

General terms and conditions of sale of Körner GmbH

GENERAL:

In our capacity as customer, we shall buy and enter contracts for work and service to the following terms and conditions of purchasing. Any terms and conditions on the part of supplier deviating from or contradicting these terms and conditions shall apply only if we expressly accept them in writing. If our order is confirmed by the supplier subject to terms and conditions deviating from our own, our terms and conditions of purchasing shall nevertheless apply notwithstanding the fact that we fail to reject the contrary terms and conditions imposed by the supplier. If the supplier does not accept this provision, he shall expressly notify us of this in a separate letter. In this case we reserve the right to retract our order without incurring any liability whatsoever as a result. Our general terms and conditions of purchasing shall also apply to future contracts for work and service which we enter in our capacity as customer notwithstanding the fact that we do not expressly refer to them.

We reserve the right to apply separate terms and conditions for the purchase of plant and machinery.

I. OFFERS:

All offers shall be lodged in writing and free of charge. Preparatory costs (e.g. travel, drafting of plans) shall be borne by the supplier/contractor.

Offers shall include the details required by us for processing purposes, e.g. particularly our inquiry or order number, our material number as well as the name of the employee handling the matter.

All documents provided by us (e.g. plans, sketches, calculations, samples, models and data media) shall remain our property and may not be made accessible to any third parties except with our prior written approval. They shall be used solely for our purposes and automatically returned to us as soon as they are no longer required.

II. ORDERS:

Orders and all agreements entered into with us shall be binding in writing only.

III. CONFIRMATION OF ORDER:

Each order shall be immediately confirmed by the supplier/contractor, stating the name of the responsible employee, the material number and the order number. If we do not immediately receive a confirmation of order we shall be entitled to rescind the contract, in which case no remedies for any legal reasons whatsoever shall be available against us.

IV. PRICES:

The prices stated in our order shall be binding and include packaging, material certificates in line with prevailing standards, certificates of origin and any other permits such as CE, CSE, UL certificates as well as carriage paid to the delivery address, duties paid.

Unless stated separately the prices shall include statutory VAT

We reserve the right to return packaging material at the supplier's/contractor's expense.

Invoices shall include the delivery address, the name of the responsible employee, the order number, our material number, the quantity delivered, the price as well as any other details which we require for processing purposes as per § 14 of UStG (turnover tax).

Failing this, invoices shall not be due.

V. DELIVERY:

The delivery period and volume stated in our order shall be binding.

The supplier/contractor undertakes to inform us in writing without delays as soon as he realises that he is unable to comply with the delivery period for all or part of the order. If no new delivery period is agreed upon as a result, we shall be entitled to rescind the contract, in which case no remedies shall be available to the supplier/contractor against us.

This shall also apply if the delay is due to government rules, strikes and/or force majeure.

In the event of any delay in delivery we shall be entitled to claim damages at a flat-rate of 2 % of the value of the delivery per week, provided that this does not exceed 10 %.

The supplier/contractor shall be entitled to prove that the actual loss sustained by us is substantially lower or that we have not sustained any loss at all.

We reserve the right to utilise other legal remedies available to us such as rescission or the recovery of damages on account of non-performance.

VI. DISPATCH:

The supplier/contractor undertakes to state the destination, order date, order number, the material number and responsible employee in a readily visible manner in the shipping papers, delivery notes, consignment notes, packages, labels etc.

Risk of loss damage shall not pass to us until the goods reach their destination.

VII. WARRANTY

The supplier shall warrant that the goods and services are free of all defaults and comply with statutory and government requirements.

The warranty shall apply for a period of 2 years starting on the date on which risk passes to us unless the warranty period provided for by statute or offered by the supplier/contractor is longer

Subject to apparent faults, we shall be deemed to have complied with our statutory duty to examine mass or warehouse goods immediately and report any faults. The supplier/contractor undertakes to examine the quality of the goods carefully prior to dispatch. In this respect our claims shall be deemed to have been lodged in good time if they are received within two weeks after the discovery of a fault.

Instead of lodging a warranty claim pursuant to statutory requirements we may also demand that the supplier repairs the faulty goods or, at our discretion, provide us with replacements. Where applicable, the supplier shall bear all expenses related to remedying the faults or providing replacement. This shall have no effect on our statutory rights and claims in the event of any default.

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In particularly urgent cases we shall be entitled to remedy the faults by ourselves or have them remedied. This shall also apply if the supplier is in default with respect to the warranty.

The costs of any warranty work arranged by us shall be borne by the supplier.

VIII. PRODUCT LIABILITY

If any claims are lodged against us on account of product liability for which the supplier/conductor is responsible, he shall hold us harmless on first request against such claims including any costs of factory call-backs provided that they are due to circumstances for which he is responsible and for which he would be liable in direct dealings.

In view of this the supplier/contractor undertakes to effect product liability insurance with an adequate sum insured. This shall have no effect on any further entitlement on our part to recover compensation.

IX. RETAINED OWNERSHIP RIGHTS/ CONFIDENTIALITY

All documents (e.g. sketches, plans, samples, models, computer data and programs) with which we provide the supplier shall remain our property and shall be strictly confidential. They shall be returned to us on first request. The documents may only be used for business dealings with us. The supplier may not use our name or trade marks. Information which the supplier receives from us for the purposes of executing our orders – particularly concerning research and development work as well as our business activities – shall be kept confidential while the order is being executed as well as thereafter.

Any parts provided by us shall remain our property and shall be processed on our behalf. If such parts are combined with third-party objects we shall acquire co-ownership rights in the resultant products be the value of our property in the third-party object.

X. TOOLS, MOULDS AND DEVICES

Any tools, moulds and devices paid by us in part or full shall become our property/co-property and shall be deemed to be on loan only to the supplier.

XI. PAYMENT

Invoices shall be sent to us immediately after delivery and include all the details set out in Section VI above. They must not be enclosed with the delivery.

We shall be entitled at our discretion to pay as follows:

- cash discount of 3 % for payment within 14 days of receipt of the goods and invoice
- net within 60 days of receipt of the goods and invoice.

Payment shall not be deemed to constitute approval or contractual acceptance of the goods.

Notwithstanding the fact that we do not reject premature deliveries we shall be entitled to postpone payment of invoices until the expiry of the agreed delivery period. In this case the cash discount periods and the warranty periods shall commence as of the agreed delivery period. We reserve the right to retain at least 10 % of the entire invoice amount pending fully delivery.

XII. ASSIGNMENT

The claim held by the supplier against us may not be assigned to a third party except our prior written consent.

XIII: PLACE OF FULFILMENT AND LEGAL VENUE

The place of fulfillment shall be D-52382 Niedertzier. All disputes arising from the business relations with the supplier/contractor shall be referred to the relevant courts of law of the city of Düren. However we may commence proceedings before the courts law holding jurisdiction for the supplier's/contractor's domicile.

The legal relations between the supplier/contractor and us shall be subject solely to the law of the Federal Republic of Germany. If any of the provisions contained herein is void, this shall not affect the validity of the remaining provisions.