

General Terms and Conditions of Purchasing As at: March 2019

I. Scope

1. These Conditions only apply to companies within the meaning of Section 14 German Civil Code (BGB), legal entities under public law and special funds under public law (hereinafter referred to as "Suppliers").
2. Unless otherwise agreed in writing, these Conditions of Purchasing shall apply exclusively to all - present and future - purchase orders of E. WEHRLE GMBH (hereinafter "we" or "us"). Where the Supplier's or Contractor's (hereinafter uniformly referred to as "Supplier") conditions diverge from these, they are only binding upon us where we have agreed to them in writing.

II. Purchase Orders and Order Confirmation

1. Purchase orders and amendments thereto as well as agreements are only valid where they are in writing.
2. Ancillary oral agreements by our employees are only legally binding with our written confirmation.
3. Any purchase order which diverges from the Supplier's offer must be confirmed by the Supplier, in writing, without delay. Failure to provide us with such confirmation within 14 days of the order date will mean that we are no longer bound by this order.

III. Time of Delivery, Delay in Delivery

1. The agreed time for delivery is binding. Compliance with the delivery date is determined by the arrival of the delivery at its destination. In the event of delivery prior to the agreed delivery date, we reserve the right to return the delivery at the Supplier's expense and risk or to store it until the delivery date at the Supplier's expense and risk. In any case, the payment period shall not commence before the agreed delivery date.
2. As a contractual penalty in the event of a delay, we are entitled to demand payment of 0.5 % of the agreed total price of the delivery for each complete week of delay, up to a total maximum of 5 %. This shall be without prejudice to additional statutory rights. The Supplier is free to prove that the loss was lower than the contractual penalty. We reserve the right to claim the contractual penalty up until the final invoice.
3. As soon as the Supplier becomes aware of difficulties in effecting on-time delivery, it shall notify us, without delay, stating the reasons and the anticipated new delivery date.

IV. Scope of Delivery, Packaging, Dispatch, Transfer of Risk

1. In the case of raw materials (particularly plastics), a factory test certificate 3.1 in accordance with EN 10204 shall form part of the scope of delivery. The goods must be identified on the packaging with the order number, batch number, date, quantity and our article number.
2. The Supplier is only entitled to make partial or excess deliveries with our written consent. In the case of approved partial deliveries, the remaining quantity must be indicated on the delivery note and the invoice. Where there is a delivery schedule, we are only obliged to accept the quantities expressly designated as binding in the delivery schedule.
3. The goods must be packaged to customary commercial standards or, upon request, provided with special packaging in accordance with our instructions. The goods in the relevant packaging unit must be identified with the order number, date, quantity and our article number. The Supplier shall be liable for damages resulting from defective packaging. Packaging costs shall be borne by the Supplier. We are entitled to return the packaging, carriage paid, to the place of origin and charge 1/3 of the invoiced value back to the Supplier.
4. Shipping documents must contain the following information: Date, order call-off no., part no. with indication of drawing index - where available, part name, weight and quantity. The data on the delivery note must be identical to the description of the goods. The shipping documents must be with us by no later than receipt of the goods. Our shipping instructions must be complied with.
5. The Supplier has not complied with its delivery obligation until we have received the shipping documents in due form. Until then, we shall be entitled to store the delivery at the Supplier's expense and risk.
6. The risk shall pass to us when the goods to be delivered are duly handed over at the destination or - insofar as an acceptance procedure has been agreed or is required by law - have been accepted by us. This also applies if we use our own transport personnel.

V. Price, Invoice, Payment, Assignment and Set-off

1. The agreed prices are fixed prices inclusive of packaging and are free destination.
2. A single invoice shall be issued for each delivery.
3. Unless otherwise agreed, payment shall take place within 14 days of receipt of the invoice with 3% discount or within 30 days without deduction, at our discretion.
4. The payment period shall commence after receipt of the goods, in full and in accordance with the contract, and upon receipt of the shipping documents pursuant to Clause IV. 4 and the invoices pursuant to Clause V. 2, but not before the agreed delivery date.
5. We reserve the right to choose the method of payment.
6. Assignment or pledging of the Supplier's rights under the contract is only permitted with our written consent. This does not apply to pecuniary claims. However, we may make payment to the Supplier with discharging effect.
7. The Supplier may only set off counter-claims or assert a right of retention where the counter-claim is undisputed by us, is due for judgement or has been finally adjudged. The right of retention is also limited to counter-claims arising from the same contract as the claim.

VI. Warranty

1. The Supplier warrants that, on handover to us or our customer, the products shall be free of any defects in title and material defects and correspond to the recognised state of the art, applicable laws, health and safety provisions and the customary and technical quality standards (e.g. DIN, VDE, VDI, TÜV, Explosion Prevention Guidelines of the Trade Association). In case of varying versions of these standards, the German version shall be authoritative.
2. The figures obtained by us during the goods incoming inspection shall be authoritative regarding quantities, weights and measurements.
3. The limitation period for claims under warranty shall be 36 months from delivery or - if such is agreed - from acceptance. Where a longer limitation period is stipulated by law, this shall apply.
4. Upon receipt, we will examine the goods for obvious defects and transport damage visible externally on the packaging as well as checking the identity and quantity based on the delivery documents. There is no further obligation to examine the goods. We shall report defects without delay upon discovery. To this extent, the Supplier waives its defence of late notification of defects.
5. Defective deliveries entitle us to choose, at our own discretion, either repair or replacement unless the chosen method of subsequent performance is unreasonable for the Supplier.
6. Following the unsuccessful expiry of a reasonable extension of time, or in case of urgency after prior notification of the Supplier, we shall be entitled, without prejudice to any other claims and at the Supplier's expense, to carry out repair ourselves, have it carried out by a third party or procure a replacement elsewhere.

7. Where as a result of defective delivery, an overall inspection is required, which exceeds the extent of the inspection specified under Clause VI.4, the Supplier shall bear the costs thereof.
8. All costs incurred as a result of subsequent performance at the relevant place of use of the goods, shall be borne by the Supplier. We shall disclose the place of use to the Supplier, on request.
9. We are entitled to demand reimbursement of expenses under Section 445a German Civil Code (BGB) even if the Supplier has supplied only a part or only raw materials and not the entire item to be newly manufactured.
10. With respect to repaired or replaced parts, the limitation period under Clause VI.3 shall recommence unless the cost of subsequent performance was only negligible or was carried out on a goodwill basis.

VII. Third-Party Intellectual Property Rights

1. The Supplier warrants that use of the delivered goods does not infringe any third-party intellectual property rights such as e.g. patents or utility models or other third-party rights or trade secrets - including in the country of use. The Supplier shall indemnify us against any third-party claims in this regard, on first written request.
2. The Supplier is not liable where it has manufactured the goods exclusively according to drawings and models provided by us and did not know, or was not required to know, that the manufacture of these goods infringed third-party rights, unless the infringement of such rights is attributable to the Supplier for another reason.

VIII. Product Liability, Insurance

1. In the event that we are subject to claims brought by a customer or other third party on the basis of product liability, the Supplier is obliged to indemnify us, at the first written request, against such claims, insofar as and to the extent that the loss was caused or partly caused by an defect in the product delivered by the Supplier. In the case of fault-based liability, however, this only applies if the Supplier is at fault.
2. Insofar as the cause of damage lies within the Supplier's area of responsibility, proof of a causal link between the defect and the damage shall suffice; otherwise the Supplier bears the burden of proof.
3. In all cases, the Supplier assumes the costs and expenses corresponding to its share of the cause/fault including the costs of any litigation or product recall.
4. On request, the Supplier is obliged to cover its liability risk by way of insurance and provide us with proof of adequate cover.

IX. Tools, Provision of Materials

1. Tools or other manufacturing equipment (hereinafter referred to as "Tools"), which have been produced and paid for on our behalf, shall become our property on full payment. Transfer of ownership shall be substituted by storage of the Tools on our behalf by the Supplier, free of charge and with the care of a prudent businessman. The Supplier shall store the Tools owned by us separately from other items. Our ownership must be indicated on the Tools themselves and in the business records.
2. These Tools shall be kept ready for use by the Supplier, free of charge, and returned to us upon request after completion of the order.
3. The Supplier shall be liable for ensuring that the Tools are not used for its own or third-party purposes or copied or made available to third parties in any form, without our written consent.
4. We shall retain title to materials or items provided by us free of charge. They must be stored separately from other items until use and clearly labelled as our property. They must be used exclusively in accordance with the agreements. Any processing of these materials or the assembly of these parts shall take place on our behalf. We shall acquire co-ownership of the products, manufactured using the materials or parts provided by us, according to the ratio of the value of these materials or parts to the value of the other items used.
5. The Supplier shall adequately insure Tools and all other items owned by us at the replacement value against natural hazards (fire/water) and burglary.

X. Samples, Drawings

- Documentation of any sort (such as samples, drawings or models) that we make available or which we order and pay for, for the purposes of executing an order, must be returned to us, without the need for a request and free of charge, as soon as they are no longer required to execute the order. They must not be used by the Supplier either for its own or third-party purposes, nor may they be copied or made available to third parties in any form. The same applies to products that are made according to our documents or instructions or using Tools which belong to us.

XI. Confidentiality

1. With respect to all details of orders, such as e.g. quantities, technical designs, conditions etc., as well as confidential information which the Supplier has received from us, intentionally or by accident, the Supplier undertakes to use them solely for the performance of the contract and not for other purposes of its own and to keep them confidential from third parties.
2. Our inclusion in a list of references, or using the order for advertising purposes, is only permitted with our written consent.
3. In the event of a breach of this duty of confidentiality, the Supplier undertakes to pay a contractual penalty amounting to 25% of the order value as the minimum amount of loss, already or yet to be incurred by us, as a result of the breach, unless the Supplier is not responsible for the breach. Furthermore, in the case of particularly severe breaches, we are entitled to dissolve the contractual relationship with the Supplier without notice and without compensation. A particularly severe breach exists e.g. where the Supplier discloses confidential information, received from us, to third parties that are in competition with us.

XII. Place of Performance, Jurisdiction and Applicable Law

1. Place of performance for all deliveries of goods and services shall be the destination specified by us.
2. The court with jurisdiction shall be that with jurisdiction over our registered office. We may also, however, bring proceedings in the court with jurisdiction over the Supplier's registered office.
3. The law of the Federal Republic of Germany shall apply.
4. Where a provision of these Terms and Conditions is or becomes invalid, this shall be without prejudice to the validity of the remaining provisions.