

§1 Scope of Application

All orders and purchase agreements signed by us are subject exclusively to the following Terms and Conditions of Purchase. We shall not accept applicability of any adverse or diverging terms and conditions of the supplier except in case of prior express written consent on our part. Likewise, the unconditional acceptance of goods or services or the payment for such goods or services shall not constitute consent to the supplier's terms and conditions of sale.

§2 Conclusion of Contract

1. Orders as well as any alternations or additions to an order shall only become legally binding if set down in writing, either on paper (letter, fax) or in electronic form. Oral agreements of any kind must be confirmed in writing to become valid.
2. While we have not received the corresponding order confirmation, we shall be entitled to cancel our order free of cost. The supplier shall confirm any order without delay and in writing.
3. If the supplier accepts our order, but only with alterations, he shall be obliged to specify any such alterations clearly and in writing. Any order confirmation specifying alterations shall only become valid if we accept these alterations in writing.

§3 Delivery

1. The agreed delivery periods and dates are binding and must be observed. The relevant point in time for establishing the timeliness of delivery shall be the date of receipt at the place of delivery specified by us.
2. If the supplier anticipates any delay in manufacturing, receipt of raw materials, transport or similar circumstances that might prevent his delivering the goods/services in time and/or in the agreed quality, he shall notify us immediately in writing.
3. In case of delay of delivery, we shall be fully entitled to all statutory rights and claims. The unconditional acceptance of a delayed shipment shall not constitute a waiver of our statutory rights to claims for damages.
4. Partial shipments shall require our prior written approval and are to be explicitly described as such in the shipping documents.

§4 Pricing, Transfer of Risks, Packaging

Except if agreed otherwise in writing, all prices shall be understood as being "Delivered Duty Paid" (DDP acc. to Incoterms 2000), including packaging. The supplier shall bear the costs and risks until acceptance of the goods by us at the place of delivery specified in the order documents.

§5 Invoicing and Payment Conditions

For every goods shipment or service delivery, the supplier shall submit an invoice within five days, separate from the shipment/delivery. The invoice may also be sent per e-mail to invoice@cellofoam.de. If not otherwise agreed, the invoice shall be paid within 14 days less 3% discount, or within 30 days without discount. The 14-day period for discounted payment shall start with the receipt of the invoice. In case of faulty delivery, we reserve the right to retain payment until proper fulfillment of the order, and that without losing the right to any rebates, discounts or similar payment privileges.

§6 Product Liability and Product Recall

1. In the event that one of our customers or a third party shall raise a claims for product liability against us, the supplier shall be obliged to release us from such claims if and to the extent that the damage in question is due to a defective product delivered by the supplier. In these cases, the supplier shall bear all costs and expenses, including any costs of legal proceedings. If the cause of the damage arises from the supplier's area of responsibility, he shall have to prove that he is not at fault.
2. In the event that we have to recall products from third parties because of a defective product delivered by the supplier as described in Clause 1, the supplier shall bear all costs related to the product recall. We undertake to discuss and agree the content and scope of the recall with the supplier as far as possible and reasonable.
3. In regard to all other provisions, the Product Liability Law shall remain unaffected.

§7 REACH Clause and RoHS Clause

1. The supplier undertakes to ensure full conformity with the requirements of the latest version of the regulation on chemical substances EG No. 1907/2006 (REACH regulation). First and foremost, he guarantees that the substances used have been registered. We shall not be required to obtain approval acc. to the REACH regulation for any products or goods delivered by the supplier.
2. The supplier shall inform us immediately if the items covered by the contract should contain substances that have been included in the SVHC candidate list, in Annex XIV or in Annex XVII of the REACH regulation (latest version). Such items resp. substances shall only be delivered if we have given our prior separate approval. The supplier shall release us from any liability in connection with the violation of the REACH regulation, respectively indemnify us for any damages caused by or in connection with the supplier's failure to comply with the REACH regulation.

3. The supplier shall ensure that the goods he has been contracted to deliver are fully compliant with the requirements of the latest version of the 2011/65/EU directive ("RoHS")

§8 Product Modification and Discontinued Products

The supplier shall inform us in good time before delivery of the ordered goods if he intends to modify any processes, materials or components, relocate a production site, or take any other measure that may affect the quality and/or the safety of the products to be delivered. Any such changes require our express approval. The product specifications agreed shall not be modified in any way without our express consent. From the moment we have been informed of the intended modifications, the supplier shall ensure that the materials we ordered can still be supplied in unchanged form and quality for another 36 months.

§9 Target agreement

The supplier commits to delivering flawless products and services. Except in case of specific target agreements, the target value shall be 0 ppm. If a specific ppm value has been agreed, this shall not be construed as the acceptance on our part of a defined level of quality. Also in this case, the supplier must strive for continuous improvement. Quality target agreements shall not limit the supplier's liability for claims relating to defects or damages. We shall not accept delivery of defective goods. The ongoing delivery performance will be reflected in our supplier rating.

§10 Warranty and Claims for Defects

1. We shall be fully entitled to all statutory rights and claims for defects in material or title.
2. The goods delivered shall be accepted with the reservation that upon inspection they will prove to be complete and without defect. We shall inspect the goods as soon as possible and to the extent that this can be done in the scope of our ordinary course of business. We shall file a complaint immediately after detection of a defect. Consequently the supplier shall waive his right to reject the claim on the grounds that it was belated.
3. The period for claims for defects relating to the items or services delivered by the supplier shall expire after 24 months. Any longer statutory periods of limitation shall remain unaffected by this clause. The period of limitation for claims for defects starts with the complete delivery of the goods respectively with the completion of the contractual performance. For repaired items or items supplied as replacement for items found defective in the original shipment, the period of limitation shall start afresh except if the repair or replacement delivery was explicitly described as a goodwill gesture by the supplier.
4. Any defects claimed within the period of limitation shall be remedied by the supplier in such a way that we shall not incur any costs. The supplier shall also carry any ancillary or consequential costs such as costs for transport, travel, work, disassembly or installation.
5. We shall have the right to choose the type of subsequent fulfilment. The supplier shall only be entitled to refuse the chosen type of subsequent fulfilment if it is unreasonably expensive.
6. In the event that the supplier does not start the subsequent fulfilment immediately after receiving our claim for defects, in urgent cases, especially in order to prevent acute danger or more extensive damage, we shall have the right to remedy the defects ourselves, or have them remedied by a third party, at the supplier's cost.

§11 Confidentiality and Intellectual Property Rights

The supplier is obliged to consider all orders and agreements as trade secrets and keep them fully confidential. All technical and commercial details that are not publicly available and have come to the supplier's knowledge in the course of the business relation shall be deemed confidential and must not be disclosed to third parties. All technical documents, data, materials etc. that we have made available to the supplier as part of the contract shall remain our property. All trademark rights, copyrights and other intellectual property rights shall remain with us. The supplier shall be liable for any damages incurred because of a violation of his aforesaid obligations.

§12 Final Provisions

1. If any part of these General Terms and Conditions of Purchase should be or become invalid, the remaining provisions shall remain unaffected.
2. All our contractual relations are subject exclusively to the law of the Federal Republic of Germany to the exclusion of the conflict-of-laws provisions and the UN Sales Convention (CISG).
3. The place of performance is the place of delivery specified in the purchase order not the place where the service is to be rendered.
4. Insofar as the supplier is a merchant as defined by the German Commercial Code, a legal entity under public law or a separate estate under public law, the court of jurisdiction for all present and future claims arising from the business relation shall be the place of our registered office.