

Terms and conditions of purchase Boehlerit GmbH & Co. KG

(Version 01.2009)



1. The following General Purchasing Conditions apply to our orders. We expressly contradict the supplier's General Terms and Conditions of Business, where these include provisions to the contrary. Deviations in the order confirmation are valid only if expressly accepted by us in writing. The execution of the order will be deemed to signify acceptance of these Purchasing Conditions. Orders, order confirmations and call orders must be issued in writing. This also applies to amendments. Orders must be confirmed immediately. The prices indicated in the order are unconditional fixed prices. Costs must not be incurred by us as a result of offers or the provision of samples. Drawings, sketches, models, samples, manufacturing regulations, etc. with which we have provided the supplier to support the preparation of offers or the execution of an order remain our property and may not be used for other purposes, reproduced or made available to third parties.
2. Agreed delivery periods and delivery dates are binding. Delivery periods commence on receipt of the order. We must be advised immediately of delays, giving reasons. Compliance with the delivery period or delivery date will be determined, with respect to goods, by the date on which we receive them, and with respect to services by the date on which work is completed. The supplier is obliged to compensate us for losses caused by delay. We are entitled to refuse to accept goods delivered before the delivery date indicated, and to return them on behalf of the supplier and at the latter's risk, or store them with third parties.
3.
 - a. Deliveries will be effected carriage and packing paid to our premises, unless otherwise agreed. In all cases, the transport risk will be borne by the supplier. The confirmation of receipt is to be considered only as recognition that the goods have been delivered, not that the order has been satisfactorily fulfilled.
 - b. All consignments must be accompanied by a packing slip and a delivery slip quoting our order details such as supplier number, order number, article number and article description. Partial deliveries have to be describes as such the remnant still to be delivered has to be indicated.
4. If, in instances of force majeure, strike or lockout, it becomes impossible or significantly more difficult for us to fulfil our contractual obligations, we may cancel the contract wholly or in part or ask to postpone performance, without this giving rise to any claims by the contractor against us. If the contractor cannot reasonably be expected to execute the order in these cases, the contractor may itself withdraw from the contract.
5. We will notify the supplier immediately in writing of defects, as soon as they are observed in the normal course of business. The supplier renounces the right to object on the grounds of late notification of defects. Confirmation of receipt does not count as acceptance that the goods are free of defects. In the event that spot checks reveal defects, we will be entitled to bring guarantee claims, and claims for compensation, for the whole delivery. The right to vote between removal of defects and new production (new performance) is entitled to us in every case. Improvements after the unsuccessful first improvement attempt as failed.
6. As for the rest the legal regulations apply to the guarantee. In urgent cases, without prejudice to our other claims, we are entitled to remedy defects at the supplier's expense and risk, after notifying the supplier.
7. If loss is incurred by us and / or our customers as a result of defective supplies or services, the supplier is obliged to the replacement of the damage. The supplier who is not merely a dealer also is liable for defects of his deliveries and performances not through his faults. The supplier is responsible for the obtaining of the deliveries and performances and the deliveries and performances required for it and is liable also without a fault of his own.
8. The agreed due dates for payments will be postponed accordingly in the event of delay in delivery or the provision of services. We are entitled to demand interest on our advance payments, for the period of delay, amounting to 8 per cent above the current European Central Bank base rate.
9. Invoices should be sent to us by post, separately from the delivery, in duplicate quoting the order data. Payment periods begin on the date of receipt of the invoice, but not before acceptance of services provided or the receipt of the delivery. The payment is carried out according to agreement or else within 14 days after delivery or removal of the total performance with 3% cash discount or within 30 days net. Without our prior written authorisation, the supplier is not entitled to assign its claims or have them collected by third parties. Consent may not be refused by us without good reason.
10. A contractual penalty which has been forfeited can be claimed by us up to the time when the final invoice is issued or the final payment made. It is not necessary for us to state a reservation at the time of acceptance of performance.
11. The contracting partners undertake to treat all commercial and technical matters not in the public domain of which they gain knowledge as a result of the business relationship as business secrets. In the supplier's advertising, reference may only be made to the business association with us if we have given our consent to this in writing. Manufacturing resources produced at our expense or supplied by us, such as drawings, models, samples, patterns, stencils etc., may not be used for deliveries and services provided to third parties or for the supplier's own purposes.
12. The supplier is liable for claims brought, when its deliveries or services are used for the contractual purposes, as a result of the infringement of proprietary rights and applications for proprietary rights. It indemnifies us and our customers from all such claims. We undertake to advise the supplier immediately of all risks of infringements, and alleged instances of infringement, of which we become aware and to give it the opportunity to counter such claims by mutual agreement.
13. The supplier suspends his payments or becomes the insolvency proceedings about his fortune or applies for a legal insolvency proceedings out of court, we are authorized to withdraw from the part of the contract which has not yet been performed.
14. If a regulation of these conditions and the additional agreements reached should be or get ineffective, then the validity of the other conditions as well as the validity of the contract being based on it is not touched as for the rest through this. The contracting parties are obliged to replace the ineffective regulation by a regulation, if possible, equalling in the economic success.
15. In addition to these General Purchasing Conditions, the appropriate legal regulations apply. They are governed exclusively by the law of the Republic of Austria. The application of the uniform commercial laws of the Hague Convention on the Sale of Goods is excluded.
16. The place of performance for deliveries and services is the intended destination. The place of jurisdiction is our registered office. We are entitled also to bring suits at the registered office of the supplier.