

I. Governing Terms

These purchasing terms shall apply to all business transactions with the supplier or other contractors (hereinafter jointly referred to as "supplier"), even if they are not stated in later agreements. They shall also apply if suppliers refer to their own terms of business, in particular when accepting orders or confirming orders, unless the supplier's terms were expressly agreed to in particular. These purchasing terms shall apply even if we accept the delivery, aware of terms opposing or diverging from our purchasing terms, without reservation. Our purchasing terms are only valid towards businesses.

II. Order

1. An order shall not be deemed placed until it has been put in writing and signed by us. Verbal orders or orders placed by telephone shall only be binding for us if we have confirmed them by subsequently sending a written order. We may also place delivery call-offs by remote data transmission. Drawings, including stated tolerances, transmitted by us for individual cases shall be binding. By accepting the order, a supplier confirms that he has gathered sufficient information about the type and the scope of performance by inspecting the existing plans. We shall not be liable in the case of obvious errors, clerical errors and errors in calculation in the documents drawings or plans presented by us. Suppliers shall be obliged to notify us of such mistakes so that our order may be corrected and renewed. The same shall apply if documents or drawings are missing.
2. The acceptance of orders must be confirmed by signature on the order copy within two weeks from the date of the order; otherwise, we keep the right to revoke the order. Delivery call-off schedules will come into effect unless the supplier revokes within two weeks after receipt.
3. Differences in quantity and quality compared to the wording and content of our order, and subsequent modifications of the contract, shall not be deemed agreed, until they have been explicitly confirmed in writing by us.
4. Within the limits of what may be reasonably expected of the supplier, we shall be entitled to request design alterations and modifications in the execution of the subject to be supplied. Any effects of this shall have to be taken into account in an adequate manner, in particular as regards any additional costs or a reduction in costs and the dates of delivery.
5. Each order shall be treated separately within the entire correspondence. The following shall have to be stated as a minimum in all documents (letters, remote data transmission (email), dispatch notes, invoices, delivery and packing notes, consignment notes, addresses and similar): purchasing department, complete order numbers, date of order, customer's reference and our parts numbers.



6. Drawings, tools, samples, models, brand trademarks and presentations or similar provided by us, as well as finished products and semi-finished products which are handed over by us or manufactured on our behalf, shall remain our property and may only be supplied to third parties with our explicit written consent. Unless otherwise agreed in a particular case, they must be returned to us immediately on completion of the order without special request. Products manufactured or marked with such means of production, brand trademarks and presentations, may only be supplied to third parties with our explicit written consent.
7. The supplier shall not be entitled to avail himself of a subcontractor or third party to execute our orders without our written consent.
8. The definition of the contractual condition of goods includes basically the condition as described in the supplier's product descriptions, offers, specifications, and identification. Public statements, sales pitch and advertising will also be considered part of the contractual condition of delivery and/or services to be supplied.

III. Terms of Delivery

1. The agreed terms for delivery and dates of delivery shall be binding. They start from the date of the order. The goods must have arrived at the receiving agency stated by us on the date of delivery, or as the case may be, within the delivery period. If delays are to be expected, the supplier shall have to immediately notify us accordingly and seek our decision on maintaining the order.
2. We shall not be obliged to accept delivery of the goods prior to the expiration of the delivery period.

IV. Delivery/Packing

1. Delivery is at the expense of the supplier free of charges to the receiving agency stated by us. If we bear the freight charges by way of exception, the supplier shall be obliged to select the mode of transport prescribed by us, otherwise the mode of transport and delivery most favorable for us.
2. The risk shall not be passed to us until our receiving agency has taken delivery of the goods.
3. Packing shall be included in the price. If another agreement has been made by way of exception, the packing shall be charged at cost price. The supplier shall have to choose the packaging predetermined by us and ensure that goods are adequately protected from damage by the packing. In the case of goods being returned, at least two thirds of the charged value shall have to be credited.
4. The supplier will insure the delivery at his expense against loss and transportation damage.



V. Documentation

1. Invoices, delivery notes and packing slip must be enclosed in duplicate in every consignment. These documents must include: Order number; Quantity and unit of quantity; Gross, net and, if appropriate, weight charged; Description of article including our parts number; Remaining quantity in the case of partial deliveries.
2. In the case of consignments, a dispatch note shall have to be sent to us separately on the day of dispatch.

VI. Prices

1. Unless expressly determined otherwise, the agreed prices shall be fixed prices, provided the supplier does not generally reduce his prices under consideration.
2. The supplier shall not grant us less favorable prices and conditions than those granted to other buyers, if, and provided, other buyers offer the same or equal conditions in a specific case.

VII. Invoice/Payment

1. Invoices must be made out separately for each order. Payment shall only be made on full receipt of the goods free of defects or complete performance free of defects and on receipt of the invoice. Accordingly, the same shall apply to partial deliveries. Delays caused by incorrect or incomplete invoices shall not prejudice any periods within which payment has to be made in order to qualify for a prompt payment discount. If a discount is granted for prompt payment, payment shall be made up to 14 days to qualify for a 3% discount and up to 60 days net.
2. If deliveries are accepted early, the due date shall depend on the agreed date of delivery.
3. Debt owed by us to the supplier may only be assigned to third parties with our consent. Payments shall only be made to the supplier. All payments shall be made by bank transfer or check. The buyer reserves the right to pay by accepted bill of exchange.
4. If suppliers reduce their prices and improve conditions in the time between ordering and taking the delivery, the prices and conditions valid on the day of delivery shall apply.



VIII. Quality

1. Suppliers shall have to comply with accepted engineering regulations, safety regulations, and the agreed ratings or limiting values as regards their deliveries. Any alterations to the object to be supplied require prior written agreement from us. On our request, any necessary attestations of conformity shall have to be immediately presented without a separate charge. Our "test specification for original specimens" shall be applied to the test for original specimens. Irrespective of this, the supplier shall have to regularly inspect the quality of the goods to be supplied, and if appropriate, notify us of potential improvements.
2. Using appropriate test and measuring methods, the supplier shall have to ensure and prove by documents that parameters preset by us are complied with without tolerances. We may request in writing the disclosure of the results of this inspection at any time and without incurring additional costs.
3. In the case of parts that are identified as relevant to safety in the technical or product specific documents, or that are specially marked, e.g. using "X", by a separate agreement, the supplier shall additionally have to note in separate records, when, how, and by whom the objects to be supplied were tested as regards the features that are subject to documentation and the results which the required quality tests have produced. The test documents shall have to be kept for ten years and presented to us free of charge if required. Within the limits of what is allowed by law, suppliers shall have to bind any of their suppliers to the same extent.
4. The scope of delivery shall include, without separate charge, the product-specific and/or technical documentation, the attestation of conformity and other documents and certificates required for the subject ordered or its use.
5. If authorities responsible for the safety of products, the labelling of products, the exhaust gas regulations or similar, request an insight into the supplier's production flow and inspection documents to verify certain requirements, the supplier shall declare himself willing, on our request, to grant them the same rights in his business and to provide reasonable support.

IX. Guarantee/Warranty/Notice of Defect

1. The supplier shall covenant that the goods including presentation and labelling conform to our details and that the contractually agreed condition exists. Our order or our commission shall be executed correctly in accordance with the respective state of the art technology and in a proper and workmanlike manner.
2. We shall not be obliged to carry out the inspection of the supplied products and to notify defects at once. We will inspect the delivered goods within an appropriate time span in respect to their delivery concerning deviations in quality and quantity. The notification of defects shall be regarded as having been submitted on time if it is sent out by us within



3. 3 workdays following receipt of the goods and is received by the Seller thereafter; the notification of concealed defects shall be regarded as having been submitted on time if the buyer sends it out within three working days from discovering them and it is received by the Seller thereafter.
4. If faulty goods are delivered, the supplier shall be given the opportunity to rectify defects or make an additional delivery. If the supplier is unable to execute either, or defaults after he was called on and a time limit was set, we shall be entitled to return the goods at the supplier's risk and to cover our requirements elsewhere. If in urgent cases the rectification of defects cannot be carried out by the supplier within two days, thereby endangering the confirmed delivery date for Bender & Wirth customers, a rectification may be carried out by us after this time at the cost of the supplier. In the case of software delivery, a rectification by new program versions is only permitted after our explicit written consent. In this case, the supplier will agree to train our employees, if necessary, for the use of the new program version at the cost of the supplier.
5. The warranty for the product manufactured by the supplier, or as the case may be, for the commission discharged by the supplier shall end on the expiry of 36 months after delivery and acceptance. For goods which are used within the construction of a building according to their intended purpose, the warranty will last 5 years. The time of warranty is prolonged by the interval in which goods and services could not be put to further use due to defects upon which we hold the right to be reimbursed. The supplier shall have to reimburse us any costs we have to bear as a result of the defect in connection with our own warranty on goods / services we sell based on the defective goods / service. The liability for legal defects shall not be affected by the above arrangement. The provision in § 478 of the German Civil Code [BGB], in particular any obligations there may be to pay compensation for damages in the course of recourse on a business may not be excluded.
6. Unless otherwise regulated above, the warranty shall be in accordance with statutory regulations.

X. Liability

The supplier shall indemnify us against liability for indirect or direct damage arising from faulty delivery or other legal grounds attributed to him (e.g. infringement of conditions imposed by an authority, safety regulations, etc.), which can be attributed to a fault by the supplier, as if he himself was directly liable.



XI. Industrial Property Rights

1. It shall be the supplier's responsibility to ensure that we do not infringe upon any patents or other proprietary rights of third parties owing to the supplier's goods / service and its use. If a claim is asserted against us because the supplier's goods / service are in breach of a third party's statutory proprietary right the seller shall undertake to exempt us from these claims at first call, including all the necessary expenditure incurred by us in connection with a claim being asserted by a third party and averting it, unless the seller has not acted culpably. The statutory period of limitation for this indemnification is 36 months, starting from the transfer of risk.
2. If, due to infringement of proprietary rights for which the supplier can be made responsible, the contractual use of goods/services is adversely affected or forbidden the supplier will be obliged, as he chooses, to either alter the supply or service or to replace it in a way so that it is no longer subject to these proprietary rights but, at the same time, will still fulfil all aforementioned quality requirements in the contract, or obtain the unlimited right for us to make use of the supplied goods / services in accordance with the contract without further cost.
3. The above sections shall not apply if the supplier has manufactured the goods / services according to drawings, models, or other descriptions or requirements delivered by us, or other equivalent descriptions, and the supplier does not, or in connection with the products manufactured by him, cannot know that proprietary rights are being infringed as a result.

XII. Force Majeure

War, civil conflict, export or trade restrictions on the basis of a change of political conditions, strikes, lockout, operational breakdowns, reduction of operations or similar events which make it impossible or unreasonable for us to execute the contract, shall be considered as force majeure and discharge us from the duty of timely acceptance for the duration of their existence. The contracting parties shall be obliged to notify each other accordingly and adapt their obligations according to the changed circumstances in good faith.

XIII. Storage/Property

1. As far as we will supply goods on the supplier's premises we reserve the property rights concerning these goods. Processing or alteration by the supplier is carried out on our behalf. If our goods are processed together with other goods which are not our property, we shall acquire a co-ownership in the new product, related in value of our property (purchase price plus V.A.T.) to the value of the other processed items at the time of processing.



2. In case the items supplied by us will be inseparably combined with other items which are not our property, we shall acquire the co-ownership in the new product, related in value of our property (purchase price plus V.A.T.) to the value of the other processed items at the time of processing. If the combination is in a way that makes the new product of the supplier the main thing, it is considered as agreed that the supplier will grant us co-ownership in an appropriate proportion. The supplier will keep the sole ownership or co-ownership in safe-keeping for us. The costs of safe-keeping are included in the price.
3. We shall reserve the right of ownership in tools; the supplier is obliged to use the tools exclusively for the production of goods ordered by us. The supplier is obliged to insure tools owned by us against damage by fire, water, and theft at replacement value at his own expense. At the same time, the supplier will waive all claims to compensation from this insurance policy; we hereby accept the waiver. The supplier is obliged to carry out all necessary servicing and inspection, maintenance and repair work on our tools in due time at his cost. Any breakdowns there may be must be pointed out to us without delay; if this is culpably omitted, any compensation claims will remain unaltered.

XIV. Business Secrets

1. The supplier shall be obliged to treat our orders and any herewith connected commercial and technical details as a business secret. They may be disclosed to third parties only with our explicit consent. This agreement will remain valid even after the completion of this contract; it will expire in the moment and as far as the content of the pictures, drawings, calculations, and other documents handed over may be regarded as common knowledge.
2. As far as the securities to which we are entitled according to paragraph Part XIII1 and/or 2 will exceed the purchase price of all of our unpaid goods subject to reservation of title by more than 10 per cent, we are obliged, on our suppliers' request, to release the securities according to our choice.
3. We reserve the exclusive usage rights to all pictures, drawings, calculations, concepts, and other works provided to us in respect to the delivery of goods.
4. Subcontractors shall be bound accordingly.
5. The supplier shall only publicize our business connection with prior written consent from us.

XV. Product liability / Exemption from Liability / Liability Insurance Protection

1. In the event that a claim is asserted upon us for product damage for which the Seller is responsible, the supplier is obliged to exempt us from liability upon first request concerning all claims of third parties including the expenditure necessary to repel these claims, if the reason for the claim being asserted lies within the supplier's control and organization.



2. Should we be forced to carry out a product recall as a result of an insurance claim the supplier is obliged to reimburse us all expenses incurred by us from or in connection with the recall campaign carried out by us. In so far as we can be expected to do so and time permitting, we will keep the supplier informed about content and size of the product recall and give him opportunity to state his point of view. Further legal claims on our behalf will remain untouched by this procedure.
3. The supplier is obliged to take out and maintain a product liability insurance policy with an appropriate level of cover of at least 1 million Euros per personal injury/material damage claim. Further legal claims on our behalf will remain untouched by this procedure.

XVI. General Provisions

1. If a contracting party suspends its payments, or if insolvency proceedings are filed regarding its assets, the other party shall be entitled to withdraw from the part of the contract that is not executed.
2. If a provision of these terms, or any other agreements made, is or becomes invalid, this shall not affect the validity of the contract in other respects. The contractual parties shall be obliged to replace the invalid provision with a regulation coming as close to it as possible in terms of economic success. The same shall apply in case of any gaps.
3. Unless otherwise agreed, these terms shall be governed by the law of the Federal Republic of Germany alone. The language of the contract, the language of the proceedings and the official language in court is German.
4. The application of the Convention on Contracts of the International Sale on Goods "CISG" shall be excluded, even if the supplier is domiciled in a country other than Germany.
5. In the case of any disputes arising out of the contractual relationship, legal proceedings shall be instituted with the court that has jurisdiction for our registered office, if the supplier is a registered trader, a legal entity under public law, or a special fund under public law. We shall also be entitled to file a lawsuit at the supplier's principal place of business.
6. Unless otherwise agreed, the place of performance shall be Kierspe.

