

General Terms and Conditions of Purchasing

1. Application

(1) All orders of AFL are based exclusively on these General Terms and Conditions of Purchasing. These are a component of all contracts AFL concludes with its contract partners for deliveries or performances. They also apply to all future deliveries, performances or proposals from Supplier, even then if they are not separately agreed again.

(2) Terms of business of Supplier or third parties do not apply, even if we do not explicitly contradict their applicability in the individual case. Even if we refer to correspondence containing or referring to terms of business of Supplier or of a third party, this does not imply agreement on our part that such terms of business apply.

2. Orders

(1) Unless a committal period is explicitly stated in our orders, we hold ourselves bound to an order for one week after the order date. Promptness of acceptance is decided by our receipt of the acceptance declaration.

(2) We are entitled to change time and place of the delivery and the type of packaging at any time before the agreed delivery date by written notice no later than 10 calendar days before the agreed delivery date. The same applies to product specifications inasmuch as these can be realised within the normal production process of Supplier without significant additional outlay, whereby in these cases the notice period according to the foregoing sentence is at least 21 calendar days. We shall reimburse Supplier for the respective proven and appropriate costs incurred due to the change. The originally agreed delivery date postpones accordingly if such changes give rise to delivery delays that are not avoidable with reasonable efforts in the normal production and business operation of Supplier. Supplier shall notify to us in writing the additional costs or delivery delays Supplier anticipates in careful estimation in good time before the delivery date, but at least within 10 working days after receiving our notification pursuant to sentence 1.

(3) We are entitled to terminate the contract at any time by written notice with statement of reasons if we no longer have any use for the ordered products in our business operations due to circumstances arising after contract conclusion. In this case we shall remunerate Supplier for the partial performance he rendered.

3. Prices, Terms of payment, Invoice statements

(1) The price stated in the order is binding. Lacking any deviating written agreement, the price includes delivery and transport to the shipment address stated in the contract and also includes packaging.

(2) If the price does not include packaging according to the agreement concluded and the remuneration for the packaging – not merely provided on loan – is not explicitly stipulated, then said packaging shall be accounted at the verifiable procurement cost price. Supplier must take back the packaging at his own cost if we so demand.

(3) Unless agreed otherwise, we pay the purchase price as from delivery of the goods and invoice receipt within 14 days with 3% discount or within 30 days with 2% discount and within 90 days net.

(4) Our order number, the article number, delivery quantity and delivery address must be stated in all order confirmations, consignment papers and invoices. The payment periods stated in section (3) prolong by the delay in our processing in normal business caused because one or several of these statements are lacking.

(5) In the case of default with payment, we owe default interest of five percentage points over the basic lending rate pursuant to § 247 BGB (*German Civil Code*).

4. Delivery and delivery time, Passage of risk

(1) The delivery time stated in the order (delivery date or period) is binding. Premature deliveries are only admissible with our consent.

(2) If the last day on which delivery must be made can be specified from the contract, then Supplier shall be in default with expiry of that day without this requiring any reminder on our part.

(3) In the case of default with delivery, we are entitled to the statutory claims without restriction, including the right of withdrawal and the claim to damage compensation instead of performance after fruitless expiry of an appropriate subsequent period.

(4) In the event of delivery delays, following prior written warning to Supplier we are entitled to demand a contract penalty for each started week of delivery delay amounting to 0.5% and up to a maximum of 5% of the respective order value. The contract penalty must be credited to the default damage to be compensated by Supplier.

(5) Supplier is only entitled to make partial deliveries in consultation with us. Even if shipment has been agreed, the risk first passes to us when the goods are handed over to us at the agreed destination.

5. Retentions of title of Supplier

Retentions of title of Supplier only apply inasmuch as they relate to our payment obligations for the respective products in which Supplier reserves title. Expanded or extended retentions of title in particular are inadmissible.

6. Warranty claims

(1) We are entitled to the statutory claims without restriction in the case of deficiencies. However, deviating from this, the warranty period is 36 months.

(2) Quality and quantity deviations are in any case deemed complained in due time if we notify them to Supplier within 15 working days after we receive the goods. Concealed material defects are deemed complained in due time if they are notified to Supplier within 15 working days following discovery. We do not waive warranty claims by virtue of accepting or approving samples or specimens presented to us.

(3) The period of limitation for warranty claims is suspended with arrival of our notice of defect at Supplier. In the case of replacement delivery and defect remedy, the warranty period for replaced and repaired parts begins anew unless we must assume from the conduct of Supplier that he did not regard himself as being obligated to such a measure and undertook the replacement delivery or defect remedy solely in goodwill or for similar reasons.

7. Product liability

Supplier is obligated to maintain at his own cost a product liability insurance with a coverage amount of at least EUR 1 million and which, unless agreed otherwise in the individual case, does not need to cover the risk of recall or penalty or similar damages. Supplier shall send us a copy of the liability insurance policy at any time on request.

8. Patent rights

(1) Supplier warrants that no third party patent rights in countries of the European Union, North America or other countries in which Supplier manufactures the products or has the products manufactured are violated in connection with his delivery.

(2) Supplier is obligated to indemnify us against all claims raised against us by third parties due to the violation of industrial patent rights mentioned in section (1) and to compensate us for all necessary expenditure in connection with such recourse to us. This claim exists independent of a fault of Supplier.

9. Replacement parts

(1) Supplier is obligated to keep replacement parts for the products delivered to us on stock for at least 10 years following delivery.

(2) Supplier shall notify us promptly if he intends to discontinue production of replacement parts for the products delivered to us. Notwithstanding section (1), this decision must be notified to us no later than 9 months before production is discontinued.

10. Secrecy

(1) Supplier is obligated to keep the conditions of the order and all information and documents provided for this purpose (excepting publicly accessible information) secret for 2 years following contract conclusion and to only use such information and documents for executing the order. Supplier shall promptly return them to us on demand after inquiries have been processed or orders have been executed.

(2) Without our prior written consent, Supplier may not indicate the business relationship in advertising material, brochures etc. and may not exhibit delivery items manufactured for us.

(3) Supplier shall obligate his sub-suppliers correspondingly in accordance with this §10.

11. Jurisdiction/Choice of law

(1) Place of jurisdiction for any contentions from the business relationship between us and Supplier is as we choose either our domicile or the domicile of Supplier. Mönchengladbach is exclusive place of jurisdiction for lawsuits against us. This regulation does not affect overriding statutory provisions stipulating exclusive jurisdictions.

(2) The relations between us and Supplier are governed exclusively by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG) does not apply.

12. Severability clause/Written form

(1) If the contract or these General Terms and Conditions of Delivery should contain regulatory gaps, these shall be deemed as filled by those lawfully valid regulations which the contract parties would have agreed in the sense of the economic aims of the contract and purpose of these General Terms and Conditions of Purchasing had they recognised the regulatory gap in question.

(2) Additions and amendments to the concluded agreements, including these General Terms and Conditions of Purchasing, must be set out in writing to be effective. With the exception of holders of commercial attorney and managers, our employees are not authorised to reach deviating verbal agreements. The written form requirement is deemed satisfied with transmission via fax; other forms of telecommunication transmission, especially via email, do not suffice.

(3) Note: Supplier acknowledges that we store data from the contract relationship in accordance with § 28 BDSG (*Federal Data Protection Act*) for processing purposes and that we reserve the right to transmit the data to third parties inasmuch as necessary to fulfil the contract (e.g. insurance companies).