

DESTACO Europe GmbH

TERMS AND CONDITIONS OF PURCHASE

For all present and future legal relations, especially the following purchase conditions are authoritative. They are valid exclusively; we do not recognize conflicting or deviating conditions, unless, validity is agreed in writing with us, e.g., by frame arrangements or individual arrangements. Such arrangements agreed with us are always valid as a matter of priority.

Our purchase conditions are also valid if we accept delivery in knowledge of conflicting or deviant conditions of the supplier without reservation.

Should the supplier formulate deviant or complementary regulations in offers or letter of confirmation, these are not valid. Now, as a precaution these conditions are hereby explicitly rejected.

1. Offers

(1) Offers of the supplier are non-binding for us and free.

(2) Orders are only effective if they follow in writing or are confirmed by us in writing. Integral part of the contract becomes only what is accepted in written form.

(3) Every order is to be confirmed by the supplier within a period of 3 days under specification of the obliging delivery date. At the end of this period we will no longer be bound by our order.

2. Prices, terms of payment

(1) The price shown in the order shall be binding.

(2) In the absence of deviant written arrangement the price includes delivery and transport to the delivery address stated in our order and including any and all costs for packaging.

(3) As far as the agreed arrangement does not enclose the packaging and the reimbursement for the packaging, which is not only provided for rent, the price is to be calculated at provable cost price. At our request the supplier has to take back the packaging on his expenses.

(4) Unless otherwise agreed, we pay the purchase price from delivery of the product and receipt of invoice within 14 days with 3% of cash discount or within 60 days net.

(5) In all order confirmations, papers of delivery and invoices our order number, article number, delivery volume and address of delivery must be provided. If any of these data are missing and this cause a delay in processing within our normal course of business, the term of payment as stipulated under fig. (4) shall be extended by the time of the delay.

3. Delivery

(1) The delivery date stated in the order is binding and shall be strictly adhered. The receipt of goods is decisive for the maintenance of the delivery date.

(2) The Supplier shall be obligated to notify us immediately in writing if and when circumstances occur or become known to him which indicate that it will not be possible to comply with the stated delivery date.

(3) Part - and advanced deliveries are permitted only after prior consent in writing and shall not oblige us to the partial and advanced payment. The values established by us during the incoming goods inspection shall determine the quantities, weights and measurements.

(4) The supplier is in default with delivery or other performance if he exceeds the agreed delivery date more than one week without the prior issue of a reminder. The delivery period is valid at the same time as a legal extension period, without any further requirement of an extension of time.

(5) In the event of delay in delivery and with prior written notification, we are entitled to require a contractual penalty at the rate of 0.5%, maximum 5% of the respective order value for each started week of the delay in delivery. The contractual penalty shall be offset against any payment from the supplier for default damage.

(6) In case of force majeure, inevitable operational restrictions or shutdowns, we have the right to postpone the delivery date or withdraw from the contract. In such case a default of acceptance shall not apply. The supplier expressly waves claims for damages, provided that grossly negligent or wilful conduct by our legal representatives and executive employees is caused by our fault.

(7) We are entitled to change time and place of the delivery as well as the kind of the packaging at any time by written notice within a period of at least 5 calendar days before the agreed delivery date. Same is valid for changes of product specifications, as far as such changes can be implemented within the scope of the production process of the supplier without considerable additional expenses. In such cases we will comply with an adequate notification period. We will refund such verified and adequate additional costs incurred by supplier and resulting from the particular changes of product. Any delay of delivery which incurs by such changes of product specifications and which cannot be avoided in the ordinary course of production process at the supplier with all reasonable strains, shall cause that the agreed delivery date is postponed accordingly. Upon receipt of our notification on the change of product specifications, the supplier will within 5 working days transmit to us his careful evaluation of any additional costs or delays of delivery in writing. We are entitled to change our order up to 3 working days before the delivery date that either the quantities can be increased or reduced.

(8) We are also entitled to delay the originally planned delivery date and purchase date up to 12 months, without the consequences that in such case the legal rules of default shall apply.

(9) In case that the supplier cannot meet the delivery date as a result of force majeure, industrial disputes or other operational reasons not to be represented by him, he has to inform us immediately after he has been made aware of such an obstacle. In this case we are entitled to shift either the period of acceptance, or, after adequate period, withdraw entirely or in part

from the contract, if our supply interest is substantially diminished. The supplier is not entitled to withdraw from the contract in cases of force majeure at its own discretion or to carry out price increases.

4. Passing of Risk

Risk passes to us only at the time of delivery to the dispatch address, even if shipment agreed.

5. Warranty, Liability

(1) In case of defects we are entitled to full statutory warranty.

(2) The supplier warrants the use of appropriate materials, proper and adequate workmanship and commits itself to carry out its contractual obligations in accordance with the recent state of science and technology. The supplier also ensures the full compliance of the contract products with any supplied sample, description or other documents and that the contract products have the contractually agreed and assured features.

(3) In case of incorrectly or defectively supply, we are entitled to additional delivery. If the supplier failed to deliver the order after expiring of a further period of extension, we may at our discretion ask for additional delivery, reduce the purchase price or terminate the concrete order. In addition, we reserve the right to damage compensation and to claim reimbursement of expenses.

(4) Any deviation in quality and quantity shall be deemed as duly reported, if we notify the supplier within 10 working days since receipt of the products . Hidden defects shall be duly reported to the supplier within 10 working days after discovery.

(5) By accepting or approving of samples presented to us we do not waive claims under guarantee.

(6) Upon receipt by the supplier of our written defect notification, the statutory limitation of guarantee claims is inhibited. In case of spare part delivery and remediation of defects the warranty period for replacement parts and repaired parts shall begin anew, unless, based on the behavior of the supplier, we have to assume that the supplier did not see the measure as a necessity, but instead conducted such solely for reasons of maintaining goodwill or similar reasons.

(7) In urgent cases, we may - in conjunction with the supplier - remedy the defects ourselves. In such a case the price shall be reduced at least by the amount or the costs of replacement.

6. Liability, Product Liability

(1) The supplier shall be liable for any faults, in particular in any case of negligence of his employees, agents or any party obliged to perform services.

(2) The supplier shall indemnify us from all claims by our contractual partners and any third parties in respect of any negligent or intentional breach of contractual or pre-contractual

obligations. This applies in particular to any claims arising from product liability and faultiness of products, no matter who is regarded as manufacturer under liability law. In this connection, the supplier has to provide evidence that the products were free from defects.

(3) The supplier undertakes to maintain a product liability insurance at its own costs with a covering sum of at least 3,000,000.00 € (in words: Three Million Euros) which, if not agreed otherwise on an individual basis, does not need to cover the recall risk or punitive or similar damages. The supplier shall forward, on our request, a copy of the liability insurance policy at any time.

7. Transfer of title

(1) The delivered goods become - at the latest with the payment - our unrestricted property. Furthermore, we do not accept reservations of ownership of the supplier or of third parties.

(2) The supplier expressly assures that no third parties hold rights of the contract products. We do not recognize an extended or expanded retention of title on the part of the supplier.

8. Copyrights

(1) Our orders all drawings, pictures, models, samples, tools and other documents which were supplied by us or were manufactured according to our specifications, are our property and may not be used or be made for third parties accessible. Upon our request, the supplier has to return these documents completely to us.

(2) Tools, devices and models, which we make available to the supplier or which are manufactured for contractual purposes and for which the supplier invoices us separately, shall remain in our property or become our property. They are to be marked by the supplier as our property, stored carefully, insured against all types of damages and used only for the purposes of the contract. The supplier shall bear all costs of maintenance and the repair of these objects. The supplier shall notify us immediately regarding all damages to these objects. Upon our request, he is obliged to return these objects in the proper condition, provided they are no longer needed for fulfilling the contract.

(3) The supplier is liable for the fact that in connection with his delivery no trade mark rights of third parties are injured in countries of the European Union, North America or in other countries in which he manufactures the products or have them manufactured. The delivered products must comply with the legal regulations and official requirements. The supplier shall release us from all claims for compensation of any third party and in any case, if he violates these regulations and requirements and has to reimburse all necessary expenses resulting from such a claim.

9. Spare parts

(1) The supplier is obliged to keep a stock of spare parts for the products delivered to us for a period of at least 10 years after the delivery.

(2) If the supplier intends to cease production of the spare parts for the products delivered to us, he shall immediately after such a decision give us notice in writing. This decision shall be notified – subject under the paragraph 1 – at least 12 months before the cessation of production.

10. Secrecy

(1) The supplier shall treat our purchase conditions as well as all information and documents provided by us (with the exception of publicly accessible information) strictly secret for a period of 5 years after conclusion of the contract and use them only for the execution of the order. After processing of orders or inquiries he shall return the immediately on our demand.

(2) The Supplier may mention its business connection with us in promotional material, brochures etc. and shall not display products made for us only with our prior written agreement

(3) The supplier shall oblige his subcontractor according to this figure 10.

11. Assignment, Compensation

The supplier is not entitled to assign claims arising from our contract to third parties. This shall not apply in case of monetary claims. The supplier shall only be entitled to a right of compensation or retention provided that his counter claims have been judicially determined, or are uncontested or acknowledged by us.

12. Applicable law

The supplier hereby agrees with us that the governing law is the law of the Federal Republic of Germany.

13. Place of delivery, jurisdiction

Place of delivery for the delivery is the place of destination agreed upon. Exclusive jurisdiction and legal venue for all disputes arising from this contract shall be Oberursel, Germany, if the customer is a commercial businessman, legal entity of public law, public special estate or is without jurisdiction domestically.

14. Final regulations

(1) If any provision of this contract should be ineffective or get ineffective, the supplier is committed to generate a supplement with us and make respective declarations to a third party or authority to replace the void provisions by statutory provisions which most closely fulfill the economic wishes of the parties involved.

(2) Under §§ 28 and 29 BDSG (Federal Data Protection Law), the personal data of those with whom we conduct business are stored and processed in accordance with the purposes of the contractual relationship.