

General Terms and Conditions of Purchase

I.

Scope of Application

1. Our Conditions apply only towards companies/entrepreneurs within the meaning of Art. 14 BGB (German Civil Code) and other establishments named in Art. 310 para. 1 BGB.
2. All our purchase orders – including future purchase orders of the same type – are subject only to the terms and conditions set forth below in the absence of other terms agreed on a case-to-case basis. Differing and additional terms and conditions of the Supplier are not binding on our part even if we do not expressly contradict them. Differing and additional agreements only apply for the individual contract concerned.

II.

Conclusion of Contract

1. Quotations shall be submitted free of charge and without any obligation on our part.
2. Our purchase orders, amendments and alterations of purchase orders are only binding if made in writing or by fax or telex and contain an order number. They cease to be binding if we do not receive within ten days from the order date the Supplier's written order confirmation stating the same content and the order number. We shall always be entitled to cancel our purchase order before we receive the order confirmation.
3. We have the right to demand reasonable changes of the ordered goods within the customary quality and quantity tolerances. The impact of such changes, in particular with regard to higher and lower costs and delivery deadlines, will be adjusted in common agreement with the Supplier.

III.

Deliverable/Limitation Period

1. The content, type and scope of delivery is determined by our purchase order including any specifications and manufacturing documents (drawings, samples etc.). The Supplier's obligation to check these documents for completeness, correctness and suitability, to notify us immediately in writing of any discrepancies/defects and to carry out the order under its own responsibility are not affected.

2. Delivery shortfalls of a value that does not justify an additional delivery entitle us to issue a debit note that reduces the invoice amount accordingly.
3. Partial deliveries are only permitted with our explicit consent. We shall be entitled to call for partial deliveries of the quantity ordered. Changes to deliverables and deviations from the indicated manufacturing process are subject to our prior written consent.
4. The Supplier is liable for any defects of any delivery as provided by the statutory provisions.
5. Any claims resulting from defects of the goods are subject to a limitation period of 3 years after delivery.

IV. Delivery Deadlines

1. Delivery deadlines are binding. Deadlines start with the order date. The delivery week is the week in which the delivery arrives at the specified place of receipt.
2. Compliance with the delivery deadline is determined by the date of receipt of the goods by us. The supplier shall be obliged to state our exact order number on all shipping documents and delivery notes. Should the supplier fail to do so, it shall be responsible for any resulting delays.
3. We must be notified immediately of any cases of force majeure or other unforeseeable delays in delivery beyond the Supplier's control. If the disruption persists for more than one month, we shall be entitled to withdraw from the contract.
4. The Supplier shall notify us immediately if a delay in delivery is foreseeable.
5. In case of delivery delays, we shall be entitled to impose a flat rate contractual penalty of 0.5 % of the delivery value for each full week of delay, but not more than 5 % of the delivery value. Both parties shall be entitled to submit proof of a different level of loss.
6. Acceptance of delayed deliveries shall not affect our statutory rights arising from the delivery delay.

V.

Dispatch/Acceptance

1. Shipment shall be at the expense and risk of the supplier. This shall apply also to any potential returns. The Supplier is responsible for compliance with all shipping instructions that we provide.
2. The risk is transferred to us upon handover of the delivery at the specified place of receipt.
3. The Supplier shall enclose with each delivery a delivery note stating our order number, order date and our item/ drawing number. If the Supplier fails to meet these requirements, we shall be entitled to refuse acceptance without such giving rise to any entitlements by the Supplier towards us. The costs of a justified refusal of acceptance shall be borne by the Supplier.
4. If the delivery is directly dispatched to third parties at our request, we shall be kept informed accordingly, promptly and without solicitation, by a dispatch notice including all relevant information.
5. If we are prevented from accepting the delivery due to force majeure or to other unforeseen circumstances beyond our control, in particular industrial action, our obligation of acceptance shall be suspended. We will notify the Supplier immediately of such circumstances. In the above cases we have the right to withdraw from the contract or to request delivery at a later date. This shall not entitle the Supplier to assert any claims. If our obligation of acceptance is suspended for more than three months, the Supplier is for its part entitled to withdraw after a reasonable period of grace.
6. Acceptance of deliveries is always subject to a verification of correctness and suitability by our goods inward inspection. We have the right to return rejected goods at the Supplier's risk and expense and demand at our discretion new delivery, rework or corrective action at the Supplier's expense. Complaints about hidden or concealed defects which do not become apparent until processing can be made at any time. We are also entitled in this case to claim compensation for any unnecessary expenses.

VI.

Prices/Conditions of Payment

1. The prices in our purchase orders are fixed prices that include ancillary costs (packaging, transportation, insurance, etc.), and free delivery to the specified place of receipt.

2. The invoice shall be issued in one copy, indicating the order number and the delivery note enclosed with the delivery. A separate invoice shall be issued for each order.
3. Payment will be made within 14 days after receipt of a properly prepared invoice with a 2 % discount or within 30 days strictly net by a mode of payment of our choice or by offsetting of counterclaims.
4. We are only deemed to be in arrears when a reminder has been issued following the due date.
5. Payments shall always be made subject to change and do not involve a recognition of freedom of defects nor a waiver of assertion of claims on our part.
6. We reserve the right to pay with cheques and bills of exchange.
7. Insofar as the Supplier has to provide material tests, test reports, quality documents or other documents, the delivery will not be deemed complete unless such documentation is also received. Invoices only become due for payment with the transfer of these documents.

VII.

Property and Copyright Protection

1. The Supplier warrants that the delivery and its utilization do not violate any rights of third parties within the Federal Republic of Germany. The Supplier also has the duty to produce the deliverables in such a way that they fulfill legal requirements, in particular with regard to accident prevention regulations.
2. If a third party makes any claims against us because of a violation of such rights, the Supplier is under the obligation to indemnify us upon first demand against any claims for damages. The Supplier's indemnity obligation applies to all expenditures which accrue from or in connection with any claims asserted against us by third parties.
3. The copying of any models, samples or other documents that we have provided to the Supplier or that the Supplier has created on the basis of our specifications is only permitted to the extent necessary for processing the quotation and executing our order.
4. Items produced on the basis of our specification must not be offered/delivered to third parties without our express consent. This requirement of consent shall survive the termination of the business relationship. If the Supplier makes improvements on the basis

of our manufacturing documents, we shall have a non-exclusive right, free of charge, to also use this improvement as well as any intellectual property rights involved.

5. We are the sole owners of all property rights, rights of use and all other rights with regard to all results (including all inventions, know-how, test reports, studies, developments, suggestions, ideas, designs, samples, models, templates etc.) achieved by the Supplier in the context of a business relationship with us.
6. Insofar as the deliverable comprises software, the rights of use are not limited to the object code. We shall also be entitled to demand the disclosure of the source code and the documentation. We shall be entitled to demand disclosure at any time, including during the ongoing development.

VIII.

Retention of Title, Property, Manufacturing Documents

1. The title to the delivered goods is transferred to us upon payment.
2. Any models, samples or other documents that we have provided to the Supplier or that the Supplier has created on the basis of our specifications are our property and may only be used for processing of the quotation and execution of the delivery order. They must be promptly returned to us upon request after execution of the Contract or in the case of non-conclusion/rescission of the contract.

IX.

Retention/Offsetting/Non-Assignability

1. The assertion of a right of retention and the offsetting of counterclaims by the supplier is only admissible if such a counterclaim is undisputed by us, legally established or ready for decision.
2. A transfer of the execution of the order to third parties or the assignment of rights and claims in connection with the transfer of the order to third parties is subject to our explicit consent.
3. We have the right to offset our claims against the Supplier against all amounts to which the supplier is entitled from us on the basis of deliveries or other legal grounds.

X.

Liability/Product Liability

1. To the extent that the Supplier is responsible for any product damage, it shall insofar be under the obligation to indemnify us upon first demand against any claims for damages by third parties if the cause lies within the Supplier's sphere of control and organization and the Supplier is liable in relation to third parties.
2. Within the scope of this provision the Supplier is also under an obligation to reimburse us for all expenses according to Art. 683, 670 of the German Civil Code (BGB) that are incurred by or in connection with a recall action initiated by us. We will inform the Supplier of the content and scope of the recall measures to be performed – to the extent possible and reasonable – and allow opportunity for comment.
3. The Supplier undertakes to maintain a product liability insurance with a flat coverage amount of EUR 2.5 million for each event of personal injury or property damage, and to produce evidence of the insurance policy at our request.
4. Any additional claims to which we are entitled shall not be affected.

XI.

Place of Jurisdiction/Applicable Law/Final Provisions

1. Any amendments of and additions to the present Contract must be made in writing.
2. Our Business Partner Code of Conduct is also part of our contractual relationship.
(https://www.e-trofit.com/assets/Downloads/code_of_conduct_e-trofit_en_pdf-1565702422.pdf)
3. The place of performance is our registered office in Ingolstadt, Germany.
4. The place of jurisdiction for commercial business transactions is Ingolstadt, Germany; this shall also apply in cases where the Supplier has no domestic general jurisdiction, has relocated its domicile or customary place of residence outside Germany after conclusion of the contract, or where the Supplier's domicile or customary place or residence is not known at the time when the action is filed. Alternatively, we have the right to file a suit at the Supplier's principal place of business.
5. German law shall be solely applicable; the terms of the UN sales law (CISG) shall be excluded. If the contract documents are in different languages, the German version is definitive.

6. If one or more of the above provisions should be or become ineffective, the legal effectiveness of the other provisions shall not be affected. In the case of ineffectiveness of one or more provisions, the Parties undertake to agree on a legally effective provision that is as closely equivalent as possible to the ineffective provision.

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