

General Terms of Purchase of MEFKON GmbH & Co. KG

I. Area of Application

1. The following General Terms of Purchase apply exclusively to all orders from MEFKON GmbH & Co. KG in commercial business.
2. All conditions or counter-confirmations of the Supplier are hereby expressly opposed. Keeping silent about conditions of the Supplier shall not indicate recognition or agreement. Our General Terms of Purchase shall be accepted with delivery, even if a divergent order confirmation exists.

II. Orders, Order Confirmations

1. Orders must be in written form to be legally binding. This applies also to supplements and amendments in the agreements made, also to these General Terms of Purchase.
2. The contract comes into effect with the order confirmation of the Supplier. Each order must be confirmed immediately by the Supplier with information on the price and the time of delivery. We reserve the right to cancel orders if we do not receive confirmation within 14 days.

III. Prices, Invoices and Payment

1. Insofar as no deviating agreements have been made in writing, the prices are fixed prices. They include everything that the Supplier must do to fulfil the Supplier's delivery obligations, including packaging and freight.
2. If the Supplier decreases the prices before the delivery date, we shall receive this discount.
3. Invoices shall be issued by the Supplier in single copy. Only the volumes and weights determined upon delivery shall be paid. Payment shall be made after completed delivery or services and upon receipt of the invoice. A 3 % discount is agreed for payment within 14 days. Otherwise payment shall be made net within 60 days of the invoice date.

IV. Delivery, Delivery Times and Delivery Deadlines

1. Delivery shall take place at the account and risk of the delivering party. All deliveries shall take place, unless otherwise agreed, carriage paid, including packaging. The transport risk, including all insurances, shall be borne by the Supplier. We retain the right to reduce the invoice costs to the extent that the dispatch regulations are not complied with.
2. The agreed delivery, service times and deadlines are binding and must be adhered to. Partial deliveries and early deliveries are only permitted after prior agreement.
3. Should the risk occur that a date or deadline cannot be adhered to, we must be informed immediately with information on and evidence of the reasons and the envisaged duration of the delay. This shall not annul the obligation to adhere to the delivery date. In such an event, we are entitled to set the Supplier an appropriate additional deadline for the delivery or service. If the Supplier declares inability to adhere to this additional deadline, we are entitled to withdraw from the contract, and may, in the event of fault of the Supplier, claim repayment of the extra costs for the timely substitute delivery or service by third party companies.
4. Other or further claims pursuant to the legal or contractual regulations in the event of deliveries being late or not within the deadline remain unaffected. Their application requires no threat of rejection.
5. If the Supplier does not adhere to the obligation to inform pursuant to number IV.3, the Supplier cannot claim that the Supplier is not responsible for the delay.

V. Force Majeure

On missing the delivery date or the delivery deadline on grounds of force majeure or worker's disputes which are not the Supplier's own fault, we may either demand the order at a later date, without the Supplier having the right to make claims resulting from this, or, after a failure to adhere to an appropriate deadline, we may withdraw from the contract either entirely or in part.

VI. Packaging, Acceptance, Transfer of Risks

1. The Supplier must, in the absence of suitable regulations, pack the goods pursuant to our instructions in a suitable way. The return of the packaging material and dispatch costs requires a prior written agreement.
2. Dispatch is free of charge for us. In the event that we, on grounds of a special agreement, are to pay the costs of dispatch and no instructions are in place regarding the method of dispatch, the delivery must be made in the cheapest way possible, depending on the urgency of the dispatch. Any risk shall only transfer to us following delivery and acceptance of the object of delivery by us; in case of a delivery requiring set-up at our premises, with the commissioning.

VII. Dangerous Goods Dispatch

1. We require that the Supplier as the seller of goods has comprehensive knowledge of the possible risks of the Supplier's products upon dispatch, packaging, storage etc. Before accepting an order the Supplier must thus check whether goods named in the order, or their components, are rated as dangerous goods (for example colour dyes, adhesives or flammable, combustible, poisonous materials etc.). If so, the Supplier must inform us in detail immediately.
2. The currently valid national and international regulations must be taken into account on packaging, identification and declaration.
3. The Supplier is responsible for all damage resulting from incorrect information having been put in the binding declaration or valid regulations on the handling of dangerous goods not having been heeded.

VIII. Manufacturing Equipment

Materials provided and manufacturing equipment such as drawings, models, tools etc. remain our property. The Supplier is liable for the destruction, theft, deterioration or damage, insofar as the Supplier is responsible for this. Materials and manufacturing equipment provided may neither be passed on to third parties without our agreement nor sold, pledged or used in any other way. Any products manufactured using these materials or manufacturing equipment may only be delivered to us. The same applies to manufacturing equipment and tools, the manufacturing costs of which have been paid by us in full or in part.

If the manufacturing costs and tools have been paid in full by us, then these transfer to our ownership. Insofar as the products have not yet been transferred to us, these shall be handled with the necessary care by the Supplier.

IX. Notice of Defects

1. The Supplier is aware that we carry out our initial investigations directly upon delivery, but at the latest within 5 working days.
2. We are not obliged to undertake technical function tests and other investigations.
3. We must immediately, but at the latest within 30 days, inform of defects in the delivery which show up at the aforementioned investigation; hidden defects within a term of 30 days of having gained knowledge of the hidden defect.

X. Material Defect Liability

The Supplier bears the legal material liability with the following supplements:

1. If a defect shows up within the legal statutory limitation, this establishes that the material defect liability is with the supplier.
2. The dispatch of a notification of a defect in written form within the legal statutory limit prevents the time-barring of our claims for nine months.
3. Subsequent improvement or subsequent delivery must be made by the Supplier in multi-shift operation or in overtime or on bank holiday hours if this is necessary on our part for urgent operational reasons and is reasonable for the Supplier.
4. If the Supplier is in delay with the obligation of subsequent fulfilment or the Supplier is unable to perform an immediate subsequent fulfilment, then we can – in the latter case, after information from the Supplier in this regard – carry out the subsequent fulfilment ourselves or have it carried out by a third party at the expense of the Supplier. We can furthermore, at the expense of the Supplier, that is to say without the conditions named in sentence 1, repair small defects ourselves or have them repaired; the Supplier shall receive a debit-note from us after the subsequent improvement of subsequent delivery.

XI. Product Liability

If claims for damage compensation are made against us by customers or third parties for product liability, regardless of legal grounds and regardless of whether domestic or foreign laws have been applied, the Supplier shall exempt us from such claims – including any related costs of legal defence, if the Supplier is the originator of the damage and – on application of strict liability law- has caused the matter forming the grounds for the claim. The Supplier must conclude a product liability insurance policy and show evidence of this to us on demand.

XII. Off-setting

Our right to set-off or to practice a retention right cannot be limited. The Supplier is only entitled to set-off against counter claims or to practice a right of retention if and insofar as the counter-claim is undisputed or legally established.

XIII. Confidentiality, Customer Protection

1. All technical data and other not publically known commercial and technical details which become known to the Supplier through the business relationship with us must be kept secret by the Supplier. These may only be used in carrying out orders for us and only made available to such employees of the Supplier whose inclusion in carrying out the order is necessary according to the operational circumstances of the Supplier. The Supplier shall oblige such employees to strict secrecy pursuant to sentence 1.
2. The Supplier is not entitled to use knowledge from the business relationship with us in such a way that the Supplier takes up direct contact with our customers or recruits these.

XIV. General Liability of the Customer

We are liable only for deliberate and grossly negligent actions, as well as for damage to life, the body and health. Otherwise we are not liable, unless a significant contractual obligation is breached. Contractual obligations in this sense are the obligation to pay the agreed remuneration and such obligations that enable the Supplier to carry out this contract in the first place, that is to say information and cooperation obligations.

XV. Legal Regulations

Unless otherwise stipulated in these conditions and other contractual agreements, the legal regulations shall apply and shall not be limited in any way by the following agreement.

XVI. Place of Fulfilment, Place of Jurisdiction, Applicable Law.

The place of fulfilment for all contractual obligations is Willroth.

2. The exclusive place of jurisdiction for all disputes is the responsible court of law for Willroth. We are, however, also entitled to sue the Supplier at the Supplier's general place of jurisdiction.

XVII. Partial Invalidity

In the event of the invalidity of an individual contractual condition, this shall not affect the validity of the remaining conditions. In place of the invalid condition, a regulation shall immediately be agreed which in the framework of what is legally possible, comes as close as possible to the sense and purpose of what was intended economically with the ineffective clause. The same applies in the event of a gap.

XVIII. Primarily German Version

In the event of a dispute, the German version of these General Terms and of Purchase shall take priority.

XIX. International Contracts

If the Supplier's headquarters are outside Germany, then these General Terms and Conditions shall apply as well as German law under inclusion of the UN sales law. In addition to the UN sales law as regards the written form, as well as the liability of the Supplier for breaches of contract – in deviation from the aforementioned regulations the following special regulations – also apply:

1. Contract changes or cancellations require the written form. This also applies to agreements about dispensing with this written form agreement.
2. In the event of a culpable breach of contract, the Supplier is also liable for unforeseen damage at contract conclusion.
3. In the event of the delivery of products that do not conform to the contract, we may demand a replacement delivery from the supplier, if the contract non-conformity represents a breach of contract. A contract non-conformity is significant, among other things, if the products are manufactured or sold solely by the Supplier or it is unreasonable to purchase products from a third party.
4. In the event of delivery of products that do not conform to the contract, we may demand cancellation of the contract, if the contract non-conformity represents a breach of contract. The contract non-conformity is significant, among other things, if the damage is difficult or impossible to assess, and immaterial damage has occurred, the claim to damage compensation is excluded on grounds of article 79 V of UN sales law, in the event of continuing debt obligations, trust in the Supplier being lastingly disturbed or if the contract non-conformity of the products reached such a level that sale of the products in the normal course of business is no longer possible.
5. We are liable for damages for breaches of contract only in the event of intent and gross negligence as well as damage to life, body or health. Otherwise we are not liable except in case of a significant breach of contract. Significant breaches of contract in this sense are the obligation to pay the agreed remuneration and such obligations that enable the Supplier to perform the contract in the first place, that is to say information and cooperation obligations.