

General terms and conditions of purchase

Following Terms & Conditions of Purchase apply, unless otherwise explicitly agreed in writing, for all purchases by a member of the Waelzholz group of companies domiciled in Germany and/or all orders by the Waelzholz group of companies that are subject to the laws of the Federal Republic of Germany respectively.

Conflicting or additional terms and conditions of the Contractor shall not become part of the agreement, even if we do not explicitly object thereto.

1. Placing an order

Purchase orders/orders are binding on us only if the orders have been made using our order forms for placing of the order and if they bear our legally binding signature. Documents which have not been signed by us are clearly distinguishable as such. Verbal agreements require our written confirmation. Execution of the order shall be considered as an acknowledgement of our Terms & Conditions of Purchase.

If purchase orders/orders are not acknowledged in writing by the Contractor within the stipulated delivery period, at the latest two weeks after the order has been received or unconditionally accepted by the Contractor by shipping the goods or providing the services, we shall be entitled to cancel the order, notwithstanding any statutory rights.

2. Prices / VAT

Prices are subject to agreement. The price stated in our order is binding. In the case of obvious mistakes, clerical or arithmetical errors these shall not be binding upon us. In exceptional circumstances where prices have not been agreed in advance, they have to be specified in the order confirmation. The applicable VAT shall be stated separately in the invoice. If travel expenses occur the deductible input tax must be shown separately as part of the travel expenses.

If advance payments or deposits are requested which are subject to VAT, the tax shall be shown separately on the invoice. Deliveries and services which are exempt from sales tax shall be labelled as such.

3. Despatch

Shipments shall be effected freight and carriage paid to the forwarding address of use specified by us. Any kind of variance requires our prior written consent. Agreed delivery dates and deadlines are binding. The date the goods are received is the date relevant for compliance with the delivery date.

The Contractor bears the sole risk for the shipment of the goods and their loading and handling until we take delivery. Shipping documents must be attached to the delivered items. In some exceptional cases, they may be sent to our headquarters. Any incurred customs duties as well as other expenses are the responsibility of the Contractor.

The Contractor shall take out an adequate transport insurance.

It is **imperative** that the shipping documents bear **our corresponding order number**. Documents without our order number shall not be processed and will be returned to the Contractor immediately for completion of the documents.

4. Invoicing / Payment

Upon successful delivery of goods/services the invoices pertaining to this delivery shall be despatched to **our headquarters**. Invoices must show our **order number** and contain all other information required from us. Under no circumstances are they to be added to the delivery documents. Partial deliveries have to be mentioned in the invoice. The period allowed for payment shall commence with the date on which we receive the invoice at the invoice address specified.

In the event of a faulty delivery by the Contractor, we are entitled to withhold the payments in proportion to the value of the defective goods until the order has been correctly carried out. We furthermore reserve the right to offset counterclaims.

5. Notice of defects / Warranty

Shipments shall be examined by us immediately after their receipt for possible quantity deviations, transport damage and apparent defects. Defects ascertained after acceptance of the goods shall be reported to the Contractor within a reasonable period of time and during the normal course of business. A more stringent obligation of examination does not exist. The Contractor will waive the claim of late notification of defects in this respect.

If we are forced to remedy the defects due to urgent operational needs or if the Contractor is in default, we shall be entitled to do so at his expense. The return of non-conforming goods is at the risk and cost of the Contractor.

Unless agreed otherwise, the Contractor accepts the statutory warranty. The warranty period commences with the acceptance of the goods or performance of the services at the place of fulfilment. In case of repeatedly defective repair work or inadequate and unacceptable level of repair, we shall be entitled to immediately rescind the contract. All rights to other claims or claims in excess thereof remain unaffected.

After the discovery of defects, the warranty period shall be extended by the time between notice of defects and remedy of defects. In the event of replacement deliveries the warranty period shall commence again at the time of the delivery of the replacement goods. Claims arising from defects lapse at the earliest with the expiry of the statutory warranty periods.

6. Transfer of risks / Acceptance

Transfer of risks shall not take place until the merchandise has been accepted by us at the place of performance. The Contractor shall bear all risks to which the goods may be subject up to that time.

If services are to be provided the result of the acceptance shall be recorded.

7. Compliance / Proprietary rights of Third Parties / Means of production

The Contractor undertakes to provide goods/services which shall be in keeping with the latest state-of-the-art technology at the time of the completion of the contract and in compliance with all applicable legal and statutory provisions, in particular the accident prevention regulations, the VDE regulations, the generally accepted safety specifications and rules relevant to occupational health, the provisions of the Packaging Ordinance and the Hazardous Waste Road Directive, EU directives and environmental protection requirements and the like.

The Contractor shall be responsible for ensuring that the shipments are suitable for the purpose defined by us and that with the delivery and the use of the goods no patents or any other industrial property rights of a third party shall be infringed. In case that a customer or another third party demands product liability as a consequence of such infringement, the Contractor grants our indemnity against such liability in this respect. The right for claims for compensation against the Contractor remains reserved.

Means of production such as models, samples, drawings and so forth which are provided by us or which will be produced by the Customer based on our information and specifications may not be disclosed nor handed over to third parties nor may they be used by such parties without our consent. Means of production are our property and have to be returned to us free of charge at our request.

8. Liability

The Contractor shall be held responsible for any damage caused by defects and/or delivery failure or delay in accordance with the provisions of the law.

The Contractor shall also be held responsible for any damage caused by either themselves or their vicarious agents/subcontractors in our manufacturing premises/offices.

9. Assignment / Offsetting / Right of retention

Without our express written consent, the Contractor shall not have the right to cede their rights or claims against us arising from the signed contract to a third party.

The Contractor shall only be entitled to offset counterclaims that are either uncontested or have been successfully asserted at law or are directly connected to the contractual relationship.

The Contractor shall not have a right of retention.

10. Cancellation

The concluded agreement for delivery of goods/services can be cancelled by us at any time. With regard to the offsetting of expenses saved - the Contractor shall receive only the portion of the remuneration which corresponds to the goods/services provided so far unless the Contractor can provide proof of the fact that the amount of savings made on goods/services is much less than calculated. Goods/services which cannot be used by us shall be returned to the Contractor at his expense.

11. Data storage / Non-disclosure

The data which has to be acquired for the purpose of implementing this contract shall be stored and processed by us to the extent that this is admissible in accordance with the Federal German Law on Data Protection. The Contractor explicitly agrees to this. We give our assurance that such data will be processed with the care and attention of a diligent businessman.

The Contractor agrees to treat any facts and information that he may obtain during the delivery of his goods/services as strictly confidential. These facts and such types of information must not be disclosed to third parties. The Contractor is liable for any damages which may be sustained by us by non-compliance with this clause.

12. Place of fulfilment / Jurisdiction / Applicable law

Place of performance for goods and services provided by the Contractor shall be the delivery address/place of use indicated in the order form.

The exclusive court of jurisdiction for all disputes arising from and in relation with this agreement - irrespective of their nature - is Hagen.

The laws of the Federal Republic of Germany shall apply exclusively.

13. Written form / Severability clause

Changes to and amendments of these conditions or the contract must be made in writing. If one or more provisions of these terms are held to be invalid or declared as such under any law the validity of the remaining provisions and of the contract shall not be affected. In such a case, the ineffective regulation shall be replaced by legal regulations.