

Terms and Conditions of Purchase

§ 1 Scope

- 1) The following terms and conditions of purchase exclusively apply to our purchase orders, unless otherwise agreed upon expressly in writing. Any terms and conditions of the supplier that conflict with or deviate from our terms and conditions will not be accepted, even if we have not expressly contradicted their application.
- 2) Our terms and conditions of purchase also apply to any future business with the supplier, even if these terms and conditions have not been expressly agreed upon again. Our terms and conditions of purchase are considered as accepted no later than with the execution of the first delivery.
- 3) Deviating individual agreements remain unaffected by these terms and conditions of purchase.

§ 2 Orders / Order Confirmations / Samples

- 1) Unless otherwise provided in § 1 Section 3, an order is deemed to have been placed only when the order has been given in writing. Any orders that we place either orally or by telecommunication, are non-binding and shall be confirmed as binding by us through a subsequent transmittance of a written order.
- 2) In case of obvious errors, typing and arithmetical errors in any documents, drawings and plans submitted by us, we are exempted from any obligation. In case the supplier detects such errors, he is obliged to inform us about any such errors to minimize the damage, so that our order can be corrected and resubmitted.
- 3) For organizational reasons, each order must be confirmed in writing by the supplier within a period of 14 days unless otherwise provided in § 1 Section 3; otherwise, we shall be entitled to cancel the order. In addition to the purchase order number and any references noted on it, along with the component, drawing and model numbers, order confirmations must include the agreed-upon prices and discounts and the binding delivery times.
- 4) Any deviations in quantity and quality from the wording and content of our purchase order as well as deviations from the technical standards provided by us are deemed as agreed upon only if they have been confirmed explicitly by us in writing unless otherwise provided in § 1 Section 3. This same requirement applies to subsequent contract alterations.
- 5) For first-time orders of components originating from our design or for changes of orders, sample pieces in the agreed quantity, including the original sample inspection report (EMP), must be made available. Only after our written approval of the samples will the order be deemed as finally placed unless otherwise provided in § 1 Section 3.
- 6) As long as reasonable for the supplier we can demand changes of design and manufacturing of the goods. Effects on the costs (less or extra) and the delivery times shall be mutually agreed upon.

§ 3 Prices

If not expressly stated otherwise, the agreed-upon prices are fixed prices.

§ 4 Shipment / Passing of Risk

- 1) Shipment (including packaging) is carried out at the expense of the supplier, free of costs, to the receiving point specified by us. Import turnover tax and freight certificate stamps, custom duties and other fiscal charges are paid for by the supplier as far as permitted by applicable law.
- 2) Any risk shall pass to us only after acceptance at our receiving point.
- 3) If, in the case of an exception, we have to pay freight charges, the supplier must choose the mode of transport specified by us, and in all other cases, the mode of transport and delivery most favourable for us.

§ 5 Transport documents / customs / export control

- 1) The country of origin of the goods has to be documented by the supplier situated in the EU by providing a valid (long-term) supplier's documentation (according to the newest version) and by the supplier not situated in the EU by providing a preference certificate or a certificate of origin. The (long-term) supplier's documentation shall contain our part number, the exact country of origin and the customs tariff number.
- 2) A change of the country of origin has to be indicated to us immediately.
- 3) If a (long-term) supplier's documentation cannot be provided, a certificate of origin has to be added to the delivery unrequested and free of costs.
- 4) The supplier shall indemnify us from any costs and claims of third parties caused by inapplicable, incomplete or faulty documents of origin or statements of origin.
- 5) Upon the first delivery we must have obtained a valid supplier's documentation (according to the newest version) as well as all product information relevant for the (inter)national trade. In case of delivery of goods underlying an export control, the supplier is obliged to provide us immediately with all necessary documents and information needed for applying for administrative authorizations. This information obligation of the supplier even survives the termination of the business relationship.
- 6) The supplier declares to be an authorized economic operator (ZWB/ AEO Authorized Economic Operator) or to have established for its company at least equal standards of security according to Art. 14k of EC Regulation No. 1875/2006.

§ 6 Documentation

- 1) The complete correspondence associated with our purchase orders, including delivery notes, invoices, freight papers etc., must include all ordering data (order number, date of order, supplier number). The supplier in case of negligence is liable for any consequences resulting from faulty declarations.
- 2) If the supplier delivers goods in the meaning of Art. 3 of the EC-Regulation No. 1907/2006 concerning the Registration, Evaluation, Authorization and Restriction on Chemicals (REACH), he is responsible to fulfill his obligation to communicate certain information according to Art. 33 REACH-Regulation.

§ 7 Invoices and Payment

- 1) Payments will be made within 14 days after delivery and receipt of the invoice with 3 % discount, or within 30 days after receipt of the invoice without deduction.
- 2) For payment of any invoice, we acknowledge - subject to the provisions of § 9 - only the quantity and weight determined by our incoming goods inspection.
- 3) Invoices for goods which, contrary to our specifications, are delivered earlier, are paid after deduction of agreed discounts only at the time resulting from the payment terms given in Sub-section 1, taking into account the delivery time given in the purchase order.
- 4) Accounts receivable by the supplier from us may be assigned to third parties or collected by third parties subject to our consent only, which shall not be withheld unreasonably. § 354a HGB (German Commercial Code) remains unaffected. Payments shall be made exclusively to the supplier.

§ 8 Transfer of Title / Reservation of Title

- 1) The title in the supplied goods is principally transferred to us at the time of the delivery. To the extent that the supplier has agreed to a simple reservation of title by individual agreement, the title is transferred to us as soon as we have paid the purchase price for the actual delivered goods. Any form of extension or expansion of the reservation of title requires our previously written consent.
- 2) If we provide the supplier with components, we reserve the title in them. Processing or reshaping by the supplier will be carried out for us. In the event of a processing or blending, we acquire co-ownership in the new goods, in proportion to the value of our goods to other processed goods at the time of the processing.
- 3) Materials that we provide must be stored as such in a separate place and must be used for our orders only. The supplier is also liable for any decrease in value or loss, in case of fault. The supplier stores these goods for us; the purchase price includes expenses for the storage of the objects and materials stored for us.

§ 9 Obligation to Make a Complaint / Outgoing Goods Inspection

- 1) The acceptance is given subject to an inspection for correctness and suitability. We will check the goods for deviations in quality and quantity within a suitable timeframe. The complaint is deemed to be given in due time if it is received by the supplier within a period of 10 working days from the receipt of the goods. Defects which cannot be detected within this period even after careful inspection, have to be advised in writing to the supplier immediately upon their detection. We are exempted from the duty to make a complaint regarding obviously visible incomplete deliveries which are evident from delivery notes, invoices, notifications, etc.
- 2) If an overall inspection that exceeds the usual scope of an incoming goods inspection becomes necessary due to a defective delivery, the supplier will pay the additional charges caused therein.
- 3) The supplier must carry out a quality assurance check in accordance with the latest technological capabilities and, upon request, prove that this has been done. The supplier will enter into a corresponding quality assurance agreement, to the extent that we believe this is required. Such quality assurance agreement shall prevail these terms and conditions of purchase within its scope.

§ 10 Warranty

- 1) The supplier warrants that our order will be executed in an expert proper manner in accordance with the corresponding state of technology as well as Hengst Operating Standard (BN) 13.09. We are entitled to the legal warranty claims in unabbreviated form. We are entitled to claim at our option removal of a defective or compensatory delivery. In this case, the supplier has to pay the expenses required to remove the defective or compensatory delivery. The right to payment of damages remains reserved.
- 2) If the supplier is in default with the removal of the defects, we are entitled to remove the defects ourselves at the expense and risk of the supplier. The same shall apply for cases where defects have to be removed immediately to prevent any further material damage.
- 3) If defective goods are supplied repeatedly by the supplier, we shall be entitled to withdraw from the contract following the assignment of a corresponding time limit, including rejection warning.
- 4) Warranty claims shall be time barred 24 months after the delivery to us. A longer limitation period according to §§ 478, 479 BGB (German Civil Code) remains unaffected.
- 5) To the extent we believe this is required the supplier shall enter into a corresponding warranty agreement. Such warranty agreement shall prevail these terms and conditions of purchase within its scope.

§ 11 Manufacturer's Liability

- 1) If claims are filed against us for violation of government safety regulations or due to domestic and foreign manufacturer's liability provisions or laws as a result of a defective condition of our products which is ascribable to the goods of the supplier, we are entitled to claim damages or indemnity at our option, to the extent that the damage is contingent on the products supplied by the supplier and he would also be liable directly. This damage shall also include the expenses of any prevention of damages (e.g. in form of necessary recall measures) as far as the supplier is legally responsible.
- 2) If we are made responsible by a third party in foreign countries for personal damages or damages of goods caused by a defect of the goods of the supplier, we have the right to raise a counter-claim, to start third party proceedings or to raise claims for indemnification and a total or partial recourse at the jurisdiction of the main claim against the supplier.
- 3) The supplier is obliged to sustain sufficient product liability insurance at its own costs. Such insurance shall not constitute any limitation of liability of supplier.

§ 12 Trade Secret Information

The supplier undertakes to treat our order, the business relationship and all non-apparent commercial and technical details associated with these, which the supplier becomes acquainted with during our business relationship as trade secrets. He shall oblige correspondingly his sub-suppliers. Only after our written consent the supplier may advertise with the business relationship or to disclose it to third parties, especially by mentioning us as reference customer.

§ 13 Models / Devices / Moulding Tools etc.

- 1) The supplier obliges to transfer to us against adequate payment the ownership in the tools, models, devices, moulding and injection moulding dies, etc. (including follow-up tools), that are used exclusively for the production for us.
- 2) The equipment so given under Section 1 required for the execution of our orders is to be stored at the supplier's place without storage fees. This operating material is to be protected against fire, theft and vandalism and to be insured accordingly. If the contractual supply relationship to the supplier is terminated for any reason whatsoever, he is obliged to return immediately the operating material mentioned under Section 1.
- 3) Any use of the operating material owned by us for third parties is not permitted unless by our written consent. Agreed tooling capacities have to be fulfilled. If agreed output quantities of faultless parts are not complied with due to fault of the supplier, we will be paid back our tooling investment in relation to the supplied quantity. The repair of the models, moulding tools, devices, etc. is paid for principally by the supplier; the costs are included in the payment according to Section 1 respectively in the fixed prices given under § 3 for the goods manufactured by the equipment and delivered to us.

§ 14 Design Protection

To the extent that the ordered components are manufactured by the supplier based on our design, all rights resulting in connection with the design remain with us. With the acceptance of the order, the supplier undertakes to refrain from supplying or offering the ordered components to third parties now or at any other time. Inquiries are to be forwarded exclusively to us.

§ 15 Protective Rights

The supplier is liable for any infringement of patents or other protective rights on the part of third parties that may occur through his supplies and the use therein. He exempts us and our customers from any claims whatsoever arising from the breach of such protective rights. This shall not apply if the supplier has manufactured the supplied goods according to drawings, models or any other descriptions or instructions that are thereby comparable and that are provided by us and if this causes the breach of the protective rights and he is not aware or cannot be aware in connection with the products manufactured by him that protective rights are thereby being violated.

§ 16 Delivery Dates / Default of Delivery

- 1) The agreed-upon delivery dates are binding. For compliance with a delivery date, the receipt of the goods at the receiving point and/or point of use is relevant. If the supplier realizes that an agreed-upon date cannot be complied with for whatever reasons, he must inform us about this immediately in writing, indicating the reasons and the expected duration of the delay.
- 2) Defaults on performance are given in accordance with § 286 Sub-paragraph 1, Sub-paragraph 2 BGB (German Civil Code). Regarding the time determined according to the calendar within the meaning of § 286 Sub-paragraph 2 BGB (German Civil Code), the delivery date agreed upon on the orders shall apply.
- 3) In the event of a default of delivery, we are entitled to claim a lump-sum damage caused by the default in the amount of 1 % of the delivery value per completed week, however, in total not to exceed 5 %. Any further legal claims are reserved. The supplier is entitled to prove that no damage or that a substantially lower damage was caused due to the default. In such a case, the lump-sum damage payment will be reduced accordingly.
- 4) We are not obliged to accept delivery prior to expiry of the delivery date. In case of a delivery prior to the agreed-upon date, we reserve the right to return the goods at the expense of the supplier. If the shipment is not returned in case of early delivery, the goods will be stored at our place at the supplier's expense and risk until the delivery date.
- 5) We will accept partial deliveries only if explicitly agreed upon in advance. For agreed-upon partial deliveries, the remaining residual quantity must be documented in writing.

§ 17 Force Majeure

- 1) Events of force majeure will suspend the contractual duties of the parties for the time of the interruption and to the scope of its effects. The parties to the contract are obliged within a reasonable timeframe, to provide the necessary information immediately and to adapt their duties to the changed circumstances in good faith.
- 2) In the case of performance obstacles as per clause 1), we are entitled to withdraw from the contract in respect of the affected scope of performance, to the extent that the delays exceed a period of 6 weeks and any delivery/performance is no longer utilizable by us, after taking economic aspects into regard.

§ 18 General Provisions

- 1) Place of performance and court of jurisdiction for any action whatsoever arising from this contract, is our registered office, when the supplier is a fully qualified merchant, a corporate body of public law or special public assets within the meaning of § 38 Sub-section 1 ZPO (German Code of Civil Procedure). However, we are entitled to bring action against the supplier also at his place of business.
- 2) For these terms and conditions of purchase and the complete legal relationship between the supplier and ourselves, the law of the Federal Republic of Germany applies, even if the supplier's principle place of business is abroad.
- 3) Should a provision in these terms and conditions of purchase or a provision within the scope of any other agreements be or become invalid, this shall not affect the validity of any other provisions or agreements.