

Terms and conditions of purchase

1. Scope of application

(1) Our terms and conditions of purchase shall apply exclusively to business persons if the contract forms part of the operation of their commercial business, corporate bodies under public law and special funds subject to public law. Suppliers' terms and conditions which conflict with or diverge from our terms and conditions of purchase shall not be accepted unless we have explicitly agreed to such conditions in writing. Our terms and conditions of purchase shall also apply if we unconditionally accept a supplier's delivery with the knowledge that provisions of the supplier's terms and conditions conflict with or diverge from our terms and conditions of purchase.

(2) Our terms and conditions of purchase shall also apply to all future business transactions with the supplier.

2. Tender

The supplier may accept our orders within a period of two weeks.

3. Prices and payment conditions

(1) The price stipulated in the order is binding. There are no additional charges or reservations. This price does not include statutory value added tax.

(2) Unless agreed otherwise in writing, the price includes delivery with carriage paid and with packaging. An obligation to return the packaging shall be subject to a specific agreement to this effect.

The supplier's reservation that prices be increased due to evidenced cost increases shall only be applicable if accepted by us in writing.

(3) Payment shall only be effected once the goods have been received in full and once the invoice has been submitted. We shall choose whether to pay within 14 days with a 3% cash discount or whether to pay the net sum within 30 days. The cash discount period commences on the date of the invoice, but not prior to the day on which delivery is made to the place of receipt nominated by us.

(4) We shall have the right to set off and retain payments to the extent permitted by law.

4. Delivery time and delays

(1) The delivery time stipulated in the order is binding.

(2) The supplier is not entitled to make part deliveries unless otherwise agreed.

(3) The supplier is obliged to bring delivery delays to the attention of the purchaser without delay and to notify the purchaser of the expected duration of said delay.

(4) In the event of a delivery delay, we are entitled to demand liquidated damages caused by delay equal to 1% of the value of the delivery per full week, albeit not exceeding 10% of the value. The supplier is entitled to produce evidence that the delay has caused substantially less damage or no damage at all. The charges shall then be reduced accordingly.

(5) We shall reserve the right to assert claims for compensation in excess thereof.

5. Dispatch and transfer of risk

(1) Delivery shall be made free of charge unless agreed otherwise in writing. Goods ordered shall be dispatched to the place of receipt nominated by us free of freight charges, packaging charges or any other charges.

(2) Every delivery must include a delivery note stipulating our order number, the article number, the quantity, the precise name of the items and their individual weights or dimensions.

(3) Additional costs or losses incurred due to incorrect or faulty dispatch shall be borne by the supplier.

(4) All risks shall be transferred to us upon the arrival of the delivery at the place of receipt nominated by us.

6. Test certificates

The supplier shall ensure on the basis of their own checks that deliveries are made in accordance with our technical requirements. The supplier is obliged to keep a record of the tests conducted and to grant the purchaser access to these records upon request.

7. Shipping insurance

The insurance costs shall be borne by the supplier.

8. Notice of defects

The obligation to examine and to notify apparent defects or deviations in quantity shall at all events, even if the consignment has passed into our property or has been handed over to the forwarding agent, carrier or any other person duly authorized by us, only upon receipt of the duly issued delivery note and arrival of the goods at the place of receipt nominated by us. It is understood that we shall be obliged to open the packages and to spot-check the goods on a random basis only. Any defects which are not apparent due to the type of packaging or are not detected during random checking shall be considered hidden defects. As regards apparent defects, the notification period shall be 10 working days after receipt of the goods at the place of receipt nominated by us, in case of hidden defects 10 working days after their detection. The notification period is deemed observed if the notice of defect has been dispatched by us within the period.

9. Liability for defects

(1) We are entitled to exercise the statutory defect claims in full. In addition, we are entitled to demand the rectification of defects or substitute delivery from the supplier at our discretion. In this case, the expenses incurred due to the rectification of defects or substitute delivery shall be borne by the supplier. Our right to claim compensation remains unaffected.

(2) If the supplier fails to fulfil their duty to rectify defects in the event of urgency or imminent danger within the time frame stipulated by us, we are entitled to rectify said defects ourselves or to commission a third party to do so, or to procure a substitute delivery by other means, at the expense of the supplier.

(3) There is a limitation period of 3 years for rights arising from product defects starting from the transfer of risk. Notwithstanding the aforementioned period, the limitation period for defects of products which are ordinarily used in buildings and whose faultiness are the cause of their defectiveness, is 5 years.

10. Product liability

(1) Insofar as the supplier is liable for product damage, they are obliged to indemnify us against any claims for damages from third parties on first demand to the extent that the cause of the damage falls within the supplier's sphere of control and organisation and insofar as the supplier is liable themselves in relation to third parties.

(2) In this context, the supplier shall reimburse us for the expenses incurred for any precautionary measures which become necessary, such as a product recall.

(3) The supplier is obliged to maintain product liability insurance with a cover limit appropriate to the risk.

(4) If we are entitled to additional claims for damages, these shall remain unaffected.

11. Production resources

(1) Production resources such as models, prototypes, moulds, tools, gauges, drafts, etc. with which we provide the supplier or which the supplier manufactures according to our specifications or for which we place an order with the supplier may neither be sold, pledged or passed on in any other way to a third party without our approval, nor may they be used in any way for a third party; they may only be used for the purposes of our order. The production resources become the property of VEKA upon being procured or manufactured by the supplier. Rather than such production resources being delivered, they shall be stored for VEKA free of charge by the supplier. In the event that our production resources are used for manufacturing together with other items not belonging to us, we shall acquire joint ownership of the newly created item on the basis of the value of our item at the time of manufacture in relation to the other items processed.

(2) In the event that the item provided by us is inseparably commingled with other items not belonging to us, we shall acquire joint ownership of the new item on the basis of the value of the goods subject to retention of title in relation to the other items in the commingled product at the time of their being commingled. If the commingling is such that the supplier's item can be considered to be the dominant item, it is agreed that the supplier shall transfer prorated joint ownership to us; the supplier shall store the sole or joint ownership item on our behalf.

(3) The supplier is obliged to maintain, service and, if applicable, renew the production resources at their own expense for the duration of the agreed service life. They must be returned to us without delay upon request. In the event of a contravention, the supplier is obliged to pay full compensation and we are entitled to withdraw from the agreement, either wholly or in part.

(4) We reserve title to goods and copyrights to depictions, drafts, calculations and any other documents; these may not be made available to third parties without our explicit approval in writing. They may only be used for the purposes of manufacture on the basis of our order and must be returned to us unprompted upon completion of our order. They must be kept secret from third parties.

12. Exclusion of assignment

The assignment of claims against us is excluded. The supplier is not authorised to transfer the contractual rights to third parties without our explicit approval.

13. Industrial property rights

The supplier shall be liable for ensuring that use of the items delivered does not violate any third-party rights. The supplier indemnifies us against all claims made against us or our buyers on the basis of the violation of industrial property rights. The supplier's indemnification obligations apply to all expenses incurred by us as a result of or in relation to a third party asserting such claims.

14. Trade secrets

The supplier is obliged to treat our orders and the work produced on the basis of these as trade secrets and to handle them confidentially. The supplier may only make reference to our business relations in advertising if we have explicitly consented to this in writing.

15. Data protection

The contractor's data relating to our business dealings with said contractor shall be handled in accordance with Germany's Federal Data Protection Act (BDSG).

16. Force majeure

Force majeure, industrial disputes, interruptions of operations, official measures and any other unforeseeable, unavoidable serious events that do not fall within the scope of risks of a contracting party release the contracting parties from their duties to perform for the duration of and in line with the extent of the effect of the disruption. The contracting parties are, insofar as is reasonable, obliged to provide the necessary information without delay and to bring their obligations into line with the changed parameters in good faith and trust.

17. Final provisions

(1) The place of fulfilment for deliveries is the place of receipt nominated by us.

(2) The place of jurisdiction shall be at our option, either our domicile or that of the supplier, also in case of disputes regarding documents, bill of exchange and cheque transactions.

(3) The terms and conditions of purchase and all legal relationships between us and the supplier are governed by the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

(4) Should a provision of these terms and conditions of purchase or of any other agreements concluded be or become fully or partially invalid, this shall not affect the validity of the other provisions or agreements.

VEKA AG