

General Terms and Conditions of Purchase

Münch Chemie International GmbH Viernheimer Str. 70-76, 69469 Weinheim

1. Scope of application

1.1 These General Terms and Conditions of Purchase apply to your supplies and services to us unless other agreements have expressly been entered into.

1.2 The General Business Conditions of the supplier, that contradict our terms and conditions of purchase, restrict them in their scope of application or invalidate them only apply if we have expressly approved this in writing.

2. Orders

2.1 Our orders and amendments or additions to the orders require the written or text form.
2.2 We are entitled to revoke our order free of charge if you do not confirm this order on an unchanged basis within two weeks following receipt.

3. Deadlines and consequences of failure to meet the deadlines

3.1 The deadlines referred to in the order or deadlines that are agreed in some other way are binding. If delays are expected or occur as regards the delivery date, you must inform us of this immediately and in writing.

3.2 We are entitled to refuse acceptance, to withdraw from the contract and/or demand compensation for damage, if you fail to deliver or provide a service within a reasonable grace period stipulated by us following expiry of the date referred to in the order or otherwise agreed date. We are also entitled to withdraw if you are not responsible for the delay. Any additional costs that we incur as a result of your delay, particularly as a result of having to purchase elsewhere, will be borne by you.

3.3 In the case of a delay in delivery, we are also entitled to ask for a contractual penalty of 1% for each week started, the maximum total however being 10% of the order value; in this case, the supplier has the right to prove to us that no damage has occurred or that such damage is significantly less. We reserve the right to assert a further claim for damage.

4. Prices

The prices are fixed prices. They include delivery "franco domicile" as well as all expenses connected with the supplies and services to be provided by you. The statutory VAT is to be stated separately, otherwise it is deemed to be included in the price.

5. Processing and delivery

5.1 You may only place subcontracts if you have our approval, unless it only involves delivery to you of marketable parts. Delivery call-offs are binding in terms of the type and quantity of the products called and in terms of the delivery period.

5.2 Partial deliveries or premature deliveries require our approval.

5.3 A delivery note is to be enclosed with each delivery that states our order number and a description of the content in terms of type and quantity.

5.4 As a rule, the goods are delivered using non-returnable standard packaging that is usual in the trade. If you use reusable packaging you have to provide the packaging on loan. It is returned to you at your expense and risk. If, by way of exception, we declare that we agree to take over the packaging costs, these are to be charged at the demonstrable cost price.

5.5 If the delivery involves equipment, a technical specification and instructions for use must also be supplied free of charge. If software products are delivered, the delivery obligation is only honoured when all the documentation is handed over as well. If programs are supplied that are specially produced for us, then the program is also to be supplied in the source format.

5.6 If you provide supplies or services on our factory premises, you are obliged to comply with the instructions concerning safety, environmental and fire protection for non-company employees in the version that is valid at the time.

6. Invoices, payments

6.1 Invoices are to be sent to us under separate cover; they must quote our order number.

6.2 Your payment claim becomes due for payment 90 days after complete receipt of goods, hand-over of all the documents that are part of the scope of supplies and receipt of your invoice or, if we so choose, after 30 days with a 3% discount. The payment date is that date on which our bank has received the remittance order.

6.3 Payments do not signify acceptance of the supply or service as contracted. If a supply or service is defective or incomplete, we are entitled, regardless of our other rights, to withhold payments of debts ensuing from the business relationship to a reasonable extent until you have duly fulfilled your obligations under the contract.

6.4 Assigning the amounts we owe you to third parties is ruled out.

7. Safety, environmental protection

7.1 Your supplies and services must conform to the statutory provisions, particularly the safety and environmental provisions including the directive covering dangerous substances, the German Electrical and Electronic Equipment Act and the safety recommendations of the German expert committees or trade associations responsible, for example, VDE, VDI, DIN. Relevant certifications, test certificates and documentation are to be delivered at the same time free of charge.

7.2 You are obliged to ascertain the current status of the directives and laws that apply to your components in terms of restrictions of substances and to adhere to these. You are obliged not to use forbidden substances. Dangerous substances and substances to be avoided pursuant to the laws and directives that apply are to be stated by you in the specifications. If applicable, the safety data sheets are to be submitted with the offers and with the respective initial delivery together with the delivery note (at least in German or English). Information about exceeding restrictions of substances and the delivery of banned substances is to be sent to us immediately.

7.3 When providing supplies and services, you alone are responsible for complying with the safety regulations. Any safety devices that may be required as well as possible instructions from the manufacturer are to be delivered at the same time free of charge.

8. Import and export regulations, customs

8.1 In the event of supplies and services that ensue from a country outside Germany that is part of the EU, your EU VAT Registration Number must be quoted.

8.2 Imported goods are to be delivered duty paid. You are obliged, for the purposes of the Directive (EC) No. 1207/2001, to submit the required declarations and information at your expense, to allow inspections by the customs authorities and to furnish any required official confirmations.

8.3 You are obliged to inform us in detail and in writing about any possible licensing requirements when (re-) exporting in accordance with German, European and USA export and customs regulations as well as export and customs regulations of the country of origin for the goods and services.

9. Place of performance, passing of risk, acceptance, rights of ownership

9.1 The place of performance is that place to which the goods are to be delivered or at which the service is to be rendered. The place of performance for our payments is our registered office.

9.2 Delivery is to be made, for the account of and at the risk of the supplier, duly packed for transport, free to the place of delivery, to the address provided by us and/or the service is to be rendered there. The risk of loss, destruction or deterioration of the goods is only passed over to us, even if we have declared that we are prepared to pay the freight costs, when we or our appointed freight forwarder accept the goods at the agreed place of performance or after final acceptance of the supply or service, whichever is the later date. Commissioning or usage does not replace our declaration of acceptance.

9.3 Ownership of the delivered goods passes over to us after payment. Any extended or prolonged reservation of title is ruled out.

10. Inspection obligation and requirement to give notice of defects, inspection costs

10.1 By means of the accompanying documents, we only inspect the delivered product for any externally visible damage in transit and to ensure that it is the correct product delivered in the correct quantity. We will notify the supplier of defects in the delivery as soon as they are detected according to the conditions of our regular course of business. You waive the objection of late notice of defect (§ 377 German Commercial Code) for any defects notified within fourteen days following detection.

10.2 If we send defective products back to you, then we are entitled to debit the invoice amount back to you plus a flat charge for costs amounting to 5% of the net price of the defective product. We reserve the right to provide proof of higher expenses incurred. You reserve the right to provide proof of lower or no expenses incurred.

11. Warranty for material defects and defects in title

11.1 Defective deliveries are to be replaced immediately by deliveries that are free of defects and defective services are to be repeated so that they are free of defects. In the event of development or design errors, we are entitled to assert the rights provided for in Subsection 11.3.

11.2 A rework of defective deliveries or services requires our approval. During the time that the object of the delivery or service is not in our safekeeping, you bear the risk.

11.3 If you do not remedy the defect within a reasonable grace period imposed on you, we can opt to withdraw from the contract or reduce the amount we owe and in addition claim compensation for damage.

11.4 In urgent cases (particularly if operational safety is jeopardised or we wish to fend off extraordinarily high damages), and for the purposes of remedying minor defects as well as in the event of your delay in remedying a defect, we are entitled, having informed you previously and following expiry of a brief grace period that is in keeping with the situation, to remedy the defect and any ensuing damage ourselves at your expense or to arrange for a third party to remedy these at your expense. This also applies if you provide supplies or services late and we need to remedy defects immediately so that we are not late with our own deliveries.

11.5 The period of limitation for our claims ensuing from material defects is 36 months from the passing of risk pursuant to Subsection 9.1; the period of limitation for our claims ensuing from defects in title is ten years from the passing of risk pursuant to Subsection 9.2. The running of the period of limitation is suspended for the period that starts when our notice of defects is sent and that ends when our warranty claim is met.

11.6 If you are obliged to provide supplies or services according to our plans, drawings or other special requirements, then conformity of the supply or service with the requirements is deemed to be expressly warranted. If the supply or service deviates from the requirements, we are immediately entitled to the rights referred to in Subsection 11.3.

11.7 In addition, our statutory rights remain unaffected.

12. Repeated defaults in performance

If, following a warning in text form, you provide supplies or services that, for the most part, are the same or of a similar kind and are repeatedly defective or late, we are entitled to withdraw from the contract immediately. Our right to withdraw from the contract also covers in this case those supplies and services that you are obliged to provide us with in the future, either under this contract or under another contract.

13. Indemnity in the event of material defects and defects in title

You shall indemnify us against any claims that third parties may lodge against us - for whatever legal reason - on account of a material defect or a defect in title or another defect in a product delivered by you and you will reimburse us with the costs required to take legal action.

14. Technical documents, tools, manufacturing equipment

14.1 Any technical documents, tools, work instructions, manufacturing equipment etc. provided by us remain our property; any trademark rights, copyrights and other industrial property and patent rights remain with us. They are to be returned to us, including any duplicates made, immediately and unsolicited after execution of the order; in this respect you are not authorised to assert a right of retention. You may only use the objects referred to to execute the order and you must not allow unauthorised third parties to have these or provide access to these in some other way. Duplicating the objects referred to is only permissible to the extent that it is required to execute the order.

14.2 If you produce for us the objects referred to in Subsection 14.1 Clause 1 in part or in whole and at our expense, Subsection 14.1 applies accordingly. Following production, we become (co-) owner according to our share in the manufacturing costs. You will keep these objects safe for us free of charge; we can at any time acquire your rights with regard to the object in exchange for expenses that have not yet been amortised and we can then request the object.

14.3 You are obliged to service and maintain the aforementioned objects and to repair normal wear and tear free of charge. If in order to execute our order, you entrust a subcontractor with the manufacture of tools and samples, you shall assign your transfer of title claims against the subcontractor to us in respect of such tools and samples.

15. Provision of materials

15.1 Materials provided by us remain our property and these are to be kept safe by you free of charge and whilst exercising the ordinary diligence of a businessman. They must be stored separately from your other items and goods and marked as being our property. They may only be used to carry out our order. Damages to materials provided are to be compensated for by you.

15.2 If you process the materials provided or reorganise them, then you do this on our behalf. We immediately become the owner of the ensuing new items. If the materials provided only constitute a part of the new items, we are entitled to co-ownership of the new items in the proportion of the value of the materials contained therein that are provided by us.

16. Confidentiality, data protection

16.1 You are obliged to treat as confidential any commercial and technical details, that are not commonly known and of which you become aware as a result of the business relationship and to not pass these on to third parties.

16.2 Manufacturing for third parties, displaying goods especially produced for us, particularly in accordance with our plans, drawings or other special requirements, publications concerning the orders and services as well as referring to this order when dealing with third parties, require our prior written approval.

16.3 We must point out that, during the course of our business relationship, we electronically store personal and corporate data; the relevant regulations under the Data Protection Act are adhered to when doing this.

17. Miscellaneous

17.1 If you are a businessman, a legal entity under public law or a special fund under public law, the place of jurisdiction is the registered office of Münch Chemie International GmbH. We are however also entitled to make a claim on you at your registered office.

17.2 The law of the Federal Republic of Germany applies exclusively to the exclusion of its Private International Law if it refers to the validity of another legal system. Application of the United Nations Convention on Contracts for the International Sale of Goods (C.I.S.G.) and other bilateral and multilateral agreements serving the standardisation of international sales is ruled out.

17.3 If individual clauses contained in these General Terms and Conditions of Purchase are invalid in whole or in part, this does not affect the validity of the remaining clauses or of the remaining parts of such clauses.