

Terms and Conditions of Purchasing, Volz Gruppe GmbH (As of March 2011)

I. General

The following conditions shall form part of all contracts concluded between us and the Supplier. This shall also apply if we do not expressly refer to them in subsequent contracts. The Supplier's general terms and conditions shall not apply to us, even if we do not expressly exclude them. The acceptance of contractual items does not constitute acceptance of the Supplier's general terms and conditions.

II. Purchase order and order confirmation

1. Only purchase orders placed in writing, including by electronic means, shall be binding. Order standards and drawings, including tolerances, specified by us in the individual case are binding. By accepting the order, the Supplier acknowledges that it has acquainted itself with the manner of execution and scope of performance by inspecting the available documents. We shall not be liable in the event of obvious errors, spelling mistakes or miscalculations in the purchase order itself or in the documents, drawings or plans submitted by us. The Supplier is obliged to inform us of such errors so that we can correct and reissue the purchase order. The same applies in the case of missing documents or drawings.
2. Unless otherwise agreed in the individual case, purchase orders are only binding upon us if they are confirmed, in writing, within two working days of receipt, by the Supplier, specifying a binding delivery date.
3. Deviations in quantity and quality from the text and content of our purchase order and subsequent contractual amendments are only deemed to have been agreed if we have expressly confirmed them in writing. The effect, particularly with regard to any increase or reduction in cost, shall be settled by mutual agreement.
4. Drawings, tools, samples, models, trademarks, designs and such like, as well as finished and semifinished products provided by us or manufactured on our behalf, shall remain our property and may only be supplied to third parties with our express written consent. Unless otherwise agreed in the individual case, these must be returned to us without undue delay upon completion of the order, without the need for any special request. Products manufactured and/or labelled with such tooling, trademarks or designs may only be supplied to third parties with our express written consent.

III. Delivery and performance

1. The agreed lead times and delivery dates are binding. They run from the date of the order. The goods must be received during the lead time or on the delivery date at the receiving office specified by us. The Supplier shall be in default if the agreed delivery date is not met. In the absence of any agreement, the Supplier shall be in default if it fails to comply with the lead time which is reasonable and customary under the circumstances. The Supplier is obliged to compensate us for the default damages. In addition, following failure by the Supplier to comply with an extension of time, we shall be entitled to rescind the contract and/or claim compensation for damages. If delays are to be expected, the Supplier shall inform us of this without undue delay and obtain our decision on whether to continue with the order. The unconditional acceptance of a late delivery of goods or services shall not constitute any waiver of the claims to which we are entitled due to late delivery of goods or services.
2. Partial deliveries are generally not permitted unless we have expressly agreed to them.
3. We are not obliged to accept the delivery prior to expiry of the delivery date.
4. In the event that delivery is impossible, we shall be entitled to claim damages and/or assert the other rights to claim under warranty.
5. The Supplier may only assert a reservation of title against the Company if reservation of title has been expressly agreed in writing.

IV. Shipping

1. Our shipping instructions must be observed. Any costs incurred by us due to non-compliance with our shipping instructions shall be borne by the Supplier. The same applies to any additional costs arising from the need for expedited shipment due to circumstances for which the Supplier is responsible. We only recognise additional transport insurance if it has been agreed with us in writing, in advance.
2. Deliveries are only accepted at our plants between 7:30 am and 5:00 pm on Monday to Friday.
3. Delivery shall take place at the Supplier's expense, free of any charges, to the receiving office specified by us. If, by way of exception, we have to bear the freight costs, the Supplier shall choose the mode of transport prescribed by us, otherwise the mode of transport and delivery most favourable to us.
4. The risk shall only pass to us upon acceptance by our receiving office.
5. The packaging is included in the price. If, by way of exception, this is not what 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 the packaging is returned, the full invoiced value must be credited to us.

V. Quality, acceptance and notification of defects

1. The Supplier is obliged to comply with the technical data required by us for its deliveries, the applicable accident prevention and VDE regulations, the applicable statutory provisions and the latest recognised rules of technology.
2. In order to ensure the quality of its deliveries, the Supplier shall carry out a quality inspection that is appropriate in terms of its type and scope.
3. The dimensions, quantities and quality level determined during our incoming goods inspection and quality inspection shall be authoritative.
4. The Supplier waives its right to claim delayed notification of defects and unconditional acceptance.

VI. Prices and payment

1. The agreed prices include packaging, freight and other charges.
2. If prices are agreed by weight, the net weight determined by us shall be used for the calculation.
3. Unless otherwise agreed in writing, we will pay the purchase price, subject to a 3% discount, within 30 days, calculated from delivery and receipt of the invoice, or net within 60 days of receipt of the invoice.
4. In the case of advance payment, we are entitled to require a bank guarantee.
5. Claims against us may only be assigned with our written consent.

VII. Warranty and liability

1. The Supplier undertakes to ensure that the goods, including design and labelling, comply with our specifications. Our purchase order and/or contract must be carried out professionally and appropriately according to the respective state of the art.
2. We shall notify the Supplier immediately of any defects and/or defective performance in the delivery as soon as they become apparent in line with the circumstances prevailing during the ordinary course of business. Clause V.4. applies mutatis mutandis. In the event of the delivery of defective goods, the Supplier shall be given the opportunity to effect subsequent performance (rectification / replacement). We shall have the right to choose in this regard. The Supplier has the option to refuse our chosen method of subsequent performance subject to the provisions of Section 439 (2) BGB. We are entitled to reduce the purchase price or rescind the contract upon failure to comply with our reasonable deadline for subsequent performance. In urgent cases, we are entitled, after notifying the Supplier, to carry out the rectification ourselves or to have it carried out by a third party. The Supplier shall reimburse us for all the expenses incurred. In addition, we are entitled to claim for damages. This applies in respect of both the breach of a primary obligation as well as the breach of a secondary obligation. In the event of a claim for damages, the Supplier is obliged to compensate us for damages incurred directly and/or indirectly as a result of a defect. This also includes compensation for consequential loss caused by a defect. In principle, the Supplier is only liable for damages which it has caused intentionally or negligently. In the event of the assumption of a procurement risk and/or a guarantee, the Supplier shall be liable irrespective of fault.
3. The warranty period generally lasts for two years as from acceptance of the delivery items. It will be extended accordingly if our customers oblige us to provide longer warranty periods. If a claim is made against us on the basis of recourse within the meaning of Section 478 of the German Civil Code (BGB), the time limits set out therein shall apply.
4. In the event of defects in title, the Supplier shall indemnify us against any existing third-party claims. The statutory warranty period shall apply.
5. For parts repaired within the warranty period, the limitation period shall start anew from the date on which the subsequent performance was carried out.
6. The Supplier shall reimburse us for any costs which we incur as a result of defective delivery or other defects in performance, in particular the costs of transport, material and labour.
7. If a defect becomes apparent within six months of the transfer of risk, it shall be presumed to have already been present at the time of the transfer of risk.
8. If a claim is made against us on the basis of product liability, or similar liability rules under foreign law, the Supplier shall reimburse us for any damages incurred, insofar as the Supplier's deliveries or conduct were the cause thereof. With regard to such claims, the Supplier waives its right to claim lapse of time for as long as we ourselves may be liable to claims.

VIII. Intellectual property

The Supplier shall be liable for ensuring that no patents or other third-party intellectual property rights are infringed by its delivery or our use thereof. The Supplier shall indemnify us and our customers against all claims arising from the use of such intellectual property rights. This does not apply where the Supplier has manufactured the delivered goods in accordance with drawings, models or other equivalent descriptions or instructions provided by us, and does not know or, with regard to the products which it has manufactured, cannot know that this infringed intellectual property rights.

IX. Force majeure

War, civil war, export restrictions or trade restrictions due to a change in the political situation, as well as strikes, lockouts, operational disruptions, operational restrictions and similar events which make it impossible or unreasonable for us to fulfil the contract, are deemed to be force majeure and shall release us from the obligation to take delivery in due time for the duration of their existence. The contracting parties are obliged to notify each other of this and to adjust their obligations to the changed circumstances in good faith.

X. Supplier declarations of origin

1. An essential component of the contracts concluded in accordance with these Terms and Conditions of Purchase is the obligation to submit supplier declarations of origin in accordance with Reg (EC) No 1207/2001. If long-term supplier declarations are used, we must be notified, without request, of any change in the origin of the goods in the respective order confirmation.
2. If the Supplier's declarations prove to be incomplete or incorrect and we are therefore, or for other reasons, obliged by the customs authorities to submit an INF4 information sheet, accurate, complete and customs-approved INF4 information sheets, relating to the origin of the goods, must be submitted to us upon request and without undue delay.
3. If a customs authority imposes charges on us or our customers, or if we or our customers suffer any other pecuniary disadvantage, as a result of submitting incorrect declarations of origin, and the error results from an incorrect declaration of origin made by the Supplier, the Supplier shall be liable in this regard.

XI. Safe custody / ownership

Any material which we have provided shall remain our property. As such, it must be stored separately and may only be used for our orders. The Supplier shall be liable for any reduction in value or loss even if the Supplier is not at fault. We shall own a proportionate share of the items manufactured with the material provided by us, at each stage of manufacture. The Supplier shall hold these items in safe custody on our behalf; the purchase price shall include the cost of keeping these items and materials in safe custody on our behalf.

XII. Trade secrets

The Supplier is obliged to treat our orders and all related commercial and technical details as trade secrets.

XIII. Concluding provisions:

1. Oral ancillary agreements must be in writing in order to be valid.
2. Any assignment of the Supplier's rights and duties arising under the contract concluded with us shall require our written consent in order to be valid.
3. If one of the provisions is or becomes invalid, the other provisions shall remain unaffected thereby.
4. The place of performance is the place of delivery or execution specified by us; for payments, our registered office.
5. For all disputes arising from the contractual relationship, the place of jurisdiction shall be our registered office (78586 Deilingen) provided the Supplier is a registered trader, a legal entity under public law or a special fund under public law. We are also entitled to bring proceedings in the location of the Supplier's registered office.
6. German law shall apply exclusively with the exclusion of the laws on the international sale of movable goods.