

# GT&C OF PURCHASE

1. **Purchase orders and agreements** are only valid if they have been raised or confirmed by us in writing. If written purchase orders and changes to orders are raised automatically using electronic data processing equipment, these statements shall also be valid, even without our signature. The Supplier shall recognize these conditions of purchase as binding, for all future business with us and shall refrain from making any claim to his own sales and delivery terms, which will not become part of the contract, neither by acceptance of the delivery nor unless stated otherwise.
2. **Deliveries** shall be made strictly free domicile. Acceptance of goods is always subject to quality, composition and quantity. Any inspection at the factory or warehouse belonging to the Supplier does not constitute delivery or acceptance. No additional or short deliveries will be acknowledged, even if the Supplier's order confirmation makes such a reservation. Should the packaging arrive in a damaged condition, we are entitled to refuse acceptance of the consignment without any further check of the content. Any return delivery shall be made at the Supplier's cost and risk. Acceptance of the delivery without explicit rejection shall in no way constitute TB&C's acceptance of the Supplier's delivery terms.
  - 2.1. Any performance, for which there is no written purchase order, places no obligation on TB&C to accept and will not be paid for by TB&C, even if such performance has been made at the request of TB&C personnel.
  - 2.2. The Supplier is obliged, even when submitting a quotation, to indicate any potential defects, in particular with respect to meeting current scientific and technical standards, environmental protection requirements or technical suitability.
  - 2.3. TB&C may require changes to be made to the delivery item, even after the contract has been signed, provided this is reasonable for the Supplier. Such contractual change should take reasonable account of the impact on both parties, in particular, in terms of any increase or decrease in costs and delivery dates. Any deviations from the purchase order and changes shall only apply, if the Supplier makes particular reference to them, and they have been confirmed in writing by TB&C.
  - 2.4. TB&C is entitled, following prior notice during the normal hours of business, to appraise itself of the work's progress at the Supplier. TB&C is also entitled to check whether the manufacturing or production methods used and the quality assurance and documented requirements have been met, and that the agreed measuring and testing equipment and measuring and test methods have been applied. TB&C is further entitled to object to any incorrect fulfilment of the order by the Supplier and to reject defective parts. TB&C must be granted sight of all manufacturing, control and testing documentation, in particular of the checking lists and control charts.
  - 2.5. The Supplier shall request his sub-suppliers and subcontractors to sign a written agreement to ensure that TB&C may exercise its right of inspection even at sub-suppliers and subcontractors. Should TB&C exercise these rights, the Supplier must use his best endeavors to assist TB&C and will not invoice for these additional services.
  - 2.6. TB&C may withdraw from the contract if the Supplier refuses or severely restricts such visits, information, inspections or controls for unfounded or unsubstantial reasons. The Supplier shall indemnify all damages to TB&C in the event of a culpable breach against the aforesaid obligations.
  - 2.7. It is agreed that TB&C may delegate its rights of control and may exercise such by appointing a testing and certification body (or testing and certification individual).
  - 2.8. TB&C reserves the right, at all times, to ensure supply quality by reaching quality assurance agreements with its suppliers. In this case, the provisions set out in these agreements shall take precedence, as individual agreements, over the regulations in these conditions of purchase, provided they set out supply and quality assurance in greater detail. In all other respects, these conditions of purchase apply in addition to the individual agreements made.
  - 2.9. Should the Supplier appoint subcontractors, he must disclose such to TB&C. TB&C can make fulfilment of the contract dependent upon the Supplier providing documentation qualifying the subcontractor, and reserves the right to reject performance by the sub-supplier (or subcontractor). In this case, TB&C is also entitled to withdraw from the contract, if the sub-supplier does not have the necessary qualification, and the Supplier is not willing to manufacture the delivery goods himself or nominate a qualified sub-supplier.
  - 2.10. Goods are dispatched at the Supplier's risk. The risk of any deterioration, including accidental loss, shall remain the Supplier's until delivery to the specified shipping address.
3. **Delivery date:** If the agreed delivery date (the date the goods are received) is not met, for whatsoever reason, we are entitled, in the event of a failure to provide performance within a specified grace period, to refuse to accept the goods and to withdraw from the contract at our discretion, in full or in part, with respect to any further outstanding part performance without any obligation to provide compensation, or if the Supplier is at fault, to demand compensation in lieu of performance. As soon as the Supplier has reason to suspect that he may not be able to supply on time, in full or in part, for whatsoever reason, he must notify us of this immediately. Any additional expenditure incurred as a result of default and/or coverage of requirements from elsewhere shall be borne by the Supplier. Should we state our willingness to accept the goods despite the delay in delivery, any additional costs incurred in airfreight, express delivery etc. shall be borne by the Supplier.
  - 3.1. *Force majeure* and industrial dispute shall release the contractual partners from performance obligations for the duration of the disruption and within the scope of their influence. The contractual partners are obliged to provide the necessary information immediately, as far as is reasonable, and to adjust their obligation, in good faith, to reflect the change in circumstances. TB&C shall be released from its obligation to accept the contracted delivery/performance, in full or in part, and insofar to withdraw from the contract if the delivery/performance can no longer be used, also taking account of the financial aspects, because of the delays caused by *force majeure* or industrial dispute.
  - 3.2. Should goods be delivered earlier than agreed, TB&C reserves the right to send them back at the Supplier's expense. Should the goods from an early delivery not be sent back, TB&C shall store the goods up to the delivery date at the Supplier's cost and risk. Furthermore, TB&C reserves the right to make payment for any goods delivered early only on the agreed due dates. Part deliveries shall only be accepted following explicit agreement. The remaining quantity must be listed in the event of agreed part deliveries.
4. **Packaging:** Goods shall be delivered in packaging suitable for the product and observing the relevant environmental requirements. The Supplier must take back any disposable package at his expense. If reusable packaging is used, the Supplier must be prepared to provide such packaging on a loan basis. It will be sent back at the Supplier's cost and risk. If we should agree, in the exceptional case, to accept the packaging costs, these must be invoiced at the proven cost price.
5. **Insurance:** We shall not undertake any transport insurance for deliveries. We supply 'ex works' (EXW) in accordance with Incoterms 2010. 'Ex works' means that the Seller supplies, if he provides the Buyer with goods at the Seller or at another nominated place (e.g. place, factory, warehouse etc.). The Seller does not have to load the goods onto any collecting vehicle nor clear them for export, should such clearance be required. We accept no costs whatsoever for indemnity insurance. We shall not provide any insurance for the personnel, tools or materials used by companies or installers in connection with our order.
6. **Payment/prices/additional requirements/over-deliveries/risk of price variations:** Payment shall be made on the 30th day following receipt of goods and invoice less a discount of 3%, or on the 30th day of the second month following receipt goods and invoice less a discount of 2%. In the case of acceptance of goods delivered early, payments shall be due based on the agreed delivery date. The Supplier may only assign his claims against us with our prior written consent; this also applies to factoring. For any assignment that is made because of an extended reservation of title agreed by the Supplier with his vendors, our agreement can be deemed to be granted, on the condition that we are also allowed a setoff against counterclaims acquired after notification of the assignment.
  - 6.1. **Prices:** The prices agreed are net prices and include the costs of the goods for the Supplier. No price adjustments by the Supplier shall be recognized, with the exception of VAT.
  - 6.2. If, contrary to 1.1., price adjustments are agreed, the Supplier shall notify the price changes immediately for approval. In this case, TB&C and the Supplier shall agree that TB&C shall be entitled to withdraw from the contract in the event of price changes.
  - 6.3. Additional charges: These shall not be binding for TB&C, if they are only claimed at the point that the invoice is raised.
  - 6.4. If the purchase order does not set out any prices, TB&C reserves the right to confirm them, even if work has already started on the contract. The way in which prices are set shall not affect the agreement as to the place of performance.
  - 6.5. TB&C shall only accept the quantities or volumes ordered. Any over or under deliveries that lie outside the usual tolerance expected for the sector are only permitted after prior agreement.
  - 6.6. The Supplier shall bear costs, taxes, duties and other levies that should come into force after the order has been raised, with the exception of VAT.
  - 6.7. Price variation risk: This shall pass over, in every case, to TB&C, only after handover at the unloading site at the point of destination. TB&C is entitled to offset against any claims due that an affiliated company of TB&C may have against the Supplier. This also applies, even if the mutual claims are due on different dates.
  - 6.8. The fact that TB&C has made payment does not mean that it will not make claims because of poor performance. In the case of payments in advance, the contractor shall provide reasonable security, for example, a guarantee.
7. **Defect complaint/defect claims:** The Supplier shall carry out an unlimited quality inspection in the Goods Issue Department of its company before sending out the supplied goods and shall release TB&C from any Goods Received Inspection of the supplied items in accordance with Article 377 German Commercial Code (HGB). If TB&C, nonetheless, carries out its own controls, this shall not change the fact that the obligations from Article 377 HGB shall not be applied, in favor of TB&C. We will investigate the goods supplied within a reasonable period to ensure there is no external damage and that they are complete. Any obvious defect will generally be notified within 2 weeks from receipt of goods. In the case of concealed defects, notification will take place immediately as soon as they are discovered. Payment for the goods does not mean that they have been accepted as being in line with the contract and free from defects. Should there be any defects in the goods supplied, we can choose whether to have a replacement delivery or have the defects rectified. In case of urgency, we ourselves can also arrange for the defect to be rectified at the Supplier's expense. Should the Supplier fail to rectify the defects, even after being granted a reasonable period of grace, we may reduce the agreed price, withdraw from the contract, in full or in part, or demand compensation in lieu of performance. This shall not affect any further claims for defects and compensation, even consequential loss, above and beyond this. In particular, we may demand compensation for any costs incurred by the inspection, if we are forced to carry out a Goods Received Inspection beyond the usual random check because the incidence of faults is above average. We can either hold any goods that are subject to a complaint in storage or send them back to the Supplier at his expense and risk. Ownership shall again pass to the Supplier on the day on which notification is sent that the goods, subject to a complaint, have been returned. We may hold the goods in storage for the Supplier in lieu of handing them over. Any defects that are only detected once the goods are being processed or finished, or during their use, shall also entitle us to demand compensation for any unnecessarily incurred costs. The limitation period for claims for defects is 24 months from acceptance of the goods by us; for goods that are intended for resale, even in connection with our finished products, this period shall start from the date of acceptance by our customers. The limitation period shall start anew in the event of any rectification of defects or replacement delivery for the reworked part or for the replaced goods. It is sufficient for us to have notified the Supplier of the defects within the limitation period for claims for defects to be upheld even outside the limitation period.
8. **Quality:** The Supplier guarantees that the goods supplied meet the agreed specifications, that they do not have any defects that detract from their value or suitability for use, and that they are not lacking any of their guaranteed features. The Supplier further warrants that the goods supplied are free from any design, material or manufacturing defects and satisfy the latest state-of-the-art technology. No quality assurance agreement (e.g. TQM, zero fault) shall affect our aforementioned claims.
9. **Protected rights:** The Supplier states that the supplied goods are free from any third-party protected rights. The Supplier is obliged to render us harmless from any possible claims arising from a breach of protected rights and to compensate us for any costs incurred.

10. **Drawings and tools:** All drawings, samples and calculations supplied to carry out orders shall remain our property. They must be kept confidential, may not be duplicated or used for any other purpose and should be returned immediately upon our request.  
The Supplier will invoice separately for any tools, samples, drawings or other resources produced to carry out orders, and they shall become our property at the point of manufacture. In lieu of handover, the Supplier may store them free of charge; they may only be used to complete our orders and must be issued to us at any time, at our request, waiving any rights to refuse performance. The Supplier must identify the aforesaid items clearly as our property and make any third parties who may want to use them as grounds to make claims aware of our right of ownership. He shall make us aware of any such event immediately. Costs of intervention shall be borne by the Supplier.  
The Supplier is obliged to look after, maintain and rectify normal wear and tear of the aforesaid items; the purchase price for the items must allow for the expenditure involved.  
If the Supplier outsources the manufacture of tools and samples to a subcontractor to complete our orders, the Supplier shall assign his claims against the subcontractor to us for the transfer of ownership of the tools and samples. If TB&C provides parts to the Supplier, we shall reserve ownership to such parts. Any processing or alteration by the Supplier will be carried out for TB&C. Should our goods be subject to a retention of title or be processed in conjunction with items that do not belong to us, we shall acquire joint ownership of the new item in proportion to the value of our goods.
11. **Work results:** We shall have exclusive rights to all the work results produced by the Supplier. Should we acquire ownership of any items; the Supplier shall store these for us free of charge. We shall acquire an exclusive and unrestricted right of use to any works subject to copyright, including the right to process.  
At our request, the Supplier is obliged, at any time, to issue the items, together with all documents, upon first request, without exercising any rights to refuse performance.
12. **Advance payments and subcontracted supplies (supplied product):** The Supplier is obliged to use advance payments or subcontracted supplies provided by us (supplied product) solely for the purpose of fulfilling our orders.  
The Supplier must store the products we supply separately and identify our title on the supplied product itself and in his books of account. The parties agree that ownership to any goods manufactured because of our orders, for which we have made advance payment or supplied products, shall be transferred to us. The Supplier may store the goods, free of charge, with the due care of a prudent businessman, in lieu of transfer of title. To this end, the Supplier must hold the manufactured goods separately from other inventory and clearly identify our ownership on the goods themselves and in the books of account. The Supplier must confirm this in writing. Additionally, we are entitled, at any time, to satisfy ourselves that the goods are being stored separately and are properly identified on site as our property. The Supplier may not acquire ownership in the event that the product we supply is processed to create a new item. Any processing by the Supplier shall be for us. Should the Supplier acquire joint ownership by joining or blending, he shall assign his joint ownership to us. The Supplier may store the item for us free of charge in lieu of transferring ownership.  
The Supplier must notify us of any attachment or seizure by third parties of the goods belonging to us immediately, and must support us in any case with the intervention, the costs of which shall be borne by the Supplier. The duty of disclosure shall apply accordingly, should any petition for insolvency proceedings be filed. No right of retention shall be recognised.
- 12.1. If the Supplier suspends his payments, or a petition for bankruptcy is filed over his assets, TB&C shall be entitled to withdraw from the contract, in full or in part. If the Supplier has declared his intention to withdraw from the contract because of a contractual breach for which the Supplier is responsible, the contractual parties shall only invoice for the performance carried out up to that point, and for which TB&C was and is able to make proper use. Any loss suffered by TB&C shall be taken into account when billing.
- 12.2. If a significant change should occur in the Supplier's legal form, business management, shareholding or the financial situation that is likely to seriously impact the results that TB&C might expect from fulfilment of the contract, TB&C is entitled to withdraw from its order without incurring any costs.
- 12.3. Should the Supplier's shareholding interests change significantly, TB&C is entitled to negotiate the continuation of the order with TB&C.
13. **Advertising:** No use may be made of our purchase orders for the purpose of publicity.
14. **Secrecy:** The Supplier shall use the knowledge and experience acquired while fulfilling our orders solely to implement orders from TB&C Outsert Center GmbH. He is obliged to keep absolutely confidential any business matters of which he becomes aware during the course of fulfilling our orders, of the results he prepares in the broadest sense, in particular, data, regulations, samples, drawings and designs.
15. **Security/liability:** The Supplier is responsible for ensuring compliance with all statutory regulations, ordinances and other regulations associated with the delivery item, in particular, all regulations relevant to safety and the environment. This also includes agreements with haulers / freight forwarders / stockiest and regulations pertaining to the dispatch of hazardous goods.  
The Supplier is liable for observing the law relating to technical equipment (German Law on the Safety of Appliances), VDE regulations, health and safety regulations and accident prevention legislation of commercial trade associations, as well as the generally recognized technical safety and occupational health rules; requisite safety equipment forms part of the scope of supply and is included in the price.  
The Supplier is obliged, through ongoing checks and other suitable measures, to ensure that all safety requirements pertaining to the goods to be supplied are met and documented, and to provide us with appropriate proof at any time, upon request. The documents required to do this should be retained for the life of the delivered goods, for at least six years from the last delivery to us.  
The Supplier is liable for all damages that we may incur and releases us from all claims for compensation from third parties that are due to faults in his production area or in that of his appointed representatives. This also applies to the compensation for damages (including any other costs that may have been required for the purpose of appropriate prosecution) which we have agreed to pay out of court, in favorable consideration of the Supplier's interests.
- 15.1. If the Supplier is responsible for product damage, he is obliged to hold TB&C harmless from any claims for compensation from third parties, upon first request, and as far as the Supplier shall be held liable himself in the legal relationship. In this respect, the Supplier is also obliged to reimburse any possible expenditure that is incurred because of, or in connection with a recall action.
- 15.2. The Supplier is obliged to hold product liability insurance and to maintain insurance for product recall costs and shall provide proof of such to TB&C by confirming the name of its insurer.
16. **Data protection:** Pursuant to Art. 33 Federal Data Protection Act, we draw attention to the fact that supplier data received in connection with the business relationship shall be processed and archived for our own purposes.
17. **Operational organization:** The Supplier is responsible for ensuring that all persons consulted or appointed by him to fulfil our orders observe the procedural rules that apply in our company and the instructions issued in conjunction with them, when they enter our organization.
18. **Export requirements:** The Supplier is obliged to inform us in writing of which components, assemblies, devices, systems etc. are subject to export and re-export restrictions in accordance with the requirements of the German Federal Republic, or US export regulations, if necessary.
19. **Court of jurisdiction** for all disputes arising from the contractual relationship is Wetzlar or the Supplier's registered office at our discretion, if the Supplier is a merchant.
20. The law of the German Federal Republic applies. The provisions of the Convention of the United Nations on Contracts for the International Sale of Goods (CISG) shall not be recognized.
21. **Compliance of regulatory and legal requirements:** With the acceptance of an order he Supplier fully commits to a strict compliance of all legislation and regulatory requirements.

TB&C Outsert Center GmbH

