

General Terms and Conditions of Purchase for business dealings with companies

1. General – Scope

1.1 Goods and services may only be ordered pursuant to these Terms and Conditions of Purchase. They apply to transactions with contractors, legal entities of public law and public law special assets. Our Terms and Conditions of Purchase also apply to the following orders - in particular those placed by telephone - as contractual content without the need for explicit repeat reference thereto.

1.2 Confirmation of order or execution of delivery or rendering of service always means that our General Terms and Conditions of Purchase have been accepted. Acceptance of goods or services while aware of conflicting terms and conditions does not constitute acknowledgment of conflicting terms and conditions. Differing conditions on the part of the supplier which we have not acknowledged in writing are non-binding for us, even if we have not expressly objected to them.

1.3 Any and all agreements reached between us and the supplier for the purpose of performing this contract shall be set down in writing in this contract.

2. Ordering, confirmation

2.1 We are bound to our written orders or order confirmation for eight working days from their receipt by the supplier. Order confirmations which we receive after this period shall be considered as being a new offer requiring our acceptance.

2.2 The contract is brought about upon our receipt of the written order confirmation from the supplier or upon our acceptance of delivery. If the content of the order confirmation deviates from the content of the order, the supplier must separately and expressly point out a deviating acceptance regarding conclusion of the contract. In this case, a contract is only brought about with our consent.

3. Prices

The agreed prices are fixed prices. Unless otherwise agreed, prices include free delivery to the place of receipt we specify including packaging customary to the trade. The supplier shall in each case bear delivery costs.

4. Delivery

4.1 Unless a separate agreement is reached in specific individual cases, the place of receipt and fulfilment shall be our factory in Pinneberg. The address is: Siemensstraße 1-3, D-25421 Pinneberg. Deliveries by truck will be accepted between 7 am and 3 pm from Monday to Thursday, and between 7 am and 2 pm on Fridays. Inbound deliveries outside of these times will only be accepted the following working day. The supplier shall bear risk and all costs until the goods are accepted by our place of receipt. With free delivery to the place of receipt we specify, the supplier shall provide transport insurance for us at no charge. If, by way of exception, it is not a free delivery to the place of receipt we specify, the supplier shall provide the goods in good time with due consideration for customary loading and transport times. If delivery ex-works has been arranged, the supplier shall choose the best possible option in terms of transport period and costs. Additional costs that arise due to non-adherence to this rule shall be borne by the seller.

4.2 Agreed delivery times are binding. Delivery times commence on the date of order. The important factor in terms of adhering to this deadline is the acceptance of the goods or rendering of services to/at the place of receipt specified by us. The supplier is obliged to immediately inform us in writing upon delivery delays should circumstances occur or become known to him which mean that the delivery time cannot be adhered to. Written notification must contain the reasons for the delay as well as the anticipated length of the delay. If a delay occurs, the supplier shall be held liable pursuant to statutory provisions unless otherwise covered by the following points.

4.3 With on-call deliveries, the fixed delivery times are bound by the same principles and rules. Deliveries shall also be made free of charge to the place of receipt specified by us and at the supplier's risk. Delivery calls can also be made by remote data retrieval.

4.4 Excess deliveries not agreed to give us the right to either deduct the excess goods by fixing the value date of the invoices or to store the excess goods at the supplier's cost until said collects the excess goods, or to return the excess goods at the supplier's cost.

4.5 Each shipment is to include two delivery notes. The delivery notes must contain a precise description of the delivery content together with our order number and article number. Should the supplier fail to state our order number or article number, we cannot be held accountable for any processing delays resulting therefrom. Once a delivery has been completed, invoices in duplicate shall be immediately submitted to us separately.

4.6 An extended and expanded retention of title on the part of the supplier - in particular the retention of title vis-à-vis supplied goods until full payment of all claims resulting from the business relationship as a whole - is excluded. In particular, neither does any processing in the sense of Section 950 of the German Civil Code (BGB) occur for the supplier.

5. Payment terms

5.1 Without an agreement to the contrary, net payment shall be made within 30 days. Payment made within 14 days will be subject to a discount of 3%. The payment period does not begin until after contractual receipt of the goods, including proper delivery notes and invoice.

5.2 Invoices must contain our order number and the article number(s). The supplier shall be held accountable for any consequences resulting from non-compliance with this obligation.

5.3 On principle, payments are to be made to the supplier. The supplier may only assign his claims or have them collected by a third party with our prior written approval.

5.4 In the case of a faulty delivery, we are entitled to withhold payment proportionally until correct fulfilment has taken place. The time of (full) payment has no influence on our right to complaint and the supplier's warranty.

5.5 We are entitled to set-off and retention rights to the extent provided for by law.

5.6 Payment does not constitute any form of acknowledgement of the supplier's terms or prices. Price increases require our express acknowledgement before becoming effective.

6. Quality assurance

6.1 The delivered goods must correspond to the legal requirements and appropriate regulations and guidelines in force in the supplier's country and at our place of business. The supplier is obliged to notify us in writing of any usage limitations and declaration obligations for supplied goods.

6.2 The supplied goods also have to exactly match the documentation accompanying the order, such as drawings, descriptions, samples and specifications. They must also exactly match the properties and quality requirements set out in the order.

6.3 The supplier shall perform a quality check in keeping with the type and scope of product. We reserve the right to monitor adherence to these checks by means of suitable measures, e.g. visiting the company during general business hours by appointment.

The supplier is further obliged to produce documentation of conducted checks as to when, how and by whom the contractual items were checked and the results of the quality tests. All of the test, measurement and check results are to be archived for 10 years. By appointment we are entitled to view these documents during general business hours and to have copies made. The supplier can refuse to disclose its business secrets.

7. Warranty

7.1 We are obliged to inspect the supplied goods for deviations in terms of quantity and for damage within a reasonable period of time. The complaint is deemed timely if received by the supplier within 5 working days from receipt of goods at the destination specified in the order and from presentation of the correct documentation required to check the goods (in particular the transit document and delivery note), or, in the case of hidden defects, from the time of their discovery.

7.2 We remain entitled to the statutory warranty provisions to their full extent. Regardless, upon delivery of defective goods, the supplier is obliged at our request to sort out the defective goods and to undertake a repair or subsequent delivery within an appropriate deadline set by us. The supplier is obliged to bear all costs that arise in connection with remedying defects or providing replacement deliveries. If a subsequent delivery or repairs are not carried out or not correctly carried out, we are entitled to rescind the contract after setting a deadline. This shall also apply to the scope of delivery which may not yet have been fulfilled. In urgent cases or in case of risk of delay, we are authorised to perform subsequent improvement ourselves at the supplier's cost or to have subsequent improvement performed by third parties.

7.3 The warranty ends with the expiry of two years from the delivery of the ordered goods to the destination we specified. In the case of remedying a fault or providing a replacement delivery, the warranty period is extended by this period but ends 30 months after the first delivery at the latest. Informing the supplier of the defect within the warranty period is sufficient for us to retain our warranty claims.

7.4 If we have already notified the supplier that we are buying the goods for export purposes, the place of delivery stated for this export transaction shall be deemed to be the place of performance, and we are entitled to receive the goods and forward them without inspection. Any inspection and complaint periods commence from the time at which our foreign customer has the opportunity to inspect the goods, at the earliest when unloading the goods at the place of delivery.

7.5 Unless governed otherwise above, the warranty shall be based on statutory provisions. Expiry of warranty claims is halted from the point in time where notification of defects is submitted and does not begin to run again until after express refusal of the warranty or after the cessation of resulting negotiations.

8. Liability

8.1 To such extent as the supplier is responsible for product damage, he is obliged to release us from third-party damage compensation claims at our initial request as if the cause were under his control and organisation and as if he were personally liable to third parties.

8.2 The supplier is obliged to maintain sufficient product liability insurance.

8.3 Unless affected by another liability ruling at some other point within these Terms of Conditions of Purchase, the supplier shall be bound by items 8.4 to 8.8 to settle losses that we incur indirectly or directly as a result of defective delivery, due to violation of official safety regulations or other reasons attributable to the supplier.

8.4 In principle, the liability for damages only exists when the supplier is at fault for damage the supplier caused.

8.5 If, based on no-fault liability vis-à-vis third parties, claims are made against us on the basis of foreign law which may not be varied by agreement between the parties, the supplier shall intercede on our behalf to the same extent as if it were directly liable to the third party. The principles of Section 254 of the German Civil Code (BGB, contributory fault) apply accordingly when settling losses between us and the supplier. This shall also apply in the case of direct claims on the part of the supplier.

8.6 Liability for damages is excluded if we for our part have effectively restricted our liability vis-à-vis our customer.

8.7 The supplier is liable for our defence measures (e.g. recalls) insofar as these measures were caused by defects in the supplied goods. Section 254 of the German Civil Code (BGB) shall apply mutatis mutandis.

8.8 We reserve the right to conduct settlements with other injured third parties; the supplier's liability to pay damages remains unaffected as long as such settlements were necessary for business purposes.

9. Force majeure

Should force majeure occur, such as war or the threat of war, natural catastrophes, transport or operational interruptions or breakdowns, industrial action, a lack of raw materials, foreign exchange hindrances or other similar unexpected delivery and supply disruptions, we are released from the obligation to accept for the period of the disruption insofar as the disruption has a considerable influence on receiving the goods or services. If the events of force majeure are of a temporary nature, we are entitled to demand fulfilment at a later point in time. Should the event of force majeure last for more than four months, we are entitled to rescind the contract in part or in full without entitling the supplier to any claims. The enforcement of force majeure must take place within one week of gaining knowledge of the event in question.

10. Defects of title / Intellectual property rights

10.1 The supplier is liable for intellectual property rights violations or intellectual property rights applications (intellectual property rights) such as trademark rights resulting from the use of delivered goods as stipulated in the contract.

10.2 If claims are made against us or our customers by third parties due to a utilisation of said intellectual property rights, the supplier is obliged to release us and our customers from these claims upon first written request. The obligation to release and indemnify refers to all expenses that we or our customers inevitably accrue or in connection with claims made by third parties. The obligation to release and indemnify shall not apply if the contractual item was produced by the supplier according to our designs or other comparable data and the supplier does not know or cannot be expected to know that this infringes intellectual property rights.

10.3 The contractual partners are obliged to immediately inform one another of violation risks that become known and alleged violations and to give one another the opportunity to counter claims amicably.

10.4 At our request the supplier shall be obliged to notify us of the use of published and unpublished in-house and licensed commercial intellectual property rights and intellectual property rights applications pertaining to contractual items.

11. Confidential information

The supplier is obliged to maintain utmost secrecy with regard to all documentation and data in connection with our order and resulting from the business transaction. Said documentation and data may only be disclosed to third parties with our prior written consent. The obligation to maintain secrecy shall also apply once this contract has been processed; the obligation shall expire if and to the extent that information contained in the documentation and data become known to the general public.

12. Final provisions

12.1 Should a contractual partner cease making payment or if insolvency proceedings are applied for vis-à-vis its assets or legal or out-of-court arrangement proceedings are applied for, the other contractual partner is entitled to rescind the part of the contract that remains unfulfilled.

12.2 Should a provision of these General Terms and Conditions of Purchase be or become ineffective in full or in part, it shall not affect the effectiveness of the remaining provisions. The ineffective provision is to be replaced by a legal provision that from an economic perspective comes as close to the regulatory intent pursued with the ineffective provision as is legally permissible. The same also applies to possible gaps in this contract.

12.3 The relationships between us and the supplier are subject to the law of the Federal Republic of Germany. The United Nations convention on contracts for the international sale of goods (CISG) and any other international agreements, future or otherwise, even after being passed into German law, shall not apply.

12.4 As long as the supplier is a merchant, at our choice the place of jurisdiction for all disputes arising in connection with delivery transactions is Hamburg or the supplier's company seat. The place of jurisdiction for lawsuits brought by the supplier shall be Hamburg exclusively. Statutory provisions on exclusive competences shall not be affected.

TRAMACO GmbH

General Terms and Conditions of Sales and Delivery for business dealings with companies

1. General – Scope

1.1 All sales contract conclusions and deliveries are to be made exclusively on the basis of the following terms and conditions. These Terms and Conditions shall also be deemed to have been accepted for all subsequent business dealings even if we do not refer explicitly thereto in other contracts or during the course of orders by telephone. Should any other terms or conditions apply in an exceptional case - in particular the customer's terms and conditions of purchase - this requires our express written confirmation. If we supply goods, this does not mean that we acknowledge the buyer's terms and conditions; in contrast the buyer is deemed to have accepted our Terms and Conditions by accepting the goods.

1.2 Our Terms and Conditions of Sale only apply to transactions with contractors, legal entities of public law, and public law special assets.

2. Offer – Tender documents

2.1 Our offers are non-binding in terms of price, quantity, delivery periods and availability. Documentation belonging to the offer such as technical data sheets, data regarding weight and dimensions etc. are only indicative unless they are expressly stated as being binding. Contracts are only entered into once we have confirmed the order. Orders shall also be deemed to have been accepted if performed implicitly.

2.2 The object of the contract is solely the product sold with the properties and features as well as the purpose as per our offer. Public statements, plugs or advertising do not represent information as to the condition, quality or composition of the goods. Any or other properties and/or features or purpose require an express written agreement. Excess or short deliveries of up to plus/minus 10% are permitted as customary to the trade.

3. Prices

3.1 Should we generally reduce or increase our prices in the time between confirming an order and delivery, the price valid on the date of delivery shall apply.

3.2 Price increases are permissible if attributable to changes to price determinants that are unforeseeable following conclusion of the contract; the level of the price increase must be justified by the change to price determinants and pointed out to the customer within an appropriate period of time.

3.3 In the case of a price increase, the customer has the right to rescind the purchase contract. Neither of the parties is able to derive any rights, in particular any damage compensation claims.

3.4 Any changes to customs, other duties pertaining to the goods, and freight that occur following conclusion of the purchase transaction shall be credited or charged to the buyer.

4. Payment terms

4.1 Unless otherwise confirmed in writing, invoices are to be paid without deduction within 30 days of the date of invoice. Bills of exchange or cheques will only be accepted for the sake of fulfilment following express prior agreement. The buyer shall bear all expenses.

4.2 Upon delay of payment, the buyer shall pay default interest in the amount of 8 per cent above the base interest rate, unless the buyer can prove damage to a lesser extent or we can prove damage to a greater extent.

4.3 If there is reasonable doubt regarding the buyer's creditworthiness, in particular relating to a major deterioration of the buyer's financial circumstances following conclusion of a sales contract which could jeopardise the vendor's claims, there are bill and cheque protests, arrangement proceedings pertaining to the buyer's assets have been applied for, or the buyer becomes insolvent, we are authorised, irrespective of any granted payment terms, to only execute subsequent deliveries with advance payment or by furnishing some form of collateral. Notwithstanding other rights, following expiry of a reasonable period of grace for payment or furnishing of a form of collateral with threat of refusal, we are permitted to terminate the contract. All outstanding invoices are then immediately due for payment.

4.4 It is not permitted to offset our claims with contested or not yet legally binding counterclaims. The same applies when it comes to exercising rights to refuse performance and retention rights. The buyer's rights contained within this contract may not be assigned to third parties unless otherwise agreed in writing.

5. Delivery time

5.1 Any delivery periods agreed on an individual basis shall be subject to supplies being made to us correctly or in good time.

5.2 We are not responsible for delivery delays or non-deliveries if caused by circumstances beyond our control, in particular force majeure, fire, flooding, war, government-imposed measures, system failures, accidents, strikes, a lack of workforce, difficulties in procuring materials, packaging or transport capacity.

5.3 Due to such circumstances that have an effect on processing the purchase contract, we are entitled to postpone the delivery for the required period of time, or to rescind the contract if the circumstances are present for a prolonged period.

5.4 Item 9 applies to the buyer's damage compensation claims due to delay or impossibility.

6. Assumption of risk

Goods are delivered exclusively at the buyer's risk, irrespective of who bears the cost of freight.

7. Retention of title

7.1 All delivered goods remain our property until the customer has settled all existing claims and any accruing after conclusion of the contract which arise from any and all business relations, including settlement of a current account balance.

7.2 For us as a manufacturer within the meaning of Section 950 of the German Civil Code (BGB), further processing occurs without any obligation on our part. If, in the case of Sections 947 Para. 2 and 948 of the German Civil Code (BGB), one of the buyer's objects is the main component, the buyer already now transfers his co-ownership at a ratio of the invoice value of the semi-finished goods to the total value of the main component. If processing takes place together with other materials, we acquire co-ownership at a ratio of the invoice value of our goods to that of the other materials. The co-ownership acquired in this way is deemed as being reserved goods that the buyer keeps for us.

7.3 Reselling goods subject to retention of title is only permitted during the course of normal business and we can, in the case of item 5, prohibit this. The buyer shall immediately inform us if a third party gains access to goods and claims that belong to us. Claims from resales are hereby assigned to us in order to settle all of our invoices in their full amounts. We hereby accept this assignment. Should the value of existing collateral exceed the claims by more than 20% in total, we are obliged to release collateral of our choice at the buyer's request.

8. Warranty

8.1 The buyer is obliged to carefully inspect the sold goods for defects immediately upon arrival at their destination. Should the buyer discover a defect, he is to report it in writing to the vendor within ten working days of receipt of the goods at the destination at the latest, together with a precise description of the defect. Otherwise the goods are deemed to have been accepted. If the defect was not recognisable upon delivery despite careful inspection of the goods, the defect should be immediately reported upon discovery by way of complaint.

8.2 We are only liable for major defects to the sold item if the buyer notifies us thereof in writing within ten days of receiving the goods at the latest.

8.3 We assume no liability after processing the sold item and for consequences caused by incorrect use of the sold item.

8.4 At our choice we will remedy any major defects either by actually rectifying the defect or by supplying an item free of defects (subsequent fulfilment). If, after a second attempt to provide supplementary performance, the defect removal or subsequent delivery experiences unreasonable delays or becomes impossible or fails, the buyer can claim a discount, withdraw from the contract, or request compensation for damages instead of performance. If the buyer chooses to rescind the contract, he shall not be entitled to any compensation for damages due to the defect.

8.5 All warranty claims for defects are void if the buyer does not give us the opportunity to inspect in situ the goods which are the subject of the complaint and the described defects and does not immediately provide us with samples or specimens when requested to do so. Claims will also be void if goods processing is not stopped immediately after discovering the defect(s) or our goods are mixed or combined with goods of other origin.

8.6 The buyer's claims shall expire within one year, starting from the transfer of the purchased goods to the buyer.

8.7 Our oral and written application advice is non-binding – also in terms of any third-party trademarks - and does not release the buyer from inspecting the products we supply in terms of suitability for the intended purpose and process.

9. Compensation for damages

9.1 We are liable without limitation if the orderer asserts claims for damage based on intent or gross negligence as well as in cases of assuming a guarantee of characteristics and fraudulent concealment of defects.

9.2 We are also liable without limitation for culpable injuries to life, body or health as well as gross negligence on the part of our committees, legal representative or chief executive.

9.3 In cases of damage caused by our simple vicarious agents acting in a grossly negligent way, liability is limited to the damage typically foreseeable at the time of concluding the contract.

9.4 In other cases of negligence, we are only liable if an obligation is infringed the adherence of which is of major importance to achieve the purpose of the contract (cardinal obligation). The term cardinal obligation abstractly describes obligations the fulfilment of which are imperative to enable proper performance of the contract and on the compliance of which the contracting party may rely. In such a case of infringement of a cardinal obligation, liability is limited to the damages typically foreseeable upon conclusion of the contract.

9.5 Liability according to the German Product Liability Act (Produkthaftungsgesetz) shall remain unaffected.

9.6 Any liability extending beyond the above provisions is expressly excluded.

10. Final provisions

10.1 We are authorised to process buyer data in accordance with the Federal Data Protection Act (Bundesdatenschutzgesetz) which are received within the scope of or in connection with the business relationship, irrespective of whether the data comes from the buyer himself or from third parties.

10.2 As long as the buyer is a merchant, at our choice the place of jurisdiction for all disputes arising in connection with this contract is Hamburg or the buyer's company seat. The place of jurisdiction for lawsuits brought by the buyer shall be Hamburg exclusively. Statutory provisions on exclusive competences shall not be affected.

10.3 The relationships between us and the buyer are subject to the law of the Federal Republic of Germany. The United Nations convention on contracts for the international sale of goods (CISG) and any other international agreements, future or otherwise, even after being passed into German law, shall not apply.

10.4 Should one of the above provisions be ineffective, it shall not affect the effectiveness of the remaining provisions. The ineffective provision is to be replaced by a legal provision that from an economic perspective comes as close to the regulatory intent pursued with the ineffective provision as is legally permissible.