

Damstahl GmbH

General Conditions of Purchase

Version: October 2024

I. Application

1. These Purchase Conditions (Conditions) shall apply to all our present and future orders for products, service and commission processings and to the performance of such orders towards businesses within the meaning of § 14 Art. 1 BGB (German Civil Code). Seller's conditions diverging from these Conditions will not be acknowledged unless otherwise stipulated within these Conditions or otherwise agreed in the contract with the Seller. Should we accept the product not expressly objecting these Conditions, the Seller may in no case assume our consent with his conditions.
2. Any oral agreements made by our employees shall become binding on us only if and in so as far we confirm them in text form.
3. Any offer made by Seller will be free of charge and not binding to us.
4. Any trade terms shall, in cases of doubt, be interpreted according to the Incoterms as amended from time to time

II. Prices

1. The contract price shall be regarded as a fixed price.
2. If no other agreement has been made in text form, the prices shall be 'free domicile' or the destination specified by us including freight and packaging costs as well as transport insurance plus the statutory value added tax. We shall only pay for packaging if and insofar as remuneration for this has been expressly agreed in text form.
3. In case of "unfree" delivery agreed upon, we shall only bear the lowest possible freight rates, unless a special kind of delivery has been requested by us.

III. Quality / Environment / Supply Chain

1. The Seller shall set up and maintain a documented quality assurance and environmental management system which is suitable in terms of type and scope and which corresponds to the state of the art. He shall keep records, in particular of his quality inspections, and make them available to the Buyer upon request. The Seller hereby consents to quality/environmental audits for the purpose of assessing the effectiveness of its quality assurance and environmental management system by the Buyer or a person appointed by the Buyer.
2. The Seller undertakes to comply with the legal provisions of the Supply Chain Act. In the manufacture and supply of products and in the provision of services, the Seller will comply with all legal provisions on respect for human rights, the relevant labour standards, the prohibition of discrimination, as well as forced and child labour. In addition, the Seller will conduct his operations with due care and consideration for the environment. He will promote and demand compliance with this Code of Conduct from his suppliers to the best of his ability. This shall also apply insofar as the supplier is not subject to the direct scope of the relevant provisions.

IV. Payment

1. Unless otherwise agreed the following terms of payment shall apply: Payment shall be made either within 14 days with 3 p.c. discount or within 30 days without discount. Should the Seller's conditions for payment be more favourable, they shall prevail.
2. Payment and discount periods shall begin with the receipt of the invoice but not before the receipt of the product. In case of services, such periods shall begin only after the transaction has been approved by us. If the delivery includes documentation (e.g. test certificates) or similar written material, such periods shall begin only after receipt of the same as agreed upon in the contract.
3. Payment is considered to be in time if the payment is executed on the due date or the bank or the payment service provider is commissioned with the payment on the due date.
4. We will be liable for interest only if and so far as we are in arrears for payments, not at their mere maturity date. The interest rate will then be 5 %points above the Basic Interest Rate. We are, in any case, entitled to establish a lower rate than claimed by the Seller.
5. We shall be entitled to all statutory rights as to the to set-off and retention of our claims against the Seller's. In particular, we are entitled to withhold the purchase price if and as long as agreed test certificates according to EN 10204 are not delivered to us.

V. Delivery Times / Late Delivery

1. All contractual terms and dates of delivery shall be binding to the Seller. The Seller shall immediately inform us in text form in case of imminent delays and submit to us adequate proposals to remedy the consequences of such delays. Performance/delivery prior to the agreed date(s) shall be deemed to entitle us to refuse acceptance of the service/goods until the agreed date(s).
2. Unless otherwise agreed in text form, any contractual terms and dates of delivery shall be considered to be met only if and in so far as the product has been handed over to us at such dates.
3. If the Seller is in default of delivery, we are, unless otherwise agreed, entitled to charge liquidated damages in the amount of 0.2% of the order value per day, but no more than 5% of the order value, unless the supplier proves that we suffered less damage in individual cases. The assertion of further damages for default on the basis of the statutory provisions remains unaffected. In particular, we shall have the right to claim damages for non-performance if and in so far as the Seller fails to effect delivery after a reasonable grace period set to him has elapsed. Our right to request delivery shall be excluded only if the Seller has compensated us for our damages.
4. The Seller may claim relief for his default by reason of lack of any documents to be submitted by us only in such cases where we have, upon the Seller's reminder in text form, failed to deliver such documents to him.

VI. Retention of Title

1. We will recognise any simple retention of title by the contractual partner only in cases in which ownership of the goods is transferred to us upon payment and only where we are entitled to dispose of the goods onward and forward them in the ordinary course of business. We will not recognise or accept any special forms of retention of title and, in particular, transferred, subsequent, extended, current-account or group retention of title. We accept no contracting party's terms and/or conditions to the contrary; all such terms and conditions are hereby rejected and shall not be deemed to be part of the contract.
2. The Seller may claim return of the product on the basis of the retention clause only if he has previously withdrawn from the contract.

VII. Performance of Deliveries and Passing of Risks / Packaging

1. The Seller shall bear the risks of accidental loss and accidental deterioration of the product until it has been handed over to us at its place of delivery. This provision shall also apply in cases of “free delivery” (franco domicile). Additionally, the Incoterms shall be applicable as amended from time to time.
2. We will not accept partial deliveries unless we have given our prior express consent to them. Moreover, partial deliveries have to be labelled as such.
3. Excess or short deliveries will be accepted only in accordance with current trade practise.
4. Unless otherwise agreed in text form, the Seller shall bear the costs of packaging. Should we, in a given case, agree to bear such costs, the Seller will charge us with the lowest possible costs only. Any obligations to take back packaging material shall be governed by the German Packaging Act of 5th July 2017 (Verpackungsgesetz) with the proviso that taking back always takes place at our registered office, unless otherwise agreed. In any case, the costs for the return transport and disposal of the packaging shall be borne by the Seller.

VIII. Declarations of Origin / Sanctions / REACH / CBAM

1. At our request, the Seller shall provide us with a supplier's declaration on the preferential origin of the goods and/or a certificate of origin on the preferential or non-preferential origin of the goods.
2. In the event that the Seller makes declarations or certificates on the preferential or non-preferential originating status of the goods sold, the following applies:
 - a) The Seller shall be obliged to enable the customs authorities to verify the proofs of origin and to provide the necessary information as well as any required confirmations.
 - b) If the declared origin is not recognized by the competent authority because of incorrect certificates or a lack of verification possibilities, the Seller shall be obliged to compensate for the resulting damage, unless he is not responsible for these consequences.
3. The Seller undertakes to ensure that the goods delivered by it (including the raw materials, (production) materials, (subcontracted) products or other items required and/or used for the performance of the obligations) and/or services (including the transport and the delivery process) are not subject to any restrictions due to economic, financial or other sanctions under foreign trade law of the United Nations, the EU, the Federal Republic of Germany or the United States of America. In this respect, the Seller undertakes to comply with the sanction regulations irrespective of whether they apply to him.
4. The Seller shall comply with the requirements and measures resulting from the EU REACH Regulation for all substances, preparations and products supplied to us.
5. The Seller undertakes to provide us with the necessary information that we or our customers require for the participation in the EU carbon border adjustment mechanism pursuant to Regulation (EU) 2023/956 ("CBAM") and the exercise of the rights and obligations in this regard, in particular information on the direct emissions released during the production of goods, information on the indirect emissions from the production of electricity that is consumed during the production processes and information on the carbon price due in a country of origin for the specified emissions in the imported goods ("CBAM information"). In this respect, the Seller assumes the full liability for ensuring that the CBAM information is complete, accurate and objectively verifiable and that this information is determined and documented in the manner prescribed by the EU. In the event of a breach of these obligations, including a lack of verifiability of the CBAM information provided, the Seller shall be obliged to reimburse us or our customers for any additional costs and damages incurred as a result and to indemnify and hold harmless us or our customers against any corresponding third-party claims. This shall not apply if the Seller or its supplier, whose conduct is attributable to the Seller, is not responsible for the failure to comply with the aforementioned obligations.

IX. Warranty Provisions and Statute of Limitations

1. The Seller shall deliver the product free of any material and legal defects. He will certify in particular that his deliveries and his services comply with the state of the art, with any contractual requirements and standards and with the use agreed upon.
2. We will examine the quality and quantity of the product upon its receipt to the extent both reasonable and customary for us. A reasonable examination shall, in the absence of any contrary indication, not include possible defects which are not apparent to the eye, but detectable only in case of examinations of the inner properties of the product. If we receive test certificates from the Supplier, we are not obliged to check the contractual or standardised nature of the information in the test certificates. In particular, we are under no obligation to verify the information in these test certificates by means of additional material tests. Any notice of a defect will be deemed to be in time if it reaches the Seller within ten days by letter, telefax, e-mail or by telephone. Periods for such notices shall not start before we – or in case of direct sales (“Streckengeschäfte”) our buyers – have detected or should have detected the defect.
3. In the event that the product shows a defect, we may exercise our statutory rights. If the Seller tries to repair the product, such remedy is considered to have failed after the first unsuccessful attempt. We shall have the right to withdraw from the contract also in such cases where a breach of contract is not considered to be material.
4. Where the product was already defective at the time the risk passed to us, we may claim from the Seller also those expenditures in connection with such defect which we must pay to our customer.
5. Any claims arising from defects of the product will be governed by the statutory limitation periods. Such periods will begin with the timely notification of the defect in accordance with the provisions of No. 2 of this clause.
6. The Seller hereby assigns to us - on account of performance – the benefit of any claims against his supplier arising from the delivery of deficient products or of such products not conforming with the guaranteed characteristics. He will supply us with any documents necessary to enforce such claims.

X. Place of Performance, Jurisdiction, Applicable Law and Data Protection

1. Unless otherwise agreed, our place of business shall be the place of performance for the delivery.
2. If the Seller is a merchant, a legal entity under public law or a special fund under public law or has no general place of jurisdiction in Germany, the place of jurisdiction shall be our registered office. We may, however, sue the Seller at his place of jurisdiction.
3. All legal relationships between ourselves and the Seller shall be governed by the laws of the Federal Republic of Germany supplementing these Purchase Conditions, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).
4. The data of the seller are stored and processed by us in accordance with the requirements of the DSGVO.

XI. Applicable Version

In cases of doubt, the German version of these General Conditions of Purchase shall apply.