

General Conditions of Purchase

I. Scope

The following conditions of purchase apply exclusively for all - including future - transactions with the contracting party. We do not recognize conflicting conditions of the contracting party, unless we have expressly agreed to their validity in writing. Conflicting conditions of the contracting party in his general terms and conditions or in order confirmations are hereby expressly rejected. Unconditional acceptance of order confirmations or deliveries shall not constitute acceptance of such terms. Upon the first delivery to the present conditions of purchase, the contractual partner shall recognize their exclusive validity, also for all further business.

II. Orders and order confirmations

1. Orders, contracts and delivery requests as well as their changes and additions must be made in writing. Agreements concluded verbally or by phone are only binding for us if we have confirmed them by submitting a written order. The written form requirement shall also be deemed sufficient through fax or email.
2. We only accept goods that comply with the RoHS Directive and the REACH Regulation of the European Union. If the purchased articles are not compliant, this must be notified by the supplier in writing prior to delivery and approved by us accordingly in writing. If the articles fall under the notification obligation according to REACH Article 33 Paragraph 1, we also expect the immediate transmission of the SCIP number registered with the ECHA. Supplier agrees to comply with the conflict minerals provisions set forth in Section 1502 of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).
3. In individual cases, order standards and drawings specified by us including tolerance specifications shall be binding. Deviations in quantity and quality compared to the text and content of our order and subsequent changes to the contract shall not be deemed as agreed until expressly agreed in writing.
4. Estimates are binding and shall not be reimbursed unless expressly agreed otherwise.
5. If the contractual party does not accept our order in writing within a period of one week from receipt, we may withdraw from our order at no cost to us. Delivery requests shall become binding if the contractual partner does not object within five working days of receipt.
6. Drawings, tools, samples, models, trademarks, test equipment and presentations or anything of similar nature, as well as finished and semi-finished products, which are provided by us or manufactured on our behalf, shall remain our property and may be passed on to third parties only with our prior express written consent. Unless otherwise agreed in individual cases, these are to be returned to us immediately upon completion of the order without any special request. Products manufactured by such means of production, or labelled with such brands and packaging, may only be passed on to third parties upon our prior express written consent. They may not be used for other purposes, duplicated or made accessible to third parties and are to be kept with the diligence of a prudent businessman.
7. The transfer of rights and obligations of the contractual party arising from the contract concluded with us shall require our written consent in order to become effective.

III. Framework agreements

1. If we have concluded a framework contract with the contractual party for deliveries and/or services, the order totals and order amounts specified in the framework contract shall be measured quantities for the stock of the contractual party. These shall not constitute an obligation of acceptance without our corresponding individual request.
2. With delivery requests within a framework contract, corresponding individual contracts are concluded with the contracting party on the terms of the framework contract, unless the contracting party has legally objected against this. Requests pursuant to agreed purchase quantities may not be objected to.

3. The contracting party shall inform us as soon as 80 % of the requestable volume has been reached. Insofar as is reasonable for the contractual partner, the order totals or order amounts shall be increased at our request.
4. We reserve the right to change order amounts specified in the framework agreement and to cancel requests. Insofar as the change or cancellation is not reasonable for the contractual partner, he is entitled to object to this or to demand a reasonable reimbursement of expenses.

IV. Delivery and service

1. The agreed delivery times and dates shall be binding. They shall be effective from the date of the order. Within the delivery period or the delivery date, the goods must be received at the place of receipt specified by us. If delays are to be expected, the contracting party must inform us immediately and seek our decision on the continuation of the status of the order.
2. The contracting party shall be in default if the agreed delivery date has not been met. If no fixed delivery date has been agreed, the contractual partner shall be in default as soon as a reasonable period for delivery granted by us in writing has expired. The contracting party shall be obliged to compensate us for the damage caused by delay, provided that the delay can be attributed to him. In addition, after an unsuccessful deadline, we are entitled to withdraw from the contract and/or to demand further damages beyond the mere default damage.
3. The unconditional acceptance of a delayed delivery or service shall not constitute a waiver of the claims to which we are entitled due to delayed delivery or service.
4. Partial deliveries are in principle inadmissible, unless we have expressly agreed to them or they are reasonable for us.
5. Over- and underdeliveries without agreement will not be accepted. Overdeliveries shall be returned to the supplier's place of business at the expense and risk of the supplier and the invoice shall be reduced proportionately or the excess delivery shall be debited in value.
6. We shall not be obliged to accept delivery or confirm acceptance before the delivery date has expired. In this case, we are entitled to accept the delivery or to refuse acceptance before the expiry of the delivery date and to return it at the expense and risk of the contracting party or to store it with third parties at the expense and risk of the contracting party.
7. The delivery shall take place at the expense of the contracting party free of charge to the place of receipt specified by us. The delivery shall be „ex works“ (DAP or DDP in accordance with INCOTERMS 2010).
8. The place of performance for all obligations of the contractual party shall be the place of delivery or execution specified by us; for payments, the place of performance shall always be Leinfelden-Echterdingen irrespective of this. The risk only passes to us upon acceptance by our receiving agency.
9. The contracting party is obliged to observe that the goods are sufficiently protected from damage by the packaging. The contracting party shall take back packaging material free of charge at the place of receipt.

V. Prices and payment

1. Unless otherwise agreed, the agreed prices shall be fixed unless the contracting party generally reduces the prices.
2. Packaging shall be included in the price. If exceptionally agreed otherwise, the packaging must be calculated at cost price.
3. Payment shall be made only after complete receipt of the faultless goods or complete faultless performance and after receipt of the complete and correct invoice. Invoices are to be provided specifying the order and item number immediately after the goods have been shipped. Value Added Tax is to be specified separately.

4. We pay from date stamp invoice receipt within 14 days with 3% discount from the gross invoice amount or within 30 days net. If the goods receipt occurs after receipt of the invoice, the payment period shall begin with the date of the goods receipt or with faultless fulfilment of the contract and/or acceptance. The payment shall be considered to have been made in due time if we have instructed the bank to pay on the last day of the deadline or have sent it to the post office when paying by check. We are free to decide on the method of payment. Cash on delivery cannot be redeemed.
5. If a payment claim of the contracting party is only to be fulfilled after a check or any agreed acceptance, we are entitled to this inspection or acceptance 15 days after receipt of the delivery or service.
6. We shall not be responsible for owing any maturity interest. The contractual party's claim to payment of interest on arrears shall remain unaffected. The default interest shall be nine percentage points above the base rate. The statutory provisions shall apply to the occurrence of default.
7. We are entitled to demand a bank guarantee for advance payments.
8. The contracting party shall only be entitled to offset undisputed or legally established claims. The assignment of claims or their collection by third parties is only effective upon our written consent.

VI. Quality, acceptance, complaints, liability for defects

1. The delivered goods must comply with the agreed quality requirements (product specifications), the accepted rules of engineering as well as the legal provisions applicable to their manufacture, distribution and use at the time of delivery and the regulations and guidelines of authorities, professional associations and trade associations.
2. Irrespective of the above conditions, the contracting party must constantly check the quality of its deliveries and services on its own responsibility, maintain a corresponding quality assurance system and provide us with the records upon request and carry out a comprehensive outgoing goods inspection. The contracting party shall carry out quality assurance that is appropriate in terms of type and scope, in accordance with the latest state of the art, and must be able to prove this upon request.
3. For dimensions, quantities and quality, the values determined in our incoming goods inspection and quality inspection shall be decisive. In the case of complaints, the contracting party may be charged with the costs of the examination.
4. We shall immediately notify the contractual partner of any defects as soon as they have been ascertained/detected in the ordinary course of business; this may also only be the case within the scope of further use. In this respect, the contracting party waives the objection of late notification of defects and unconditional acceptance.
5. In the case of delivery of defective goods, the contractual party shall be given the opportunity of supplementary performance through subsequent improvement or subsequent delivery at our discretion. We are entitled to carry out the rectification ourselves or have it carried out by a third party, if it is not possible due to special urgency to have the supplementary performance carried out by the contractual partner.
6. If the supplementary performance by the contracting party has not occurred within a reasonable period of grace or if the deadline has been ignored or dispensed with, we may withdraw from the contract in accordance with the statutory provisions and demand damages instead of performance, compensation for futile expenses or a reduction.
7. The limitation period for claims based on defects is governed by the statutory provisions, but in any case amounts to at least 36 months for deliveries or services. This shall commence upon delivery and/or performance or acceptance, if such is provided for or agreed by law. It shall be extended accordingly if we are obliged by our customers to longer limitation periods for claims for defects. Should claims be asserted against us due to a recourse pursuant to § 478 BGB (German Civil Code), the periods stipulated therein shall apply.
8. In the case of legal defects, the contracting party indemnifies us from any existing claims of third parties. The statutory warranty period shall apply.

9. If, in the context of supplementary performance, a product which is subject to a defect is newly delivered, the period of limitation shall begin anew starting from the time from which the supplementary performance was carried out.

Should we incur costs as a result of the defective delivery or other poor performance, in particular in the case of transport, material and labor costs, the contractual partner shall reimburse us for these, at least at a lump sum of 50.00 euros.

10. If we have incorporated the defective goods into another object or attached them to another object in accordance with their type and intended use, the contractual party shall be obliged to reimburse us for the necessary expenses for removing the defective goods and installing or attaching the repaired or delivered defect-free goods as part of the subsequent performance.
11. If a defect appears within six months of the transfer of risk, it is assumed that it already existed at the time of the transfer of risk.
12. The contracting party undertakes to reimburse us for all costs of recalls that we incur, provided the costs are reasonable.

VII. Supplier recovery

1. Our legally determined recourse claims within a supply chain (supplier recourse pursuant to §§ 478, 479 BGB) are in addition to the claims for defects without limitation. In particular, we are entitled to demand the type of supplementary performance (repair or replacement) from the contractual party which we owe to our customer in individual cases. Our legal right to choose (§ 439 Section 1 BGB) shall not be restricted by this.
2. Before we acknowledge or fulfill a defect claim asserted by our customer (including reimbursement of expenses according to §§ 478 Section 3 and 439 Section 2 BGB), we will inform the contracting party and ask for a written statement with a short explanation of the facts. If such a statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by us shall be deemed to be owed to our customer; in this case, the contractual partner shall be obliged to provide proof to the contrary.
3. Our claims arising from supplier recourse shall also apply if the goods have been further processed by us or one of our customers prior to their sale to a consumer, e.g. through installation in another product.

VIII. Liability

1. The contractual partner indemnifies us from claims, for whatever legal reason, that arise both from our contractual parties and from other third parties from any negligent or intentional breach of contractual or secondary contractual obligations, as well as extra-contractual due diligence obligations of the contractual partner. This shall apply in particular to product liability claims that are due to the defectiveness of the contractual partner's product, regardless of who is liable as the manufacturer of the final product.
2. The contractual partner shall also be liable for damage caused to us by appropriate and necessary precautionary measures, e.g. public warnings. With regard to these claims, the contractual partner shall waive the plea of limitation as long as we ourselves can be held liable.

IX. Property rights

The contracting party shall be liable for the fact that its copyrights, patents or other proprietary rights of third parties are not infringed by its delivery and use by us. The contracting party shall indemnify us and our customers against all claims made against us for infringing a commercial property right and shall assume the costs of safeguarding these rights if such claims are based on a culpable breach of duty. The contracting party shall indemnify us and our customers against all claims arising from the use of such industrial property rights. This shall not apply to the extent that the contracting party has produced the delivered goods according to drawings, models or other equivalent descriptions or requirements supplied by us, and has no knowledge, or should have had knowledge, that infringement of industrial property rights occur in connection with the manufactured goods.

X. Force majeure

War, civil war, export restrictions or trade restrictions due to a change in political conditions, as well as strikes, lockouts, breakdowns, operational restrictions, and other events which render the fulfillment of the contract impossible or unreasonable and which we are not responsible for shall be deemed to be force majeure and free us from our contractual obligations for the duration of their existence. The contracting parties are obliged to inform themselves about this and to adjust their obligations to the changed circumstances in good faith.

XI. Supplier's declarations

1. An essential element of the contracts concluded in accordance with these Terms and Conditions of Purchase is the obligation to submit supplier declarations pursuant to Regulation (EC) 1207/01. If long-term supplier declarations are used, extensions of the originating status with the respective order confirmation are to be communicated unsolicited.
2. Should the supplier's declarations prove to be insufficiently meaningful or incorrect and should we therefore or for other reasons be obliged by the customs authorities to submit an INF4 information sheet, the obligation to provide us, upon request, with INF4 information sheets specifying the origin of the goods which are free of errors, complete and customs-certified without delay shall exist.
3. Should we or our customers be subsequently debited by a customs authority because of faulty own declarations of origin or we or our customers thereby suffer any other financial disadvantage and the error is based on an incorrect indication of origin of the contracting party, the latter shall be liable.

XII. Safekeeping/property

1. Supplied material shall remain our property. It is to be stored separately as such and may only be used for our orders. The contractual partner shall also be liable for any reduction in value or loss through no fault of his own.
2. The objects which are manufactured with the material provided by us are our pro rata property in the respective manufacturing condition. The contracting party shall store these objects for us; the purchase price includes costs for the safekeeping of our items and materials.

XIII. Trade secrets

The contracting party is obliged to treat our orders and all related commercial and technical details as business secrets.

XIV. Data protection

The contractual partner declares his revocable consent to the fact that personal data communicated to us will be processed in accordance with the EU General Data Protection Regulation (GDPR) and the Federal Data Protection Act in accordance with orders.

Information on the storage, use and processing of personal data is available at: <https://www.mader.eu/datenschutz>.

XV. Final provisions

1. Should any provision be or become invalid, the remaining provisions shall remain unaffected.
2. If the contractual party is a merchant, a legal entity under public law or a special fund under public law, our place of business shall be the exclusive place of jurisdiction for all claims arising out of or on the basis of this contract. The same shall apply to persons who do not have a general place of jurisdiction in Germany or persons who have moved their residence or habitual abode outside of Germany after conclusion of the contract or whose residence or habitual abode is not known at the time that the action has been filed. We are also entitled to sue the contracting party at its place of business.
3. German law shall apply. The application of the United Nations Convention on the International Sale of Goods of April 11, 1980 (CISG) shall be excluded.

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