings, plans, static calculations and other documents, which are handed over to the supplier by the purchaser, shall remain the property of the purchaser and may neither be used or reproduced for other purposes, nor made accessible to third parties, as well as the drawings, plans, samples, templates, etc. produced by the supplier according to special details of the purchaser. Drawings, plans, samples, templates, etc. are to be returned to the purchaser by the supplier without request and costs together with any copies and reproductions after the delivery has been made or, if this is not carried out. There is no right to retention.

5. Confidentiality

The supplier undertakes to maintain secrecy concerning all diagrams, drawings, calculations and other documents and information received in connection with the order. They may only be disclosed towards third parties with the prior written consent of the purchaser, insofar as the supplier is not obliged hereto owing to statutory or official regulations. Sub-suppliers are to be obligated accordingly.

The conclusion of the contract is to be treated confidentially. Reference may only be made to the business transaction concluded with the purchaser in advertising materials of the supplier with a written consent. The purchaser and the supplier undertake to treat all commercial or technical details, of which they become aware through the business relationship, which are not public knowledge, as business secrets. Sub-suppliers are to be obligated accordingly.

6. Delivery

All deliveries shall be carried out at the costs and risk of the supplier, free place of destination.

The supplier confirms that it is aware of the local conditions of the place of destination including the access road. The supplier is liable for contamination caused by it to public traffic areas and shall indemnify the purchaser.

The supplier has to send its deliveries packed, preserved and signed in line with the international regulations.

The supplier has to comply with all provisions of the Hazardous Goods Transportation Act together with ordinances and the European Convention on the International Carriage of Dangerous Goods by Road (ADR).

The supplier has to include the corresponding expenses, in particular possible freight, packaging and insurance costs, in the calculation of the prices. The supplier has to inform the purchaser immediately as soon as the delivery is available and ready for shipment. The shipment of the delivery by the supplier is to be reported to the purchaser immediately in any case by stating the number of units, the dimensions and the weights of the delivery so that the purchaser can make the corresponding preparations for the acceptance of the delivery. The purchaser is not obliged to accept or remunerate surplus deliveries.

The supplier is further obliged to take the entire packaging back and dispose of it properly at its costs.

The purchaser is entitled to return the packaging, in particular bundles, barrels, crates, etc. after they have been emptied to the supplier carriage paid against a corresponding credit note.

A delivery note in duplicate is to be enclosed with each delivery, in which all markings contained in the order, in particular order, cost center, batch and position numbers are entered. Possible partial and residual deliveries are to be marked separately as such.

7. Delivery time

The delivery dates or deadlines stated in the order are binding contractual dates or deadlines. The delivery deadlines contained in the order will begin to apply, insofar as not otherwise regulated, on the date of the order. The receipt of the delivery at the place of destination stipulated by the purchaser is decisive for the adherence to the delivery date or the delivery deadline. The supplier has to adhere to the operating times.

Irrespective of the consequences of default the supplier has to inform the purchaser immediately in writing of possible delays in delivery by stating the presumed duration of the delay. Deliveries before the agreed delivery dates or deadlines may only be carried out after prior, written agreement with the purchaser.

If the supplier is in default with the delivery it has to pay a contractual penalty to the purchaser in the amount of 0.2 % of the agreed price for each workday by which the date is exceeded. The total contractual penalty that is to be paid by the supplier is a maximum of 5 % of the agreed price. This shall have no effect on the purchaser's right to assert damages due to default beyond this.

8. Passing of risk

The risk of an accidental loss and an accidental deterioration to the delivery shall pass to the purchaser with the hand-over at the place of destination (except with a premature delivery).

This shall also apply with the shipment of the delivery to the purchaser.

9. Liability

The supplier shall assume the warranty for the fact that its deliveries feature the conditions agreed as per contract with the order, otherwise the conditions which are necessary for the customary use and comply with the relevant German and European standards and safety regulations or other technical regulations, in any case the recognised rules of technology and are authorised by the authorities at the place of destination. The supplier will be liable for possible deficient advice.

The purchaser will inspect the delivery for deviations in quality or quantity according to the conditions of a proper business flow. The purchaser will inform the supplier of any complaints determined hereby within 2 weeks after delivery of the object of delivery. In case of partial deliveries the report is deemed as carried out in time if the inspection is carried out within two weeks after delivery of the last partial delivery of the respective order. In case of hidden defects the report is deemed as in time if it is sent to the supplier within one week after it has been discovered. The signature on a delivery note does not include any statement regarding the existence of deviations in quality or quantity.

The purchaser is entitled to the statutory claims due to defects to an unlimited extent. The purchaser is in particular entitled, at its choice, to request remedy of the defects or substitute delivery from the supplier at its costs.



The supplier has to examine all deliveries for environmental compatibility (environmental protection).

The supplier has to comply with all relevant laws and standards hereby. A liability exclusion clause is invalid. A safety datasheet is to be issued to the purchaser as proven for hazardous substances and hazardous preparations with the take-over of the goods.

10. Payment

The invoice is to be sent in duplicate by stating the order and cost center numbers and by enclosing a copy of the delivery note signed by the purchaser to the stated address.

In the absence of another agreement payments will be made within 30 days minus 3 % cash discount, within 60 days minus 2 % cash discount or within 90 days without deduction of cash discount after the take-over and receipt of the invoice. This shall also apply to reduced invoice amounts which are paid within the deadline.

The payment deadline will begin with the receipt of the invoice, no earlier however than with the delivery; this shall also apply in case of a premature delivery.

The agreed net payment deadlines or cash discount deadlines shall respectively also be deemed as granted if the payment is made as of, after expiry of the relevant deadline, the next transfer date. The extension to the deadline caused hereby is no longer than 5 workdays. Insofar as one of the aforementioned deadlines becomes due within 5 days before the end of a calendar quarter, the payment shall be deemed as in time if it is made within 5 workdays after the end of the calendar quarter.

Both the cash discount as well as the payment deadline is inhibited during the Christmas public holidays (Thursday before the 24th December until the Monday after 6 January).

The right to deduction of cash discount for payments made within the cash discount deadline will not be revoked by the fact that other payments are made outside of the cash discount deadline.

11. Cancellation

The purchaser is entitled to cancel individual or still outstanding partial deliveries without any obligations if the supplier breaches an essential provision of the order, in particular with the occurrence of changes in quality as well as with a delivery that is not made in time or is not free of defects.

In the event of the cancellation the supplier will be liable for all disadvantages suffered hereby including consequential damages. The purchaser is in particular entitled to a subsequent procurement at the costs of the supplier without obtaining offers from competitors.

Should a contract that was concluded between the purchaser and its customer, as a basis for this order, be dissolved, the purchaser is also entitled to cancel the delivery or the still outstanding partial deliveries.

12. Reservation of title

If the supplier has reserved the title to the object of delivery the reservation of title shall only cover the delivered object that was assigned subject to a reservation of title. The reservation of title will lapse by the connection, mixing and processing of the object assigned subject to the reservation of title. An assignment of claims of the purchaser against its customer by way of an extended reservation of title will not take place. Contrary business terms and conditions of the supplier will not be recognised by us and will not become part of the contract.

The supplier is not entitled to request that the object delivered subject to the reservation is returned or remove it in case of default of payment, without having cancelled the contract.

13. Assignment, pledge, offsetting

The assignment of claims of the supplier against the purchaser to third parties is only effective with the consent of the purchaser. Section 354a HGB [German Commercial Code] will remain unaffected.

Possible counter-claims existing against the supplier will be deducted in advance both with an assignment as well as with a pledge or court attachment of its claims. This shall also apply to claims of group companies and to consortiums, in which the purchaser or its group companies participate; the supplier declares that it explicitly agrees herewith.

In the event of the assignment of a claim, pledge or court attachment of the supplier's claims 2 % of the recognised invoice amount will be retained as a flat rate reimbursement of costs or will be offset.

The supplier may only offset against undisputed claims or claims which have been declared final and binding or counter-claims from the respective contract.

14. Data Protection Clause

The contractor is aware and agrees that the personal data provided to the employer by the contractor in conjunction with the contract, including his/her initiation and/or execution will exclusively be stored and used by authorised persons for the purposes of processing the contractual relationship. The data will be protected against unauthorised access and will not be provided to uninvolved third parties. The right of the competent regulatory, customs and/or fiscal authorities and the social insurance agency to demand access to the stored data shall not be affected. Insofar as the personal data is stored by the employer or are otherwise processed, this only takes place considering the respectively valid data protection law. The employer has obtained consent from his/her employees and/or third parties to communicate their personal data.

15. Property rights of third parties

The supplier assures that rights of third parties do not oppose the use of the delivery as intended, in particular that property rights of third parties are not infringed. Insofar as a claim is asserted against the purchaser owing to a possible infringement of rights of third parties the supplier shall indemnify the purchaser from these claims at first request.

16. Place of performance and place of jurisdiction

The place of performance for the payment obligations of the purchaser from the contractual relationship is the registered seat of the purchaser's company. The contractual relationship is subject to the law of the Federal Republic of Germany under the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

The place of jurisdiction is Munich.

As of B/26.04.2018