

Terms and Conditions | Purchasing

§ 1 Scope of application

These „Terms and Conditions of Purchase“ shall apply exclusively to all orders of Format GmbH („Format“) from 9 October 2023 onwards, even if the supplier refers to its own terms and conditions in a different form or other terms and conditions in its offer, when confirming the order, when delivering or when invoicing.

§ 2 Place of performance, transfer of risk

The place of performance for the delivery and for the payment is the registered office of Format in Hessisch Lichtenau. Even if dispatch has been agreed, the risk is only transferred to Format when the goods are handed over to Format at the agreed place of performance.

§ 3 Delivery time

The relevant delivery time (delivery date or period) specified by Format in the order or otherwise according to these „Terms and Conditions of Purchase“ is binding. The supplier is obliged to inform Format immediately in writing if circumstances occur or become apparent according to which the delivery time cannot be met. Early deliveries are not permitted unless this has been expressly agreed.

§ 4 Default of the supplier

- (1) If the day on which the delivery must be made at the latest can be determined on the basis of the contract, the supplier is in default with the expiry of this day without this requiring a reminder on the part of Format.
- (2) In the event of a delay in delivery, Format is entitled to the statutory claims without restriction, including the right of withdrawal and the claim for damages instead of performance after the fruitless expiry of an appropriate grace period.
- (3) In the event of delays in delivery, Format is entitled, after prior written warning to the supplier, to demand a contractual penalty in the amount of 0.5%, maximum 5%, of the respective order value for each week of delay in delivery. The contractual penalty shall be offset against the loss to be compensated by the supplier.

§ 5 Partial deliveries

The supplier is in principle not entitled to make partial deliveries, Format is consequently not obliged to accept partial deliveries. Exceptions to this must be approved in advance in writing by Format.

§ 6 Delivery notes, invoices

- (1) Delivery notes are to be enclosed with the goods. Invoices shall be sent in duplicate.
- (2) All order confirmations, delivery notes and invoices shall state the Format order number, the article number, the delivery quantity and the delivery address.
- (3) Disadvantages arising for Format from an incorrect designation of delivered goods are to be compensated by the supplier without restriction. Delayed payments by Format as a result of incorrect goods designations by the supplier do not constitute a default on the part of Format. The right to deduct an agreed cash discount shall not be affected in this case.

§ 7 Prices

The agreed prices or, in the case of framework agreements, the price scales according to the list shall always apply. The prices are understood as being properly packed and handed over at the place of use, unless otherwise expressly agreed.

§ 8 Payment

Unless otherwise agreed, payment shall be made within four weeks of receipt of the invoice; within 14 days of receipt of the invoice with a 3% discount. The receipt of the transfer order by Format's bank is sufficient for the timeliness of the payments owed by Format. Format is also entitled to make payments by cheque with deduction of a discount.

§ 9 Procurement guarantee

The supplier shall be fully responsible for the procurement of the supplies required for its deliveries and services – even without fault (full assumption of the procurement risk).

§ 10 Spare parts

- (1) The supplier is obliged to keep spare parts for the products delivered to Format in stock for a period of at least 2 years after delivery.
- (2) If the supplier intends to discontinue the production of spare parts for the products supplied to Format, he will inform Format of this immediately after the decision on the discontinuation. Subject to sentence 1, this decision must be made at least 2 months before production is discontinued.

§ 12 Product liability and indemnification

- (1) The supplier is responsible for all claims asserted by third parties for personal injury or damage to property which are attributable to a defective product supplied by him and is obliged to indemnify Format against the liability resulting therefrom. If Format is obliged to carry out a recall action towards third parties due to a defect in a product supplied by the supplier, the supplier shall bear all costs associated with the recall action.
 - (2) The supplier indemnifies Format from all claims of the customers of Format which the customers of Format assert against Format on the basis of advertising statements of the supplier or a pre-supplier of the supplier (manufacturer in the sense of § 4 Para. 1 or 2 Product Liability Act) or an assistant of one of these named and which would not exist or would not exist in this type or amount without the advertising statement.
- The provision applies regardless of whether the advertising statement is made before or after the conclusion of this agreement.

§ 13 Insurance

The supplier is obliged to maintain a product liability insurance policy at its own expense with an insured sum of at least EUR 3 million, which, unless otherwise agreed in individual cases, does not need to cover the recall risk or criminal or similar damages. The supplier shall send Format a copy of the liability policy at any time upon request.

§ 14 Property rights

- (1) The supplier warrants in accordance with paragraph 2 that no third party property rights are infringed by products supplied by it in countries of the European Union or other countries in which it manufactures the products or has them manufactured.
- (2) The supplier is obliged to indemnify Format against all claims made by third parties against Format on account of the infringement of industrial property rights referred to in paragraph 1 and to reimburse Format for all necessary expenses in connection with this claim. This claim exists irrespective of any fault on the part of the supplier.
- (3) Format's further legal claims due to legal defects of the products delivered to Format remain unaffected.

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§ 15 Secrecy

(1) The supplier is obliged to keep the terms and conditions of the order as well as all information and documents made available for this purpose (with the exception of publicly accessible information) secret for a period of 3 years after conclusion of the contract and to use them only for the execution of the order. He will return them to Format immediately upon request after completion of enquiries or after processing of orders.

(2) Without Format's prior written consent, the supplier may not refer to the business relationship in advertising material, brochures, etc. and may not exhibit delivery items manufactured for Format. The supplier shall oblige its sub-suppliers in accordance with this § 15.

§ 16 Offsetting ban

The supplier can only offset if his claims against Format are undisputed or have been legally established.

§ 17 Warranty

(1) Format shall also be entitled to withdraw from the contract and to claim damages instead of the entire performance in the event of only insignificant deviations from the agreed quality of the delivery products or in the event of only insignificant impairment of the usability.

(2) The location of the end product into which the supplier's product has been incorporated shall be disclosed. The supplier must also inform us in writing within 24 hours whether he is prepared to carry out the rectification himself, especially in the case of locations abroad. In the event of rejection, Format is entitled to carry out the necessary defect rectification measures by way of self-execution.

(3) All costs arising from this shall be borne by the supplier as costs of remedying the defect.

(4) By accepting or approving samples or specimens presented, Format does not waive warranty claims.

§ 18 Limitation

(1) The limitation period for claims and rights of Format due to defects in deliveries and services of the supplier - irrespective of the legal grounds - is three years.

(2) This period shall also apply insofar as the claims are not related to a defect. Longer statutory limitation periods shall remain unaffected, as shall the provisions on the commencement of the limitation period, the suspension of the running of the limitation period, the suspension and the recommencement of limitation periods.

§ 19 Jurisdiction

For all disputes arising from the respective legal relationship with entrepreneurs, the local or regional court of Kassel shall have local jurisdiction.

§ 20 Translations, choice of law, international sales contracts

(1) If these conditions of purchase are translated into another language, the German version shall prevail in case of questions of interpretation.

(2) The „Terms and Conditions of Purchase“ are subject to German law.

(3) With regard to international purchase contracts, the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 shall apply in addition, unless otherwise stated in these „Terms and Conditions of Purchase“.

§ 21 Severability clause

Should one or more provisions or a substantial part of these provisions be or become wholly or partially ineffective or have gaps, the validity of the remaining provisions shall remain unaffected. In place of the ineffective, incomplete or incomplete regulations, the statutory provisions shall apply.