

Tramaco GmbH

Terms and Conditions of Purchase for Business Transactions with Companies

1. General information and scope of applicability

1.1 Goods or services are ordered exclusively on the basis of these Terms and Conditions of Purchase.

These terms govern transactions with entrepreneurs, legal entities under public law and special funds under public law. Our Terms and Conditions of Purchase form contractual components for the following orders, particularly when placed by phone, without requiring any special mention elsewhere.

1.2 The order confirmation or execution of the delivery or service entails in each case that the Customer consents to the validity of our Terms and Conditions of Purchase. Acceptance of the goods or services in knowledge of conflicting terms does not constitute acknowledgement of the conflicting terms. Deviating terms of the Supplier to which we have agreed in writing are non-binding for us, even if we have not expressly objected to them elsewhere. Even in the case that we refer to correspondence containing terms and conditions of the Supplier or a third party, or references thereto, this does not constitute acceptance of the validity of any terms and conditions.

1.3 Individual agreements made with the Supplier – including ancillary agreements, supplements and changes – in individual cases take precedence over these Terms and Conditions. In the absence of evidence to the contrary, the terms of agreements of this nature are governed by a written contract or our written confirmation. The above clause applies mutatis mutandis.

2. Orders, confirmation

2.1 The Supplier must confirm orders placed by us within ten working days or, in particular, by unconditionally sending the goods (acceptance). Delayed acceptance constitutes the issuance of a new quote and requires our acceptances. Timely acceptance is determined on the basis of the time the notification of acceptance is received or the time we receive the goods.

2.2 The contract comes into effect once we receive the Supplier's order confirmation or accept the delivery. If the terms of the order confirmation deviate from those stipulated in the purchase order, the Supplier must expressly indicate separately that the contract has been concluded subject to deviating terms. In this scenario, a contract is only concluded subject to our consent.

3. Prices

Agreed prices are fixed. In the absence of any agreements to the contrary, the prices are stated inclusive of free delivery to the place of receipt specified by us and including packaging.

4. Delivery

4.1 Subject to any deviating agreements made in individual cases, the place of receipt and performance is our plant in Tornesch.

The Supplier bears all risks and costs prior to acceptance of the goods by our place of receipt. If delivery is free to the place of receipt specified by us, the Supplier agrees to cover transport free of charge on our behalf. If, in exceptional cases, free delivery has not been agreed, the Supplier must provide the goods in a timely manner in line with standard lading and shipment periods. In cases where delivery ex works has been agreed, the Supplier must select the most expedient option in terms of shipment period and transport costs. Any additional costs incurred due to the failure to observe this provision are to be borne by the Supplier if we can prove to the Supplier that a more economical transport option is available.

4.2 Once agreed, delivery periods are binding. They commence on the order date. Timely delivery is determined on the basis of the date on which the goods are received or on which the service is performed at the place of receipt specified by us. Early deliveries are not permitted. If deliveries are delayed, the Supplier must notify us in writing informing us of the reasons behind the delay and the expected duration thereof if circumstances arise or become apparent that present an obstacle to timely delivery. In the absence of any provisions to the contrary in the following, the Supplier can be held liable for any delivery delays in line with statutory provisions. The Supplier is not permitted to waive liability subject to the availability of supplies.

4.3 The principles set forth above in Section 4.2 apply mutatis mutandis to call-off orders, which are likewise binding in nature. Deliveries otherwise take place free of charge to the place of receipt specified by us at the Supplier's risk. Delivery schedules may also be effected through remote data transmission.

4.4 Subject to the issuance of prior written notice to the Supplier, we reserve the right to charge the Supplier a contractual penalty amounting to 0.5% for each week of delay that passes up to a maximum of 5% of the order value in the case of delivery delays. The contractual penalty is offset against any compensation owed by the Supplier due to the delay.

4.5 Surplus deliveries that have not been agreed in advance entitle us to either accept the surplus goods subject to corresponding adjustment to the invoiced amount, to store the goods in question at the Supplier's expense until they are collected, or to return the surplus goods to the Supplier at the Supplier's expense.

4.6 Two delivery notes must be enclosed with each delivery. The delivery notes must contain precise information on the content of the delivery and always state our order number, product number and VAT ID. We cannot be held liable for any delays arising from the Supplier's failure to provide the above figures. Two copies of the invoice are to be sent to use separately immediately after delivery.

4.7 Any extension or expansion to the retention of title on the part of the Supplier, in particular the retention of title to the delivered goods prior to full payment of all claims arising from the entire business payment, is hereby excluded.

4.8 Any process, mixing or otherwise combining (further processing) of items delivered by the seller takes place on our behalf. The same applies to further processing of the delivered goods undertaken by us, which in turn makes us the manufacturer and means we acquire ownership of the product at the latest upon further processing in line with the pertinent statutory provisions.

5. Payment terms

5.1 Subject to any agreements to the contrary, payments are made within 30 days net with a 3% discount for payments made within 14 days. The payment period does not commence until the goods are received along with the correct delivery notes and invoice. Timeliness of payments owed by us is determined by the time at which our bank receives the transfer order.

5.2 Invoices must include our order number, product number and VAT ID. The Supplier is responsible for all repercussions of failing to comply with the above requirement, subject to the submission of any evidence by the Supplier demonstrating the Supplier is not responsible for the scenario in question.

5.3 Payments are solely made to the Supplier. The Supplier only reserves the right to assign its claims or have them collected by third parties subject to our prior written consent.

5.4 If a delivery is found to be defective, we are entitled to withhold the amount of payment that corresponds to the value of the defective goods until the defect has been fully remedied. The time of payment, including the date on which full payment was made in the above scenario, does not have any effect on our right to submit complaints or on the Supplier's warranty.

5.5 We are entitled to offsetting and retention rights to the legally permissible extent. The Supplier is only permitted to offset undisputed or legally established claims.

5.6 Payment does not constitute acceptance of the Supplier's terms or prices. Our express consent must first be obtained prior to any price increases coming into effect.

6. Quality assurance

6.1 The delivered goods must comply with the pertinent statutory provisions, regulations and directives in place in the country of the Supplier's registered office and our place of business, as well as all relevant requirements for the market placement of product in the European Union and the European Economic Area. Conformity with the above clause must be proven by the Supplier upon request through the submission of corresponding documentation. The Supplier is required to let us know about any restrictions on the use and declaration requirements for the delivered goods.

6.2 In addition, the delivered goods must correspond exactly to the documents on which the order is based, namely the drawings, descriptions, samples and specifications along with the properties and quality requirements specified in the purchase order.

6.3 The Supplier agrees to perform quality checks suitable for the nature and volume of the goods. We reserve the right to review compliance with this obligation through suitable measures, including a visit to the Supplier's site during usual business hours subject to prior notice.

The Supplier agrees to retain records of checks conducted, including information on when, how and by whom the delivery goods were checked and the results of the quality checks. All findings from tests, measurements and checks performed must be stored for 10 years. Subject to prior notification, we reserve the right to inspect these documents during usual business hours and make copies. The Supplier reserves the right to deny access to its trade secrets.

7. Inspection/liability for defects

7.1 We are required to check the delivery goods for quality deviations and damage within a set period. A complaint is considered timely when received by the

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Supplier within 5 working days of the goods being received at the address stated in the purchase order and of the orderly documentation (in particular the shipment note and delivery note) required to check the goods being submitted. Complaints for concealed defects may be submitted upon discovery thereof.

7.2 We are entitled to the full statutory warranty provisions without any limitations. Notwithstanding the above, upon delivery of defective goods, the Supplier is required, at our request, to remove the defective goods and either remedy the defect or deliver replacements at our discretion within a reasonable grace period set by us. The Supplier must bear all expenses incurred in order to remedy defects or deliver replacements. If the defect is not remedied or replacements or not delivered, or if either of these subsequent performances once again contain defects, we reserve the right to cancel the order after setting a grace period. The same applies to any outstanding orders that are yet to be delivered. We expressly reserve the right to demand compensation, in particular compensation in lieu of performance.

7.3 Subject to the granting of a short yet reasonable grace period, or if a grace period cannot be set due to the urgency of the matter and in the interests of both parties, in urgent cases or in cases of imminent danger, we reserve the right to remedy the defect ourselves or to appoint a third party to do so at the Supplier's expense after notifying the Supplier in advance of the circumstance and the planned replacement.

7.4 The warranty period ends 24 months after delivery of the ordered goods to the place of receipt specified by us. The warranty period extends accordingly following the rectification of defects or delivery of replacements, however it ends no later than 3 years after the initial delivery.

7.5 Informing the Supplier of defects within the warranty period is considered sufficient for maintaining our warranty claims.

7.6 If we inform the Supplier that we are purchasing the goods for export purposes, the place of delivery specified for the export transaction in question constitutes the place of performance, and we reserve the right to accept the goods without inspecting them and to forward them. All inspection and complaints periods first commence once the foreign buyer has the opportunity to check the goods; only once the goods have been unloaded at the place of delivery.

7.7 In the absence of any provisions to contrary in the preceding sections, the warranty is governed by statutory provisions. The limitation period for warranty claims is suspended once defects are notified and only commences once the warranty has expressly been denied or related negotiations have concluded.

8. Product liability/manufacturer's liability

8.1 The Supplier can be held liable for all third-party claims arising from personal injury or property damage based on a defective product delivered by the Supplier and agrees to indemnify us against any resulting liability arising from these claims on first demand.

8.2 The Supplier must maintain adequate product liability insurance. Upon request, a copy of the Supplier's liability insurance policy document is to be sent to us. Any claims for damages that exceed the sums covered by the product liability insurance remain unaffected.

8.3 In the event that claims are asserted against us by third parties on the basis of strict liability, the Supplier agrees to indemnify us to the extent that it would also be liable towards the third party. The provisions of Section 254 of the German Civil Code (Bürgerliches Gesetzbuch, BGB) (Contributory negligence) apply accordingly to the settlement of compensation between us and the Supplier. The above clause applies mutatis mutandis in the case of direct recourse against the Supplier.

8.4 If we are required to recall products from third parties due to a defect affecting a product delivered by the Supplier, the Supplier must bear all costs associated with the recall. Section 254 BGB applies accordingly in this scenario.

8.5 We reserve the right to conduct settlements with other injured third parties. This does not affect the Supplier's obligation to pay compensation, subject to the proviso that the settlements were necessary for business purposes and the Supplier's interests were adequately taken into consideration.

9. Force majeure events

9.1 In the case of force majeure events, which included but are not limited to epidemics, pandemics, war, impending war, disruptions to transport or operations, industrial action, raw material shortages, currency restrictions and similar unforeseeable obstacles to delivery, we are released from our obligation to accept delivery for the duration of the obstacle to the extent that the obstacle has a significant influence on the acceptance of the goods or services.

9.2 We reserve the right to demand order fulfillment at a later date if the force majeure events are of a temporary nature.

9.3 However, should a force majeure event persist for longer than four months, we reserve the right to cancel the order – either in part or in its entirety – without entitling the Supplier to any claims as a result. The rights arising from force majeure events must be asserted within one week of us learning about the corresponding event.

10. Cessation of payment/instigation of insolvency proceedings

If a contractual partner ceases to make payments or insolvency proceedings are instigated against its assets, or a petition is filed for settlement in court or out of court, the other party reserves the right to cancel any parts of the contract that are yet to be fulfilled.

11. Defects of title/industrial property rights

11.1 The Supplier is liable for all claims asserted on the basis of infringed industrial property rights or patent applications (property rights), such as trademark rights, unless the Supplier is able to prove that it is not responsible for the infringement in question.

11.2 In the event that claims are asserted against us or our customers by a third party due to the utilisation of the above property rights, the Supplier agrees to indemnify us and our customers against these claims upon first written demand. The above indemnification requirement covers all necessary expenses incurred by us or our customers arising from or in relation to the claim asserted by a third party. This obligation is waived if the Supplier can provide that it is not responsible for the corresponding infringement of industrial property rights.

11.3 The contractual partners agree to notify each other without undue delay of any potential risks of infringement or alleged cases of infringement of which they have been made aware and to give each other the opportunity to take joint action in response to any ensuing claims.

11.4 At our request, the Supplier is required to notify us of the use of published and unpublished proprietary and licensed industrial property rights along with patent applications filed for the delivery items.

12. Confidential information

The Supplier agrees to maintain strict confidentiality with regard to all documentation and information related to our order and arising from the course of business. Any disclosure of the above to third parties requires our prior written approval. The duty to maintain confidentiality remains in force after the end of the contract. It ceases to apply if and when the knowledge contained in the documents and information provided enters the public domain or was demonstrably known by the Supplier at the time the respective order was placed.

13. Final provisions

13.1 The contractual partners agree to observe the pertinent data protection regulations.

13.2 In the event that a provision of these Terms and Conditions of Purchase is found to be invalid in full or in part, this does not affect the validity of the remaining provisions. The same applies if an individual order or these Terms and Conditions of Purchase are found to contain loopholes. Any loopholes are to be replaced with legally valid terms that would have been agreed by the contractual partners in line with the economic objectives of the order and the purpose of these Terms and Conditions of Purchase had they been aware of the loophole.

13.3 All contractual relations between us and the Supplier are governed by the law of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) and any other intergovernment or international conventions agreed in the future do not apply to our relationship with the Supplier, including after their adoption into German law.

13.4 If the Supplier is a merchant, the legal venue for all disputes arising from delivery transactions is either Hamburg or the Supplier's registered office, at our discretion. The sole legal venue for any legal action asserted by the Supplier is Hamburg. Legal provisions governing exclusive jurisdiction remain unaffected by the above clauses.