

Terms and Conditions of Purchase

Version as of: 06/2021

1. Application of the Terms and Conditions of Purchase

1. All of the contracts concluded with our suppliers and contractors (hereinafter "supplier(s)") shall exclusively be based on the following terms and conditions; any deviating or supplementary terms and conditions of our suppliers shall not become a component of the contract even if we have knowledge of such terms and conditions unless we expressly consented to their application. Our terms and conditions shall also apply if we accept delivery without reservation while having knowledge of any deviating terms and conditions of the supplier.
2. Our Terms and Conditions of Purchase shall also exclusively apply to all future contracts with the supplier within the framework of the business relations existing between the supplier and us.
3. In these conditions, the term "delivery" always refers to the work performed by the supplier for us, irrespective of whether, for example, an object of purchase, a work or services to be rendered are intended.

2. Offers and orders

1. Our orders shall be without commitment and non-binding; we may revoke them at any time until the supplier declared its acceptance in writing. This shall not apply if we designate the purchase order as binding firm order. Any supplements and changes of the orders and side agreements must be made in writing in order to be effective. This shall also apply to changing this written form requirement.
2. Any order placed by us must be accepted by the supplier in writing. An order confirmation the contents of which differ from our order shall be deemed as new offer and must be accepted by us in writing. In no case shall our silence be deemed as an acknowledgement of an order confirmation with differing content.
3. The supplier shall submit any offers to us in non-binding manner and without remuneration. This also applies if a contract does not materialise.

3. Delivery and contractual penalty

1. The supplier bears the risk of procurement for its work. The date of delivery agreed between us and the supplier shall be binding. The supplier shall be obliged to inform us in writing without delay if circumstances occur or become recognisable which indicate that the supplier will not be able to meet the date of delivery.
2. In the event of deliveries earlier than agreed to, we reserve the right to refuse acceptance or to return the goods at the supplier's cost. If no return shipment occurs following a premature delivery, the goods will be stored with us at the cost and risk of the supplier until the agreed delivery date.
3. The values determined during our incoming goods inspection shall be authoritative for the condition, type, quantity and weight of a delivery. We shall not be obliged to accept partial, excess or short deliveries not agreed upon.
4. If the supplier is in default with the delivery, the supplier must pay to us a contractual penalty amounting to 0.3% of the agreed gross price of the delayed delivery for each calendar day during which the supplier is in default, but not more than 5% of the agreed gross price of the delayed delivery. We may claim reservation of the contractual penalty until the final payment. In all other respects, we shall reserve the right to assert all rights and claims to which we are entitled by law due to a default of the supplier. A forfeited contractual penalty shall be credited against a claim for damages to the extent that the contractual penalty and the claim for damages protect the same interest.

4. Shipment, transfer of ownership, packaging and transport material

1. The supplier must carry out the delivery with sufficient packaging to the agreed point of receipt/use in due time. Unless expressly agreed between us and the supplier, the supplier must render the performance in accordance with "DDP" (INCOTERMS 2010). The transfer of risk is always only after unloading and acceptance at the delivery location – this applies equally whether the supplier transports the goods itself, commissions third parties with the transport or whether we exceptionally take on transport ourselves.
2. The ownership of the goods delivered by the supplier as well as the items and products manufactured for us (hereinafter referred to as delivery item) shall pass to us at the time of receipt of the delivery item at the shipment address. Each reservation of ownership declared by the supplier shall be ineffective.
3. If our employees support the transport personnel or the supplier with loading or unloading when loading or unloading does not form part of our contractual obligations, our employees are only acting as helpers for the transport personnel or the supplier. Our liability for damage during loading or unloading is excluded here – except where there is intent, gross negligence or damage to life, body and health.
4. The supplier shall be obliged to take back all packaging and transport materials (hereinafter packaging materials) if we request this. Packaging materials contaminated with substances or formulations that are dangerous to the health or the environment must always be taken back by the supplier. Any costs arising in connection with the disassembly of the packaging materials or their transport to the supplier shall be at the expense of the supplier.

5. Manufacturing and performance of work

1. The supplier must perform the deliveries in accordance with the information, calculations, drawings, plans or models provided or approved by us and in consideration of the relevant statutory and official provisions, including, but not limited to, the law on technical equipment and the relevant provisions of VDE [Association for Electrical, Electronic & Information Technologies].
2. Should a deviation from the information, calculations, drawings, plans or models provided or approved by us become necessary in order to assure compliance with the relevant statutory or official provisions, the supplier must inform us thereof immediately.
3. If the supplier must assemble the delivery item ordered, the supplier shall be obliged to inform itself about the situation and characteristics of the installation site.

6. Inspection and acceptance

1. We shall be entitled at any time during the usual business hours to control the manufacturing of the delivery item and/or the execution of the services to be performed ourselves in the premises of the supplier or have such manufacturing or execution of the services controlled by authorised agents. However, such inspection carried out by us shall not release the supplier from its sole responsibility regarding the contractual delivery and/or performance of services.
2. To the extent that the law provides for an acceptance or that we agreed an acceptance with the supplier, the acceptance shall take place at the agreed place of receipt/use. Any previous inspection conducted by us shall not constitute an acceptance. The acceptance must be formal.
3. Cases of force majeure (unforeseen circumstances and events not caused by us which we could not have prevented with the care of a proper businessperson, e.g. war, pandemics, fire or acts of god) which render the acceptance impossible for us shall entitle us to postpone the acceptance correspondingly and shall rule out the default of acceptance. This shall also apply if these events occur at a time when we already are in default. The contracting parties shall be obliged immediately to provide the necessary information within the framework of what is acceptable and to adjust their obligations to the changed situations in good faith.

7. Prices and invoicing

1. The prices agreed with the supplier shall be binding and include the statutory VAT. Unless expressly otherwise agreed with the supplier, the agreed price shall include all costs of the delivery to the agreed place of receipt/use in accordance with "DDP" (INCOTERMS 2010).
2. Each invoice must be issued in duplicate. The invoice must be addressed to H & S Anlagentechnik GmbH and must be delivered separately. The invoice must include the information prescribed in section 4.
3. Unless expressly otherwise agreed with the supplier, we shall pay the purchase price after delivery and receipt of the invoice within 14 calendar days minus 3% cash discount or within 30 calendar days net at our choice. The date of the

advice of payment shall be authoritative for the timeliness of the payment. The supplier shall not have a claim for default interest (section 353 HGB [German Commercial Code]).



8. Documents, ban on reverse engineering, confidentiality and contractual penalty

1. All calculations, drawings, plans, models and other documents provided by us to the supplier for the purpose of executing our order remain our property; they may only be used for the contractually agreed purposes, must be subject to special protection as trade secrets and shall not be made accessible to third parties unless we gave our previous written approval. They must be returned to us free of charge and without special request after the settlement of the contract including all copies and duplicates.
2. It is forbidden for the supplier to analyse items provided by us (e.g. goods, merchandise, models, prototypes, software or other materials and samples) through dismantling or disassembly ("**reverse engineering**") and/or to use them for purposes other than the processing of our order. Reverse engineering also covers all activities with the aim of obtaining confidential information from our business, including observation, testing, analysis, dismantling and potential reassembly.
3. The supplier is obligated to treat with the utmost secrecy all documents provided to it, as well as all operating methods and figures that come into its knowledge in connection with the contract or contractual negotiations, as well as all other commercial and operational secrets and information that are not generally known – e.g. technical or commercial information – even once the contract has ended. The supplier must store information in material form properly and ensure in particular that third parties cannot inspect it. Documents and information must only be used for the contractually intended purpose. Documents and information must not be copied, reproduced, handed over to third parties or promulgated in any other way without our written consent. Upon demand, such documents and information must be returned to us immediately. Subsuppliers must also be obligated in this regard.
4. In the event of a violation by the supplier of an obligation in this section 8, the supplier must pay us a contractual penalty to be set by us at our discretion in each individual case and for each instance of a violation, unless the supplier is not responsible for the obligation violation. The contractual penalty must not exceed a total of EUR 50,000 in each case. Our right to claim further damages remains unaffected. A forfeited contractual penalty shall be credited against damages if the contractual penalty and the damages protect the same legal interest of ours.

9. Property rights of third parties

1. The supplier shall warrant that no rights of third parties are infringed by or in connection with its delivery within the Federal Republic of Germany, any countries where the supplier manufactures the delivery item or parts thereof or where the supplier has them manufactured and any countries with regard to which the supplier was able to recognise that we wish to distribute the purchased products there.
2. If any claims are asserted against us by a third party due to an infringement against a property right within the meaning of clause 1. above, the supplier shall be obliged to indemnify us from those claims upon our first request. We shall also be entitled to obtain the necessary approvals for use from the holder of the right at the supplier's expense if and to the extent that the supplier does not procure them for us within a reasonable period of time set by us and the costs in this respect do not exceed the claims to be borne by the supplier under sentence 1 above. The above shall not apply if the part of the delivery item that infringes the third-party right originates from us.
3. The duty to indemnify of the supplier shall also relate to all expenses incurred by us under or in connection with any claims asserted against us by a third party and the defence against such claims.

10. Examination for defects, warranty and statute of limitations

1. If we are obliged by virtue of law to examine the delivery received, we shall immediately notify any obvious defects of the delivery to the supplier as soon as they are detected in the proper course of business. The notification shall still be deemed sent immediately if we send it within 7 calendar days after our receipt of the delivery. Hidden defects shall be deemed notified in time if we send the notification within 7 calendar days after discovery of the defect.
2. We shall be entitled to the statutory claims and rights based on defects without limitation. We shall be entitled to request the supplier to remedy the defect or to deliver a new object free from defect at our choice.
3. If the supplier fails to meet its obligations under the liability for defects within a reasonable period set by us, we may take the necessary measures ourselves or have them taken by third parties at the supplier's expense and risk. We shall also

be entitled to this right if we are not able to set a period of grace for the supplier due to particular urgency, in this case, we shall inform the supplier thereof before remedying the defect.



4. The period of limitation for claims and rights based on defects of the delivery - for whatever legal ground - shall amount to 36 months. The statutory regulations on the commencement of the limitation period, the suspension of the expiration of the limitation period, the suspension and the new commencement of periods shall remain unaffected.
5. For delivered replacement parts or rectified defects within the framework of the statutory warranty obligation, the warranty period shall start anew. Longer statutory periods of limitation shall remain unaffected.

11. Product liability, indemnification and third-party liability insurance

1. If any claims are asserted against us due to German or foreign product liability regulations, the supplier shall be obliged to indemnify us from any claims for compensation of third parties upon our first request to the extent that the supplier is responsible for the product defect causing the liability. The supplier shall label the supplied items in such manner that they are permanently recognisable as the supplier's products. The statutory regulations regarding an internal settlement between joint and several debtors shall remain unaffected.
2. Within the framework of its liability within the meaning of clause 1 above, the supplier shall also be obliged to reimburse any expenses, including, but not limited to those from sections 683, 670 BGB [German Civil Code] or from sections 830, 840, 426 BGB, which are incurred by us under or in connection with a product recall carried out by us. As far as possible and reasonable, we shall inform the supplier about the content and scope of the product recall measures to be carried out and give the supplier the opportunity to comment on the situation. In all other respects, we also reserve the right to assert all rights and claims to which we are entitled by law due to a product defect of the delivery.
3. The supplier shall undertake to maintain a product liability insurance, which also covers the costs of a possible product recall, with a - lump-sum - coverage sum of EUR 10 million per personal injury/damage to property for the duration of this contract but at least until the respective warranty period for the delivery expires. Upon our request, the supplier must furnish proof of the existence of the insurance to us. If we are entitled to any further claims for damages, such claims shall remain unaffected.

13. Cartel violations

If the supplier or a company associated with it pursuant to §§ 15 ff. of the German Companies Act (AktG) is involved within the course of the delivery to us in agreements between companies, decisions of associations of undertakings or concerted practices that violate applicable anti-trust or competition regulations (hereinafter "**cartel law violation**") and the cartel law violation has been established by a legally binding official or judicial decision, then the supplier must pay us 15% of the net invoice amount of the scope of supply relating to this cartel law violation as a flat compensation fee. This obligation also continues to apply in the case of a termination or execution of the contract. We reserve all rights and claims to which we are otherwise entitled based on the cartel law violation.

14. Customer protection, non-competition clause and contractual penalty

1. The supplier undertakes for the duration of the commercial relationship with us and for a period of one year after the ending of this commercial relationship not to enter into any contractual relationships with our customers for whom the supplier was entrusted with activities by us or with whom the supplier had contact as part of the implementation of the delivery. Exempt from this are contracts that are in place at the time of the start of the commercial relationship with us between the supplier and our customers and contractual relationships in which the supplier does not render any services that are comparable to the delivery to us.
2. The supplier obligates itself to desist from all competition with us in the spatial and material area of activity relating to the services rendered for us for the duration of the commercial relationship with us and for a period of one year following the end of the commercial relationship. In particular, the supplier will neither appear in this area of activity as a competitor itself nor participate directly or indirectly with a competing company, nor enter into the services of a competing company or support such a company in any other way either directly or indirectly.
3. For each violation of the aforementioned obligations, the supplier must pay us a contractual penalty to be set by us at our discretion in each individual case, unless the supplier is not responsible for the obligation violation. The contractual penalty must not exceed a total of €25,000 in each case. Our right to claim further damages remains unaffected. A forfeited

contractual penalty shall be credited against damages if the damages and the contractual penalty protect the same interest.



15. Compliance, the environment, social responsibility and energy efficiency

1. The supplier undertakes to comply with the respective legal regulations regarding its dealings with employees, environmental protection and work safety and to work on reducing negative impacts on people and the environment with its activities. To this end, the supplier will set up and further develop a management system according to its ability. Furthermore, the supplier will observe the principles of the UN's Global Compact Initiative. These primarily concern the protection of international human rights, the right to collective bargaining, the abolition of forced labour and child labour, the elimination of discrimination in recruitment and employment, responsibility for the environment and the prevention of corruption. Further information on the UN's Global Compact Initiative is available at www.unglobalcompact.org.
2. The supplier undertakes to remunerate its employees appropriately and punctually. The supplier undertakes in particular to pay its employees any statutory minimum wage that may apply (in Germany, for example, the law on regulating a general minimum wage [the German Minimum Wage Act, or "MiLoG" for short] of 11 August 2014 [German Federal Law Gazette I p.1348] or any potentially deviating country-specific regulations).
3. The supplier must use necessary resources (especially materials, energy and water) effectively and to minimise the environmental impacts (especially refuse, wastewater, air and noise pollution). This also applies to logistics/transport requirements.
4. If the supplier engages subsuppliers, the supplier simultaneously undertakes to impose upon its subsuppliers the same obligations from this section 15, especially from Para. 2.
5. In the event of a supplier, or one of its subsuppliers, repeatedly and/or in spite of an appropriate instruction acts unlawfully and does not demonstrate that the legal violation has been remedied as far as possible and that appropriate precautions have been taken to prevent future legal violations, we reserve the right to withdraw from existing contracts or to terminate them without notice.

16. Place of jurisdiction, place of performance, applicable law and final provisions

1. The exclusive place of jurisdiction for all disputes directly or indirectly resulting from the contractual relationship shall be Sulingen. However, we shall also be entitled to sue the supplier at its general place of jurisdiction at our choice.
2. Unless expressly otherwise agreed with the supplier, the place of performance for all deliveries to be performed by the supplier shall be Sulingen.
3. The law of the Federal Republic of Germany shall apply. The application of the United Nations Convention on Contracts for the International Sales of Goods (CISG) shall be excluded.
4. If individual provisions of the contract concluded between us and the supplier are or become ineffective or invalid, the effectiveness of the rest of the contract shall not be affected. The ineffective or invalid provision shall be deemed as replaced by such provision which is as close as possible to the economic meaning and purpose of the ineffective or invalid provision in a legally effective manner. The above-mentioned regulation shall apply correspondingly in the case of gaps in the regulations. If the provision affected is a general business term within the meaning of sections 305 et seqq. BGB, sections 306 para. 1 and 2 BGB shall apply in deviation from the above.

H & S Anlagentechnik GmbH