



TERMS AND CONDITIONS OF PURCHASE OF AUMUND FÖRDERTECHNIK GMBH

I. Key Conditions

1. These General Terms of Purchase apply to all business transactions with our contractual partners, whether they are suppliers or other contractors (hereinafter referred to as "Supplier").
2. Provisions deviating from these conditions, especially business terms of the Supplier do not apply, even if we do not specifically contradict the validity of the General Terms of Purchase and Ordering of the Supplier in Order Confirmations or similar letters in an individual case or when we make reference to a Supplier's letter that contains the General Terms of Purchase and Ordering of the Supplier.
3. These Terms and Conditions of Purchase shall also be applicable for all future business transactions with the Supplier, even if they are not mentioned in later contracts.
4. We point out that special contractual conditions will apply to particular services, which will be agreed in an individual contract and may supplement or modify these General Terms of Purchase and Ordering.

II. Inquiries, Quotations

1. In the quotation, the Supplier must comply exactly with the inquiry and in case of deviations he must explicitly point these out in writing.
2. Drawings, plans and other documents transmitted to the Supplier in conjunction with an inquiry will remain our property. We reserve all copyrights related to these documents. If no contract is concluded, these documents shall be returned to us immediately and without being requested to do so. Digital/Digitalized information and information on data carriers shall be destroyed in a sustainable and verifiable manner.
3. Quotations including all visits, plans and any other advance performance which the Supplier renders in conjunction with the submission of quotations shall be at no cost for us and will not create any obligation on our part.

III. Order Placement

1. An order will only be regarded as having been placed, if it has been issued by us in writing and undersigned. Orders placed verbally or by phone shall only be binding for us, if we have acknowledged them by subsequently sending a confirmation in writing. In individual cases, drawings specified by us including tolerances are binding.
2. By acceptance of the order the Supplier acknowledges to have informed himself about the type of design and scope of performance by studying the existing documents. We cannot be held responsible for any obvious errors, misspellings or calculation errors found in the documents, drawings and plans handed over by us. The Supplier is obliged to inform us about such errors for enabling us to correct or renew our order. This shall also be valid in case of lack of documents or drawings.



3. The Supplier shall confirm the acceptance of order and any order amendments which we requested by sending us a signed unaltered copy of the order within one week from the date of the purchase order/order amendment. If not, we shall be entitled to revoke the order. Insofar as deviations should be required from our orders and order amendments, their details have to be specified explicitly in writing in the acceptance of our order or order amendment.

4. Deviations in quantity and quality with regard to the text and contents of our order and subsequent contract amendments will only be regarded as agreed, after we have confirmed them explicitly in writing. The same applies to partial deliveries.

5. Drawings, tools, samples, models, brands and designs or similar which we requested as well as finished products and semi-finished products, which have been made available by us or are produced by our order, remain our property and may only be supplied to third parties upon our explicit written approval. Subject to different agreements in individual cases, the above mentioned items shall be promptly returned to us upon completion of the order without special request. Products manufactured and/or marked with such manufacturing equipment, brands and designs may only be delivered to third parties upon our explicit written approval.

IV. Delivery Dates

1. The agreed delivery times and dates are binding. They count from the date of the order. The goods must have arrived at the place of receipt as specified by us within the delivery time and/or by the delivery date. If delays are to be expected, the Supplier shall inform us immediately, stating the reasons for the delay and its probable duration and he must obtain our decision of maintaining the order or not. If the Supplier fails to inform us about the delay, he cannot refer to the obstruction, while refraining from the responsibility.

2. The unreserved acceptance of the delayed delivery or performance does not include a waiver of the claims for compensation to which we are entitled due to the delayed delivery or performance.

3. If agreed delivery dates are overrun for reasons the Supplier is to blame, he shall be obliged to pay a contract penalty of 1.0% of the agreed net total order amount per each started week, without exceeding a maximum of 7% of the net total order amount. The contract penalty may be claimed until the final payment. The assertion of any further damage is explicitly not excluded.

4. If an agreed delivery date is postponed for reasons beyond our control, the Supplier will have to pay the contract penalty even when the new delivery date is exceeded for reasons for which the Supplier is responsible.

5. We are not obliged to accept shipments arriving before the agreed delivery date.

V. Delivery / Packaging



1. The delivery is effected at the expense of the Supplier and free of charges for us to the point of receipt specified by us, unless otherwise agreed upon. If we have to pay the freight cost according to corresponding separate individual agreement, the Supplier shall choose the type of transport prescribed by us, otherwise the transport and type of delivery most suitable for us. A delivery note with all order data that we specified shall be attached to the delivery.
2. The risk will pass to us only after acceptance of the consignment by our point of receipt.
3. The packaging is included in the price. If exceptionally something different has been agreed, the packaging shall be charged at cost price. The Supplier must choose the packaging specified by us and ensure that the packaging protects the goods against damage. If goods are returned, at least two thirds of the calculated packaging value will have to be credited.
4. The Supplier undertakes to make available to us the CE-compliant documentation in the requested language and number of copies together with the delivery.

VI. Acceptance

1. A formal acceptance shall be carried out in any case, unless this would be unreasonable. On request, the acceptance is carried out jointly with us and/or our customer and documented in an acceptance and delivery report.
2. The required examinations, tests and measurements shall be performed in accordance with the established standards applicable for the ordered goods, supplementary examinations may be agreed upon when the order is placed. The object of performance will be accepted after the Supplier has furnished proof of the required and assured properties and the proper operation and functioning of the subject-matter of the contract as presumed in the order. If the object of performance comprises several individual units, the acceptance shall be carried out for each unit separately.

VII. Documentation

1. Two copies of invoices, delivery notes and packing slips shall be attached to each shipment. These documents shall include:
 - Number of order
 - Quantity and unit of measurement
 - Gross, net and, if required, weight of calculation
 - Item designation and our item code
 - Remaining quantity in case of partial deliveries
2. In case of dispatch by the Supplier, a dispatch note must be sent separately by us on the day of dispatch.

VIII. Prices



The price indicated in the order is binding (fixed price). In the absence of a deviating written agreement, the price includes the delivery free to the stated dispatch address including packaging.

IX. Invoice / Payment

1. Unless otherwise agreed upon, invoices shall be issued separately for each order. Payment will be effected within the agreed terms of payment after receipt of all faultless goods and documentation and/or complete, faultless performance and after receipt of the invoice. This provision applies accordingly to partial deliveries.
2. At our discretion, we either pay by remittance within 30 days with a 3% discount or within 60 days net after complete receipt of faultless goods, documentation and invoice.
3. Claims of the Supplier against us may only be assigned to third parties with our explicit and written consent. Payments will only be effected to the Supplier. The Supplier may only assert set-off and retention rights in case of undisputed or legally enforceable claims recognized against us.
4. Down or progress payments may only be demanded, if they have been contractually agreed. They will only be effected against presentation of an unlimited contract performance guarantee of a solvent guarantee insurer duly authorized in the EU or a solvent bank duly authorized in the EU or a solvent savings bank with the Supplier as principal debtor, as long as we will not yet have obtained ownership of the supply parts forming the basis of the down or progress payment claim or if this has been otherwise agreed.

X. Guarantee / Warranty / Complaint

1. The Supplier undertakes to ensure that the goods including their presentation and marking will comply with our specifications. The Supplier is responsible for the compliance of the delivery item with the legal and contractual quality requirements as well as for its faultless condition. Above all, the delivery item must comply with the generally recognized rules of technology, the relevant applicable requirements on safety as well as the environment, occupational health and safety and accident prevention regulations.
2. In case of technical work equipment, proof of the compliance with the relevant legal regulations and EN/DIN standards has additionally to be furnished and documented by written confirmation or test marks. Furthermore, the Supplier is obliged to inform us immediately about a measure ordered according to paragraph 8 of the Produktsicherheitsgesetz (German Product Safety Act, hereinafter "ProdSG"). In this case, we may request the Supplier that as per our discretion, he will rework, replace or take back his products which are already on our premises.
3. Qualitative and quantitative non-conformances shall be considered to be claimed in time pursuant to paragraph 377 HGB (German Commercial Code), if we send the Supplier the claim within 12 business days (without Saturdays) after receipt of the goods. Hidden non-conformances shall be considered to be claimed in time pursuant to paragraph 377 HGB (German Commercial Code), when the notice was sent to the Supplier within 12 business days (without Saturdays) upon discovery.



4. Upon delivery of defective goods or in case of faulty supply of work or services, the legal warranty regulations (paragraphs 437, 634 BGB - German Civil Code) shall apply, unless otherwise agreed upon in writing in the individual case. Even in the case of only an irrelevant deviation from the agreed quality or only an irrelevant impairment of the usefulness, we shall be entitled to the right of withdrawal from the contract and to damages instead of the (full) performance.

5. Payments do not signify that the delivery or performance is acknowledged to conform to the contract.

6. For the product manufactured by the Supplier and/or for the order carried out by him the warranty expires 24 months after successful acceptance or 36 months after delivery, or after expiry of 60 months for buildings, unless otherwise agreed upon. Agreement on extended warranty periods is possible on individual contract basis. Any longer statutory periods of limitation shall remain unaffected, just as any further provisions governing the suspension of expiry, interruption and recommencement of set periods. For parts of our delivery that have been rectified or repaired within the period of limitation of our warranty claims, the period of limitation restarts at the time when the Supplier has fully met our claims for supplementary performance.

XI. Producer's Liability

For defects of the goods for which the Supplier or a person employed in fulfilling an obligation for him is to be blamed, he shall release us from the resulting producer's liability to the extent, as he would be directly liable himself. In his relationship with us he cannot plead the limitation of claims due to lapse of time, as long as we cannot raise this objection ourselves with regard to third parties.

XII. Industrial Property Rights

The Supplier shall be liable in the case that his supply and our use of it cause the infringement of any patents or other industrial property rights of third parties. He releases us and our customers from all claims arising from the use of such industrial property rights. This does not apply, if the Supplier has produced the goods supplied in accordance with drawings, samples or equivalent other descriptions or instructions handed over by us, and if he is not aware, or in conjunction with the products manufactured by him, cannot be aware of infringing any industrial property rights.

XIII. Force Majeure

War, civil war, export restrictions and/or trade restrictions due to changed political conditions as well as strikes, lockout, stoppages, cutting back of operations and similar events at the contractual point of receipt or in Germany which render the fulfilment of contract impossible or undue for us or the Supplier, shall be regarded as force majeure and release us for the duration of their existence from the obligation of receipt of the deliveries and performances. The contracting parties are obliged to inform each other about the occurrence of such an event and to adjust their obligations to the changed conditions in good faith.



XIV. Custody / Property

Material provided by us remains our property. As such, it must be stored separately and may only be used for our orders. The Supplier is responsible for any impairment of value or loss, even if this was not his fault. All objects manufactured with material provided by us, remain our property in every state of fabrication. The Supplier keeps these objects in safe custody for us; the contract price includes the costs for the custody of the objects and materials for us. The assertion of any extended retention of title of the Supplier is excluded.

XV. Business Secrets / Privacy

1. The Supplier undertakes to treat our orders and all related commercial and technical details as business secrets. He shall likewise impose this obligation on all persons which he entrusts with the performance of the contract. He shall be liable without limitation for any damage resulting from a violation of his obligations to maintain secrecy.

2. The aforementioned regulations do not apply to information which was already known to the Supplier prior to its receipt or which he has otherwise acquired knowledge of (e.g. through third parties without the reservation of confidentiality or through his own independent efforts).

3. If personal or equivalent data are collected, processed or applied, the Supplier shall undertake to process them as per Bundesdatenschutzgesetz (German Data Protection Act, hereinafter "BDSG") and supplementary legal provisions, and above all, to only engage employees for such tasks, who are trained accordingly and accepted obligations as per paragraph 5 of the BDSG.

XVI. General Provisions

1. If the Supplier suspends payments, a temporary insolvency administrator is appointed, insolvency proceedings against his assets are initiated or rejected due to lack of assets, and we shall be entitled to completely or partly withdraw from the contract or to terminate it. In this case we may utilize all previous deliveries and performances of the Supplier versus payment of the agreed remuneration.

2. If any of the provisions should be or become ineffective or impracticable, the other provisions will remain valid. In lieu of the ineffective and/or impracticable rule, a provision shall apply, which gets as near as possible to the economic intentions of the parties.

3. The legal relations of the parties shall be governed by the laws of the Federal Republic of Germany in the version valid at the time of the order, excluding the international conflicts of law rules and the UN Convention on the International Sale of Goods (CISG).

4. Place of performance is the registered office of the principal. Agreement on a different place for the delivery is possible.



5. The court of law competent for Rheinberg is the place of jurisdiction for Suppliers who are merchants or legal entities under private or public law or public special funds.

6. The Supplier grants us the freely assignable right of use and exploitation unrestricted in terms of time, space and content to all plans, drawings, graphics, calculations and other documents in conjunction with the contract and which either the Supplier has produced himself or third parties on his order (hereinafter "Work Results"), in all known forms of media, including electronic media, internet, online media and on all video, audio and data carriers. In particular, we shall have the right to use, reproduce, distribute, alter and further develop such Work Results in part or completely, to have third parties perform the aforementioned activities and to grant third parties the same full scope of rights to use and exploit such Work Results including any modifications and further developments that may have been performed in the meantime.

The Supplier grants us the right of use and exploitation to the Work Results in the aforementioned scope even for types of use unknown at the time of the order placement; in this respect the statutory regulations apply.

The Supplier is not allowed to publish any information related to business relationship with us and / or to use the brand logo without prior written approval. In case of an infringement, we reserve the right to claim damages.

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