

General Terms and Conditions of Purchase

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§ 1 General Information Scope

1. Our Terms and Conditions of Purchase apply exclusively; we do not recognize Supplier's terms and conditions that are contrary to, or deviate from, our Terms and Conditions of Purchase unless we have expressly agreed in writing to their applicability. When we accept order confirmations, deliveries, services, or payment thereof, the lack of an explicit declaration by ABEL does not mean that we accept Supplier's terms and conditions.
2. All agreements between Supplier and ABEL regarding the fulfilment of this Agreement are included in writing in this Agreement or, as applicable, in documents appended thereto. **If individual agreements that may completely or partially supplement these general Terms and Conditions exist in writing, these individual agreements supersede these general Terms and Conditions of Purchase only within the scope of the individual provision. For all else, these general Terms and Conditions of Purchase shall apply.**
3. Our Terms and Conditions of Purchase shall be valid only vis-à-vis entrepreneurs in the sense of section 310, para. 1 of the German Civil Code [Bürgerliches Gesetzbuch – „BGB“]; and for all future commercial transactions and contracts with Supplier, even without express reference thereto.

§ 2 Quotation - Quotation Documents

1. Deliveries or services must comply with our orders and contracts in all respects. We must be informed of any deviations in writing so that ABEL is given the opportunity to examine these deviations for approval.
2. Orders are binding when placed or confirmed in writing and Supplier does not contest them within five days of the day they are received. If we do not receive a written confirmation of the order within 14 days of receipt of the order copy, we are entitled to cancel our order without charge.
3. ABEL retains the ownership and copyright of illustrations, drawings, calculations and all other documents. This also applies to those documents designated as „confidential“. Supplier must receive our express written permission before passing these documents on to third parties.
4. Our illustrations, drawings, calculations and other documents may only be used for production based on our order. They must be returned to us immediately upon our request, at the latest, however, upon fulfilment of the order and without request.
5. Our order number must always be included in all written correspondence, including invoices and shipping documents.

§ 3 Prices Terms and Conditions of Payment

1. The agreed-upon prices are not-to-exceed prices; price reductions that occur between ordering and payment of the invoice shall be to our benefit. Prices include, in particular, charges for freight, packaging and material testing procedures. Claims based on additional deliveries and/or services may only be asserted after the contractual parties previously agree to and commission the additional delivery and/or service in writing. Otherwise, additional claims above the agreed not-to-exceed price are excluded.
2. The supplier bears any and all customs duties, taxes, charges and import expenses arising from the order.
3. The goods should be packed in a manner that prevents damage during transport. The price also includes the cost of returning the packaging. According to the German packaging ordinance (Verpackungsordnung), Supplier is legally required to take back the packaging of the delivered item. In every case, Supplier shall bear the cost for the return transport and the recycling/disposal of packaging that does not comply with statutory requirements.
4. The prices do not include statutory value added tax.
5. Invoices, including the order and item number, should be issued without delay after goods are shipped.

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Value added tax should be specified separately. If Supplier is to provide samples, test certificates, quality documents or other documents contractually agreed, delivery and service is not considered complete until these supporting materials and documents are received by ABEL. If the above information and/or documents are not supplied, ABEL shall have the right to refuse performance with respect to invoice settlement until the documents are provided in due and complete form.

6. Unless otherwise agreed in writing, payment of the purchase price will be made 90 days after delivery and acquisition of title for the goods delivered, the receipt of an auditable invoice and the reception of all documents that are contractually required. When payment is made within 14 days after receipt of the auditable invoice, but at the earliest after delivery and acquisition of title by Supplier, Supplier shall grant a discount amounting to 3%, for payments made within 30 days, a discount amounting to 2% for payments made within 90 days of the amount of the price excluding statutory value added tax. For partial deliveries, payment shall not be due until final delivery. This does not apply for contracts for delivery by instalments.
7. We shall not be in default unless we have received a dunning letter. In the event that we are in default of payment, you are entitled to charge interest on this account receivable at a rate of 2% above the base lending rate.
8. Payment is made conditional upon proper delivery as well as accuracy in regard to pricing and calculation. Payments made by us do not indicate acceptance of invoicing. If a defect that is subject to warranty obligations is found, we shall be entitled to retain payment pro rated in value until the warranty obligation is fulfilled.
9. Claims may only be assigned with our written consent. If Supplier, as a processor, has acquired material, which Supplier delivers to us, under extended reservation of title, our consent to this advance assignment of future claim is hereby given.
10. Supplier may only have Supplier's claims effected by third parties with our written consent.
11. The contractual obligations of Supplier may, in whole in or part, be fulfilled by this third party only with our prior written consent.
12. Supplier is only entitled to charge for claims that are uncontested or legally determined. In addition, Supplier is authorised to carry out a right of retention only insofar as Supplier's counter-claim is based upon the same contractual relationship.
13. We can set-off all of Supplier's claims with all claims to which we (or a firm associated with us) are entitled against the supplier.

§ 4 Delivery

1. The deadline for delivery and/or service specified in the order is binding. The delivery and/or service deadlines are understood to represent the receipt of the delivery at our works or at the delivery address (delivery) that we have named.
2. Early deliveries or partial deliveries may only be made with our written consent. We are entitled to refuse to accept goods that are not delivered according to the delivery deadline specified in the order and to return them to the supplier or store them with a third party at Supplier's expense and risk.
3. A delivery note, which must include our order number and order item, must be included with every delivery.
4. The consequences of incorrect or incomplete shipping documents, or shipping documents that are received late, are at Supplier's expense.
5. Transport insurance shall be arranged by Supplier at Supplier's expense.
6. As concerns the number of items, weight and dimensions, the values determined by us during goods receipt control shall be decisive, unless such quantities, weight and dimensions are proven to be otherwise.

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7. If Supplier determines that Supplier shall not be able to meet the agreed deadlines for any reason, Supplier must inform us thereof in writing without delay. The obligation to observe agreed deadlines remains unaffected thereby.
8. If Supplier is delayed regarding the delivery/service (hereinafter jointly referred to as „Delivery“), we shall be entitled to assert damages amounting to 0.2% per calendar day of the delay — at the most, a total of 5% of the value of the agreed Delivery. This shall also apply if we withdraw from the Agreement.
Supplier shall fulfil our claim of such damages arising from such delay up to the time of full payment.
In the event of a delay in Delivery, we shall be entitled to claim compensation for damages instead of the Delivery/service and demand withdrawal after expiration of an appropriate deadline. Should we demand compensation for damages, Supplier shall have the right to prove that Supplier is not responsible for the breach of duty.
All legal claims in the event of delay remain unaffected thereby.
9. After a reasonable grace period set by us has expired, we may, additionally and regardless of any other and/or further rights that we may have, assign services, which Supplier has failed to render, to a third party at Supplier's expense.
Should Supplier be in possession of any documents required for rendering such services, Supplier must submit them to us without delay.
If patent rights hinder Delivery by the third party, Supplier shall be obligated to provide an appropriate release of these rights without delay.

§ 5 Force Majeur - Release from Obligation to Render Service

If we are prevented from receiving the contractual item on account of industrial disputes, disruptions in operations through no fault of our own, force majeure or other unavoidable events, we shall be released from the obligation to accept the item in a timely matter for this time. In such cases, Supplier shall not be entitled to make compensation claims for damages or any other claims.

§ 6 Transfer of Risk - Documents

1. Unless agreed otherwise in writing, Delivery shall be made „carriage paid“ to ABEL. Risk shall be transferred upon transfer of Delivery.
2. Supplier shall be obligated to provide documentary evidence of origin with all required information, properly signed, without delay. The same shall apply to supporting documents for value added tax purposes for foreign and intra-EU Deliveries.
3. Supplier shall be obligated to inform us without delay in the event that a Delivery is subject, in whole or in part, to export restrictions under German or other law.

§ 7 Inspection for Defects - Liability for Defects

1. Supplier's warranty obligations shall be subject to legal regulations provided that nothing that differs occurs hereafter.
2. Supplier guarantees that the Deliveries meet the agreed specifications and observe all pertinent laws, ordinances, directives and standards relating to technical safety, occupational safety and health, environmental protection and fire protection.
3. Supplier is to orient the quality of the goods to be delivered to us to the state of the art and to inform us of possibilities for improvement and technical change.

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4. The warranty obligation shall last for 24 months, starting from the time of commissioning or when we carry out final technical acceptance of Delivery. If the statutory warranty obligation is longer, this shall apply.
The warranty period is 24 months, starting from the Delivery, for deliveries for which commissioning or final technical acceptance is not planned. If the statutory warranty obligation is longer, this shall apply.
5. For Deliveries that we re-sell, the above-named warranty period shall start with commissioning or final technical acceptance carried out by our purchaser.
The warranty period is 24 months, starting from the Delivery to our purchaser, for Deliveries for which commissioning or final technical acceptance is not planned.
However, the warranty period ends at the latest 36 months after Delivery is made to the Delivery address requested from us. If the statutory warranty obligation is longer, this shall apply.
6. Unless a differing agreement exists, Delivery is deemed inspected without delay if the inspection occurs within 10 days after delivery.
We comply with our obligation to notify of defects without delay if we report a defect to Supplier 14 days after it is discovered.
7. If the Delivery is defective, we are entitled, at our choice, to assert all statutory warranty claims within the warranty period.
If repairs are required to a degree that we find unacceptable, ABEL may demand that a replacement Delivery be made without charge.
8. In urgent cases, or when Supplier defaults as regards rectifying the defect, we may carry out the necessary measures, at Supplier's expense, either by ourselves or we may have them performed by a third party. We shall inform Supplier of these measures before they are carried out. If this is not possible, the necessary measures needed to rectify smaller defects, to prevent disproportionately larger damage, or to avoid endangering the operational safety of our customer or us may be carried out without prior notification; in this case, we shall inform Supplier about the reason, type and scope of these measures without delay thereafter. Supplier's warranty obligation shall remain unaffected thereby.
9. Expiration of the warranty period shall be arrested for the time between notification of the defect and its rectification. The warranty period for replaced or repaired parts shall begin anew when the Delivery is brought to the contractual, defect-free state of usability.
10. We do not relinquish our designated rights by acceptance and use of the Delivery or through the approval of Supplier's drawings or other documents. Our payment does not mean that we accept the Delivery as contractual or free of defects.
11. All Deliveries and services (including outgoing and return transport, and travel and work expenses) required to fulfil the warranty are at Supplier's expense. **The place of performance for fulfilling the warranty is the location of the pump or of the related workpiece. ABEL shall inform Supplier thereof as required.**

§ 8 Product Liability and Liability Insurance

1. In the event that claims are brought against us concerning the violation of official safety regulations or domestic or foreign product liability regulations resulting from a defectiveness of our product that is attributable to Supplier's Delivery, Supplier shall be obligated to indemnify us upon our first request from any claims for damages by third parties to the effect that the damage is due to the goods delivered by the Supplier.
2. Insofar as possible, Supplier shall label the contractual items, without cost, in a manner which makes them permanently identifiable as Supplier's products. Exceptions shall be regulated by individual agreements.
3. If the cause of the damage falls within Supplier's area of responsibility, Supplier shall assume in this case all expenses and charges, including the expense of possible prosecution or recall. For all else, statutory provisions shall apply.

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4. Supplier shall implement state-of-the-art quality assurance which is suitable with regard to its kind and extent and prove this to us upon request. Upon ABEL's request, Supplier shall conclude a quality assurance agreement.
5. Supplier shall contract for an appropriate amount of insurance against all product liability risks and allow us to examine the insurance policy upon demand.

§ 9 Third-Party Proprietary Rights

1. Supplier guarantees that no rights of third parties are violated in connection with Supplier's Delivery. If we are nevertheless accused of a possible violation of the rights of a third party, such as copyright, patent and other proprietary rights, Supplier shall, upon our first request, indemnify us against this and against all services connected to this. Supplier's indemnity obligation applies to all our expenditures which result from or in connection with the adequate causal claims of third parties.
2. We shall be entitled to make each and any agreement with the third party, especially a settlement, without the consent of Supplier. We shall be entitled to obtain a license from the legal owner of the proprietary right at Supplier's expense.
3. Claims for legal deficiencies come under the statute of limitations 10 years after delivery.

§ 10 Reservation of Property Rights for Supplies and Tools - Obligation of Non-Disclosure

1. Materials, items, models, tools and parts that we supply shall remain our property. These may be used only for their intended purpose. The processing of materials and assembly of parts shall be carried out on our behalf. If our substances and materials are processed together with other items that do not belong to us, we shall acquire joint ownership of the new item in the proportion of the value of our item to the value of the other processed items at the time of processing. If compounding takes place in a manner causing Supplier's item to be considered the chief item, it is agreed that Supplier assigns proportional joint ownership to us.
2. The tools that we provide remain our property; Supplier shall be obligated to use the tools only for the production of the goods that we have ordered. Supplier shall be obligated to insure the tools that belong to us at their original value against fire and water damage as well as losses caused by theft at Supplier's own expense. If maintenance work and inspections are required, Supplier must carry these out in a timely manner at Supplier's own expense. Supplier must inform us of all malfunctions; if Supplier culpably neglects to do so, claims for compensation of damages by ABEL remain unaffected.
3. If an item supplied by ABEL (paragraph 1) is destroyed or becomes unusable because of incorrect storage, handling or processing, Supplier shall compensate us for the resulting damage. Supplier shall provide us with proof of an appropriate amount of insurance protection upon request.
4. Supplier shall be obligated to keep all illustrations, drawings, calculations and other documents and information received from us strictly confidential. These may only be shown to third parties with our express permission. The obligation of non-disclosure also applies after the fulfilment or failure of this Agreement; it ends if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents that were provided has entered the public domain. Upstream suppliers shall be obligated accordingly.

§ 11 Jeopardised Fulfilment

If the financial situation of Supplier deteriorates during the duration of the order in a manner that seriously jeopardises fulfilment of Agreement, if Supplier suspends payments (even temporarily), or an insolvency procedure or an in-court or out-of-court composition procedure is applied for, we shall be entitled to withdraw from the portion of the Agreement that has not been fulfilled. We shall be entitled to withdraw completely if partial fulfilment is not in our interest.

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§ 12 Foreign Trade Legislation

Supplier shall provide the following information in quotations and order confirmations:

A declaration of whether or not the contractual item requires advance approval and the relevant index number according to German export legislation; a declaration of a possible registration of the supplier's product according to the US Commerce Control List („US-CCL“) and the relevant list number; a declaration of whether or not the goods require an export permit according to the valid EC Dual-Use Regulation and the relevant index number, statistical product number, country of origin of the goods.

In the event that we do not receive the required export permit, we expressly retain the right to withdraw from the Agreement.

§ 13 Software

1. The software is relinquished to us on commercial storage media in machine-readable code together with user documentation. When software is specially developed for us, a source code with the manufacturer's documentation shall also be relinquished to us. Copies of the source code and the manufacturer's documentation shall be given to us upon acceptance and must correspond to the level of the program at the completion of the test phase. The costs are included in the price of goods/contract price.
2. In context of a software warranty, Supplier shall immediately adopt measures that are run into the source code and the manufacturer's documentation for ABEL without charge; a copy of the currently revised version shall immediately be made available to us.

§ 14 User Rights

1. We shall acquire a comprehensive, indisputable user right to all software (or portions thereof) developed for us and all other performance results. This user right shall be irrevocable, exclusive, unrestricted in time and territory, and includes every known type of use, including the right to reprocess, copy, change, and enhance it and to grant simple user rights to third parties, provided that no restriction results from the following paragraphs.
2. If the acquisition of a user right pursuant to the previous paragraph is prevented by third-party rights to third-party programs or other third-party performance results included in the services, the scope of our user right shall be agreed in the contract in accordance with the instructions of Supplier.
3. Supplier shall remain authorised to continue to use standard programs, program components, tools and the know-how introduced by Supplier that were used in the development of the performance result, even for third-party orders. The software that was developed for us may not be copied, processed or used in any other manner. Supplier shall only be permitted to publish any sort of performance results developed for us, including parts, only after receiving our written approval.

§ 15 Data Protection

1. We declare revocable consent that personal data that has been provided shall be handled and processed in compliance with statutory provisions.
2. Supplier declares Supplier's revocable consent that personal data that has been provided shall be handled and processed in compliance with statutory provisions.

§ 16 Jurisdiction - Place of Performance - Applicable Law

1. If Supplier is a business, the agreed place of jurisdiction is our registered offices. However, we shall be entitled to assert our claims at Supplier's general place of jurisdiction.

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2. The place of fulfilment for deliveries is the place of use; for payments, it is our registered offices.
3. In addition to the Agreement provisions, only the authoritative law of the Federal Republic of Germany applies for the legal relations of domestic parties. The validity of the UN Sales of Goods Act is excluded.

§ 17 Severability Clause

If individual provisions of these General Terms and Conditions are or become invalid or contain a regulatory gap, the remaining provisions shall remain unaffected thereby.

§ 18 Other

We shall only be exempted from the duty to deduct tax under section. 48 b para. 1 German Income Tax Act [Einkommensteuergesetz - „EStG“] if Supplier presents a valid exemption certificate from the appropriate tax office issued in Supplier's name. The submission of a copy of the exemption certificate shall be sufficient.