

Terms of Purchasing

1. Orders and agreements:

Orders and agreements are only valid insofar as we have issued or confirmed them in writing. The supplier acknowledges these terms of purchasing – for all future business with us as well – as binding and relinquishes any attempt to assert its own terms of sales or delivery, which do not become part of the contract, either through our silence or through acceptance of the delivery.

2. Deliveries:

Deliveries are made to our factory freight paid. Goods are always accepted under reserve in regard to quality, condition and quantity. The testing of goods in the factory or warehouse of the supplier does not constitute a delivery or acceptance.

Over-deliveries or short deliveries are not accepted, even with a caveat in the order confirmation of the supplier.

If the packaging is damaged upon arrival, we have the right to refuse acceptance of the shipment without checking the contents. The return shipping will be at the cost and risk of the supplier.

3. Delivery period:

If the agreed delivery deadline (= incoming goods deadline) is exceeded, for whatever reason, we have the right, in the event of failure to comply with a set grace period, to refuse acceptance and, at our discretion, to withdraw from the contract either wholly, or in regard to the still remaining partial services without any obligation of compensation or to demand fault/damage compensation due to non-compliance.

The supplier must immediately inform us as soon as he becomes aware that he cannot make the delivery on schedule, whether in whole or in part. Any additional costs that we incur due to the delay and/or any other provision will be borne by the supplier. In the event we declare our willingness to accept the goods despite the missed deadline, the additional costs for air shipping or express freight etc. will be borne by the supplier.

4. Packaging:

The goods are generally delivered in typical, disposable standard packaging. When recyclable packaging is used, the supplier must loan us the packaging. It will be returned at the expense and risk of the supplier. If we declare ourselves willing to assume the packaging costs on an exceptional basis, they must be calculated at the verifiable cost price.

5. Insurance:

For deliveries within the Federal Republic of Germany, the shipping insurance is routinely covered by us. Insurance premiums that are paid by the supplier are not reimbursed by us. Because we are customers who waive insurance in terms of § 39 ADSp, we will not assume any fees for SVS/RVS:

We will not be providing any insurance for personnel, tools or materials in connection with our order that belong to the contractor or installers.

6. Payment:

Payment is made on the 15th of the month following the receipt of goods and invoices, less a discount of 3 %. When an order is accepted early, the due date is based on the agreed delivery date.

The supplier may only convey his claims against us with our prior written consent. For assignments that are the result of an extended reservation of proprietary rights agreed upon between the supplier and his upstream supplier, our approval will be considered as granted in advance with the proviso that we are permitted a summation even with counter claims acquired after indication of the assignment.

7. Notification of defects (letter of complaint)/guarantee:

The delivered goods are inspected by us within an appropriate period of time to determine their outward integrity and completeness. The complaint of apparent deficiencies is generally made within 7 work days after receipt of goods. With regard to concealed deficiencies, the complaint is made immediately upon discovery. Payment for the goods does not mean that they are in compliance with the contract or that they are free of defects.

For deficiencies in the supplied goods, whether they involve being in the agreed condition, their suitability for their contractually specified use or their suitability for their usual use or the usual condition that is to be expected – we can demand replacement at no cost or repair of the deficiencies at our discretion. In individual cases, we can have the deficiencies repaired ourselves at the cost of the supplier and with the supplier's consent. If a repair of a deficiency requested by us is not successfully completed after an appropriate period of time has passed, we can demand a reduction in the agreed upon price or we can withdraw from the contract, in whole or in part, or we can demand damages compensation due to non-compliance. Our guarantee and damage compensation claims that go beyond this remain unaffected by this. In particular, we can demand compensation for the costs we incur during the inspection, if we are compelled by the above-average occurrence of faults to carry out an incoming goods inspection that goes beyond the usual spot check by random sampling.

We can either keep the rejected goods under our custodianship or send them back to the supplier at his cost and risk. On the day on which the notification of the return of the rejected goods is sent, the proprietary right is transferred back to the supplier. The transfer is substituted if we keep the goods in our custodianship for the supplier. If deficiencies are only noticed while the goods are being processed or used, we are entitled to demand compensation for the costs and expenses.

The warranty period is 18 months after we accept the goods; for goods that are destined for resale – even in connection with our finished products – this period begins once the goods are accepted by our customers. The warranty is in effect for a maximum of 24 months after we have accepted the goods. In the case of supplementary performance or a compensation delivery, the warranty period begins anew for the repaired part or for the replaced goods.

For preserving our warranty claims beyond the warranty period, it is sufficient if we have notified the supplier about the deficiencies within the warranty period. Our aforementioned claims are not affected by a quality agreement (e.g. AQL, ppm).

8. Quality:

The supplier guarantees that the delivered goods correspond to the agreed specifications, that they have no deficiencies that negatively impact their value or usability and that none of the promised characteristics are lacking. Furthermore, the supplier vouches for the fact that the delivered goods are free of any design, material or manufacturing flaws and that they are state-of-the-art.

9. Protective rights:

No protective rights of third parties may be violated by the delivery and its utilization by us. We will notify the supplier of any claims made by third parties. We ourselves will not acknowledge any such claims. We authorize the supplier to take over any disputes with the third party in or out of court. In the event of a culpable violation of protective rights of a third party, the supplier will, at his own expense, defend against any claims of third parties, which the third party makes against us as the result of a violation of protective rights based on the deliveries and services of the supplier. The supplier releases us from all claims resulting from the exercising of such protective rights, if he is at fault.

If utilization of the delivery by us is impacted by existing protective rights of third parties, the supplier must, at his own expense, either obtain the corresponding authorization or he must change or exchange the affected parts of the delivery such that utilization of the delivery no longer violates any protective rights of third parties and at the same time corresponds to the contractual agreements.

10. Drawings and tools:

All drawings, patterns and calculations that were used in carrying out orders and were left behind by us remain our property. They must be kept confidential, may not be duplicated or used for other purposes and must be returned to us immediately upon request.

Tools, patterns, drawings and other aids that were fabricated or drawn up and calculated separately by the supplier, become our property at the time they are made. The transfer is substituted if the supplier retains custody of them on our behalf free of charge. They may only be used to carry out our orders and must be immediately transferred to us upon request free of charge after the contract is wrapped up or in the event of delivery difficulties. The supplier must mark the aforementioned objects as our property and notify third parties of our proprietary rights should they want to lay claim to them. The supplier will immediately notify us of any such occurrence. Intervention costs will be borne by the supplier.

The supplier is obligated to service, maintain and remedy any normal wear. The expense required for this is compensated by the purchase price for the objects. If the supplier commissions a sub-supplier to manufacture tools and patterns for carrying out our orders, the supplier cedes his claims against the sub-supplier to us upon transfer of the tools and patterns.

11. Blueprints:

Blueprints and developed patterns, which were prepared for us by the supplier, regardless of type, become our property with all rights included. Section 9. applies accordingly.

12. Prepayment and subcontracted supplies (provisions):

The supplier is obligated to use any prepayments or subcontracted supplies (provisions) that are provided by us exclusively for carrying out our orders.

The supplier must keep our provisions separate and he must make our ownership known on the provisions themselves and in his business ledgers. It is agreed that any goods that were manufactured on the basis of our orders and for which we have made a prepayment or provided provisions become our property. The transfer of ownership is substituted if the supplier retains custody of the goods for us free of charge, exercising all the care that would be expected from a proper merchant. For this reason, the supplier must keep the manufactured goods separate from other inventories and he must make our ownership known on the goods themselves and in the business ledgers. The supplier must confirm this in a written letter addressed to us. For the rest, we are entitled, at any time, to see for ourselves the existence of the separate storage and the orderly marking of the goods or provisions on-site.

A supplier may not acquire ownership of our provisions by processing them into a new item. Any such processing will be done by the supplier on our behalf. Should the supplier acquire ownership by combining or mixing in his own property, he relinquishes his share of the joint property to us. The transfer of ownership is substituted if the supplier stores the object for us at no cost.

The supplier must immediately notify us of any access by third parties to the goods that belong to us and he must support us in any way in the intervention, the costs of which will be borne by him. The obligation to notify us applies accordingly when initiating insolvency or bankruptcy proceedings. Any right of retention of goods is ruled out in any case.

13. Name of the supplier or manufacturer:

On printed materials, blueprints, etc. the name of the supplier or manufacturer or his company emblem may only be specified with our express written consent. Such consent only applies to the special case for which it is granted.

14. Advertising:

Use of our orders for advertising purposes is not permitted.

15. Confidentiality:

The supplier will only use any knowledge and experience gained by him as a result of carrying out our orders exclusively for carrying out orders from our company. Where third parties are concerned, the supplier is obligated to observe the strictest confidentiality in regard to operational matters with which he has become familiar by carrying out the order. This includes the results he obtained in the widest sense, particularly data, regulations, patterns, drawings and designs.

16. Safety/liability:

The supplier must vouch for the fact that all of the legal regulations, ordinances and other stipulations that are associated with the delivery are adhered to; this also includes agreements with shippers and regulations on the shipping of hazardous materials. The supplier is liable for observing the law regarding technical work resources (equipment safety law), of the occupational health and safety regulations and the accident prevention regulations of the industrial insurance associations and of the generally recognized rules for safety and occupational medicine; the required protective devices are supplied and are included in the price.

The supplier is obligated to ensure and document compliance with all safety requirements for the goods to be delivered by means of on-going checks and other appropriate measures and to provide us with proof upon request at any time. The documents necessary for this must be retained for the service life of the delivered goods, at least 6 years after the last delivery is made to us.

The supplier releases us from damage compensation claims of third parties, for which the supplier or his agent are at fault due to non-compliance with the aforementioned regulations, conventions and other stipulations. The supplier cannot refer to any information provided by us regarding such regulations, conventions and other stipulations in order to release himself from this obligation.

17. Legal regulations:

All of the agreements that have been reached between the parties for the purpose of carrying out this contract are laid down in this contract. There are no oral asides. Any supplements or changes to this contract, including this written clause, must be in writing. The place of execution is our registered office, if nothing else results from the order. The sole court of jurisdiction for all disputes resulting from this contract is the court responsible for the registered office of our company. We have the right, however, to bring charges against the supplier in the court of jurisdiction that is responsible for his registered office as well.

The laws of the Federal Republic of Germany shall apply, to the exclusion of the UN sales law. Should one or more of the regulations of these contractual terms or contract clauses be or become ineffective, in whole or in part, or should this contract contain loopholes, this does not affect the effectiveness of the remaining regulations and clauses. The parties are obligated to replace the ineffective clause with an effective clause, which most closely approximates the ineffective regulation.

OPERATIONAL ORDERLINESS: The supplier vouches for the fact that all of the persons whom he has commissioned to carry out our order will observe the procedural rules that apply in our plant, and the directives that go along with them, when they enter our premises.

PRIVACY: In accordance with § 26 of the Federal Data Protection Act, we call your attention to the fact that we save supplier data that we receive in connection with this business relationship and which is processed by us for our own purposes and for building upon the business relationship with any company that is connected to us.

DINSE G.m.b.H.

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