

I. General

For the duration of the respective business relation any order placed by us is subject to the purchasing conditions hereinafter mentioned. General terms and conditions of the supplier will not be valid even if we do not expressly and in writing. By accepting our purchase order, at latest upon commencement of its execution, the supplier accepts the exclusive applicability of these purchasing conditions.

II. Offer

When submitting an offer the supplier must strictly adhere to our specifications regarding type, quantity and condition (quality) and shall in case of any deviation notify us thereof specifically. Offers are to be submitted free of charge.

III. Placing of Orders

To the extent that we have not agreed on an electronic data exchange, only such orders which we have placed in writing and which have been signed by the persons duly authorized shall be valid. Any changes to orders already placed as well as any side agreements to any purchase order are to be made by written instrument.

IV. Acceptance of Offers

Each order which is accepted needs to be confirmed immediately thereby stating the number of the purchase order and the date under which the order was placed. This applies also to entire correspondence regarding the respective purchase order. Our purchase orders are revocable to the extent that we have not received the respective confirmation which may not contain any changes with regard to the purchase order. Any change of the purchase order is to be clearly marked in the respective confirmation of such order.

V. Time of Delivery

Delivery dates or deadlines stated in the purchase order are binding. In case such dates and deadlines are not met we are to be notified immediately and must be informed of the day of the actual delivery. For any damages incurred as well as for any increase of handling costs (express goods etc.) due to a default on delivery dates and deadlines the supplier shall be exclusively liable, notwithstanding any statutory rights we may have. Particularly we reserve our right to claim indemnification in case of performance if the extent of time was unsuccessful. Major force, for the time of its duration, will exempt the supplier from liability, provided however, the supplier has notified us respectively. Any operational disturbances for which we are not at fault will release us for the time of their duration from our obligation to accept and pay for the goods. Deliveries which are made prior to the stated delivery time are subject to our prior express consent.

VI. Dispatch, Packing, Insurance

Unless we have agreed to the contrary, the supplier is responsible for choosing means of transportation which, also in terms of duration of the transport, are most favourable to us. Larger deliveries are to be advised in due time.

All shipment documents as well as any documentation arising out of or in connection with the supply contract must indicate the article, our number of material and purchase order, the date the order was placed, the quantities as well as the type of packing. The supplier is responsible for the consequences of any incorrect waybill declaration. The supplier bears the risk of loss during transit as well as the transporting costs in any case. To the extent that we agree to bear the risk of loss during transit in special cases, we will obtain transport insurance coverage.

With regard to packing the supplier must obey any applicable statutory rules, especially the packing regulation as it may then be applicable. In case any packing material is to be returned to the supplier, the supplier must clearly mark such request in the delivery documents. In case of lack of such request we are entitled to dispose of the empties at the expense of the supplier. The same applies to one-way packing material.

VII. Prices

The prices stated in the purchase order are fixed prices free of charge to receiving center Obernkirchen. In case of unfree delivery we can only be charged with the cheapest freight charge, but if we have instructed you with special delivery conditions this will be paid by us.

VIII. Payment

To the extent that we have not agreed on the contrary, payment of the net price is to be made within 14 days following delivery and receipt of invoice minus a 3% discount payment, or within 30 days following delivery and receipt of invoice. Any claim the supplier may have against us may not be assigned. We reserve our rights of set-off and avoidance in legal scope.

IX. Examination upon Receipt

The figures which we derived from a testing conducted immediately after receipt of the goods shall be decisive with regard to numbers, measures and weights. Deliveries of larger or lesser quantities as compared to the quantities stated in the purchase order are not acceptable.

X. Warranty of Defects

The supplier is responsible for a compliance of his deliverable and performance with the generally accepted rules of technology and the security rules, industrial safety rules, accident prevention rules and other applicable rules.

With regard to the mercantile duty to immediately examine the delivered goods and inform the supplier of any defects, a notification of the supplier of any obvious defect shall be deemed timely made if we make such notification within 3 weeks following receipt of the goods. The goods will be checked for quality and completeness by the buyer in his reasonable and technical possible extent.

To the extent that we are unable to examine the received goods within the 3 week time period due to the specialties of our company and especially if the packing is commonly not removed at all or not immediately removed from the goods, the supplier waives his statutory rights under § 377 HGB. Payment does not mean that we recognize the goods as being free of any defects.

Any warranty claim shall be time-barred within 24 months following the start-up (commissioning) of the Heye-products at the users site, in the most within 30 months following delivery by the supplier. In urgent cases we are entitled to cure the defects or have the defects cured by third parties at the expense of and without further notice to the supplier. In case of hidden defects we reserve the right to additionally claim the expenses incurred until the defects were detected. The goods subject to complaint will be returned at the expense and risk of the supplier.

The supplier already assigns to the buyer – on account of payment - all his rights against his sub-suppliers because of defective parts with missing warranted characteristics.

XI. Declaration of CE-conformity / Declaration of the Manufacturer

The products delivered need to comply with all regulation, ordinances and statutory rules applicable to the respective product. To the extent a product requires a declaration of conformity (CE) in the meaning of the EC machinery directive (actual version), the supplier is obliged to procure and submit such declaration immediately at his own expense.

XII. Retention of Title

We recognize the simple retention of title of our supplier.

XIII. Copyright

With regard to deliveries which are carried out on the basis of drawings, models or specific information, we expressly retain all intellectual property rights (copyright and other industrial property rights). Any information submitted to the supplier as well as any drawings and samples may not be disclosed to third parties. The supplier shall be liable for any consequences arising out of a violation of this provision.

XIV. Product Facilities

Any models, tools, samples, drawings or other documentation which we hand over to the supplier for the purpose of carrying out the purchase order shall remain our sole and unrestricted property. These production facilities and copies thereof may only be used for the purpose of carrying out our purchase order. To the extent that we do not agree otherwise, they are to be returned to us on a voluntary basis after the purchase order has been carried out entirely. Drawings and other documentation are decisive only for the specific purchase order for which they were provided. When carrying out the purchase order the supplier may only rely on the documentation provided to him for that specific purchase order irrespective of any change which may have taken place since the previous purchase order. The drawings submitted to the supplier are not subject to our changing service.

The supplier shall be liable for any damage arising out of the fact that the aforementioned circumstances were disregarded.

The supplier is obliged to treat and store the production facilities submitted to him with due care. The supplier shall be liable in case of loss or damage of production facilities.

XV. Subcontracting Orders

We retain title with regard to any material supplied by us, irrespective of the fact to which extent the material is being processed. In case the material is being processed entirely we will acquire title to the intermediate or final product, thereby being deemed manufacturer in the meaning of Sec. 950 para. 1 BGB. The supplier merely has the position of a bailee. The same shall apply if the value of the new products exceeds the value of the items delivered. However, the processed material shall function as security for the items delivered only to an amount which equals the value of the delivered items to which we have retained title. We are to be notified immediately of any flaws in the submitted material which are detected during processing; in such case the processing is to be put on halt until we give further instructions.

XVI. Security, Environment Protection

The deliverable and performance has to correspond with the statutory rules, especially the safety rules and environment protection rules including the regulation about high-risk material and the security recommendations of the responsible German trade associations as VDE, VDI, DIN etc. The relevant certificates, certification reports and documents have to be delivered additional without of charge.

The supplier is obliged to calculate and keep the status quo of the substance restrictions of his components regarding the guidelines and statutory rules.

The supplier is responsible for not using forbidden components. Avoiding and hazardous materials according to the applicable statutory rules and guidelines have to be indicated in the specifications by the supplier. If applicable the material safety data sheets should be delivered already with the offer and with the delivery receipt of the first delivery (in German or English). Details about exceeding of substance restrictions and delivery of hazardous material have to be communicated to us without delay.

XVII. Place of Jurisdiction, Applicable Law, Data protection

For both parties place of performance shall be the receiving agency named by us. Place of jurisdiction for both parties shall be Stadthagen, Germany, but we retain the right to claim the supplier at his place of jurisdiction. The contractual relationship between us and the supplier is governed by and subject to German law – including the United Nations Convention on Contracts for the International Sale of Goods (CISG). In the course of the business relation we will save personal data of the supplier by means of electronic data processing.