

GENERAL TERMS AND CONDITIONS OF PURCHASE for Huesecken Wire GmbH, 58119 Hagen

Scope

1. These General Terms and Conditions of Purchase apply to all entrepreneurs, legal entities under public law and special funds under public law (hereafter referred to as "Partner").
2. These General Terms and Conditions of Purchase apply for all (supply) framework contracts (hereafter referred to as "contract") and all individual contracts and/or orders placed as part of a contract (hereafter referred to as "individual contract") with a Partner. The following terms and conditions apply exclusively; we shall not recognize terms and conditions of the Partner which conflict with, or deviate from, our terms and conditions, unless we have expressly agreed to their validity in writing.
3. In the case of an ongoing business relationship, the General Terms and Conditions of Purchase also apply for all future orders and contractual relationships between the Partner and us.

Ordering

4. If the parties have an ongoing business relationship, the contract will be formed on the basis of an individual order if the Partner does not oppose the individual order within five days.
5. The following applies in all other cases: If the Partner fails to accept our order within two weeks from receipt, we shall be entitled to cancel it.
6. Call-offs shall become binding at the latest if the Partner fails to object in writing within five days from receipt.
7. We can, provided this is within the realms of what is reasonable for the Partner, request changes to the item(s) supplied. Any effects of such amendments, in particular, in respect of increased or reduced costs and changes to delivery deadlines, are to be regulated appropriately and by mutual agreement.

Long-term and call-off contracts / Price adjustment

8. Contracts of indefinite duration and contracts with a term of more than one year may be terminated by us on giving 3 months' notice.
9. For long-term contracts (contracts with a term of more than six months and contracts of indefinite duration), where there is a significant change to wage, materials or energy costs, we are entitled to require appropriate price adjustment, taking account of these factors.
10. If the Partner knows, or should have known, upon concluding the contract that we need the parts that are to be delivered by the Partner for the manufacture of parts that we have to deliver to our own customer as part of a lifetime contract, the Partner undertakes to us to supply the product over the lifetime on the agreed conditions.
11. The Partner must inform us immediately in writing if it intends to amend or discontinue its production of a product that we have previously obtained from it within the last three years or in respect of which it has agreed to supply on a long-term basis. Unless otherwise agreed, the intended amendment may only be made, at the earliest, after the expiry of a period of 24 months from receipt of the notification of amendment/discontinuation. If there would not otherwise be an obligation to supply, the Partner must give us the opportunity to place a final order after expiry of the 24-month period. This must not exceed an anticipated requirement for 24 months. The conditions in force at the time the final order is placed shall apply in all other respects. In no circumstances shall this provision lead to a shortening of the notice period for termination or the agreed contract duration.

Confidentiality

12. Each party to the contract shall use all the documentation (this includes samples, models, and data) and knowledge which it obtains from the other party under this business relationship only for the agreed joint purposes and shall keep such documentation and knowledge secret, using the same care as it does for its own comparable documentation and knowledge, where the other party to the contract identifies such documentation and knowledge as confidential or has an obvious interest in maintaining its secrecy.
13. This obligation comes into effect from the point in time at which the documentation or knowledge was first acquired and expires 36 months after termination of the business relationship.
14. The obligation does not apply to documents and knowledge which are generally known or which were already known to the party to the contract upon receipt without being obliged to maintain secrecy, or which are subsequently transmitted by a third party entitled to pass them on or which are developed by the receiving party to the contract without using confidential documents or knowledge of the other party.

Drawings, descriptions and other documents

15. Images, drawings, calculations, descriptions and other documentation provided by us to the Partner remain our inalienable physical property in which we expressly retain the subsisting copyrights, and which must be returned to us after performance of the individual contract is complete. Disclosure to third parties requires our express consent in writing.
16. The Partner shall transfer ownership of any drawings or descriptions drawn up based on information provided by us once they have been paid for in full.

Pricing

17. Unless otherwise agreed, all prices of the Partner are deemed to include free shipping to our address exclusive of the statutory value added tax applicable at the time of invoicing. All ancillary costs, such as costs of freight, insurance, export, transit, import and other permits and certificates, are included in the price. The Partner shall also bear all taxes, charges, fees and duties of any kind.
18. If the taxes, charges, fees and/or duties to be borne by the Partner during the term of the contract change, the Partner is required to present

alternatives. If the parties are unable to agree on an alternative, the prices agreed to date shall continue unchanged for the following year. The prices may be adjusted accordingly after that, provided that it would be unreasonable for the Partner to continue at the agreed price.

19. The date of receipt of payment is deemed, for all means of payment, to be the date on which we no longer have the amount at our disposal.
20. We are required under the terms of the contract to pay the purchase price and accept delivery of the goods. Should the Partner fail to comply with one of its obligations under the contract concluded with it or under statute, we may, without prejudice to any further statutory claims it may have, withhold all payments or performance.
21. If no binding order quantity has been agreed, the Partner's calculation shall be based on the non-binding order quantity (target quantity) provided by us.

Proof of origin, VAT-related evidence and export restrictions

22. If we request proof of origin, the Partner shall include all necessary information in it and provide a duly signed document immediately. The Partner shall inform us immediately, without request, if the information in the certificate of origin no longer applies to the goods supplied.
23. The same applies for VAT-related evidence for deliveries abroad and intra-community deliveries.
24. The Partner shall inform us immediately if an entire delivery or parts thereof are subject to export restrictions under German or other law.

Terms and conditions of payment, assignment of claims

25. Unless agreed otherwise, and subject to the provisions in clause 27, we will pay within 14 days from delivery and receipt of a proper invoice with a 3 (three) per cent discount, or the full amount within 30 days. The due date for payment is always based upon the later of the two dates.
 26. If an early delivery is accepted, the due date shall be based on the stipulated delivery date.
 27. In the event of faulty delivery or default on delivery, we shall be entitled to withhold payment in proportion to the value until due performance is made.
 28. The Partner shall not be entitled to assign its claims against us or to have them collected by third parties without our prior written consent, which may not be unreasonably refused. Where extended retention of title applies, such consent shall be deemed given.
- If, contrary to sentence 1, the Partner assigns its claims against us to a third party without our consent, the assignment shall be effective nonetheless. However, we shall, at our own discretion, be entitled to choose to settle payment either with the Partner or the third party with discharging effect.
29. If an individual contract requires us to make payment in advance and if, after signing the contract, it becomes clear that our rights to delivery based on the contract are put at risk by an inability to meet its obligations on the part of the Partner, we shall be entitled to withhold payment and to set a reasonable deadline with the Partner within which it shall provide step by step deliveries against payment or provide a guarantee. An inability to meet its obligations on the part of the Partner shall be inferred if Euler Hermes Forderungsmanagement Deutschland GmbH rates the Partner's creditworthiness as "high risk" (category 7) or worse. If the Partner declines or if the agreed deadline passes with no delivery being made, we shall be entitled to withdraw from the individual contract and to claim compensation.

Delivery and transfer of risk

30. Unless otherwise agreed, receipt of the goods at the place of performance shall be decisive in determining whether the delivery deadline has been complied with.
31. Partial deliveries are only permitted where it would not otherwise be possible to avoid a supply shortfall. We are only required to accept a partial delivery where the Partner has informed us prior to making the partial delivery that there is a risk of a supply shortfall and the Partner presents solutions for the avoidance of future supply shortfalls or justifies why there are currently no solutions for the avoidance of future supply shortfalls. The additional costs incurred in connection with partial deliveries shall be borne by the Partner. The outstanding remainder of the delivery must be itemised in the event of partial deliveries which are agreed or permitted in accordance with the above. The acceptance of partial deliveries which have not been agreed shall not be deemed to be an acquiescence.
32. The agreed delivery quantities must be adhered to. Production-related excesses or shortages are only permissible when this has been expressly agreed in writing.
33. Unless agreed otherwise, the Partner shall deliver free to the door. As a result, the risk is transferred to us once the Partner has brought the goods into our warehouse.

Working on our premises

34. Any persons who, in order to fulfil the Partner's obligations, are working on our premises are subject to the provisions of our work regulations and our instructions with regard to the accident prevention, health and safety, environmental and other regulations applicable on our premises. Hazardous materials may only be used within our premises with the approval of our specialist staff and must be properly marked.

Default in delivery

35. If the Partner can foresee that the goods cannot be supplied within the agreed delivery period, it must immediately inform us of this in writing, stating the reasons for the delay and, if possible, when it anticipates being able to supply said goods. Any claims by us regarding default in delivery on the part of the Partner remain unaffected thereby.

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Retention of title

36. The Partner retains the title for the goods supplied until they have been paid for in full (simple retention of title).

Material defects

37. The Partner must deliver goods that meet the contractual requirements in respect of quality and nature and packaging or container. In particular, the goods must be suitable for the use that has been brought to the attention of the Partner upon concluding the contract. If the Partner has created an initial sample, the goods must have all the qualities of the initial sample. If the use known to the Partner cannot be achieved using the qualities of the initial sample then the goods are not conform to contract. This also applies where the initial sample has been approved by us.

38. If the Partner is not and should not have been aware of the use, or if the Partner does not create an initial sample, the goods only conform to contract if the goods are suitable for purposes for which goods of a similar nature are commonly used.

39. Unless the parties have agreed otherwise, the goods shall conform to contract if the goods conform to the requirements of the receiving country. If the Partner is or should have been aware that the goods will be used in several countries, the goods will only be conform to contract if they meet the conditions of all the countries of destination known to the Partner.

40. For its deliveries, the Partner must comply with European Union regulations and the laws of the Federal Republic of Germany, e.g. the REACH Regulation (Regulation EC No. 1907/2006), the German law on electrical and electronic devices (*ElektroG*) and the German law on the use of hazardous materials in electrical and electronic devices (*ElektroStoffV*) as the national implementations of Directives 2002/95/EC (*RoHS I*) and 2011/65/EU (*RoHS II*) and Directive 2002/96/EC (*WEEE*) and the German law on old cars (*AltfahrzeugV*) as the national implementation of the EU Directive 2000/53/EC.

The Partner will inform us immediately about any changes to goods as a result of statutory regulations, in particular the REACH Regulation, when they can be delivered, possible applications and quality and will agree suitable measures with us on a case-by-case basis. The same applies as soon as and insofar as the Partner is aware that such changes are to be made.

41. The warranty period amounts to 36 months. If a deviation from the specification becomes apparent within the warranty period, the Partner undertakes to carry out an analysis of the deviation immediately upon receiving the complaint. The Partner will notify us of the outcome of the analysis immediately in the form of an 8D report.

42. We shall lose the right to assert the non-conformity of the goods to contract if we do not bring it to the attention of the Partner within a reasonable period after the point at which we become aware or should have become aware of it. The applicable law is to be taken into account in calculating the deadline. If the goods do not conform to the contract, we may elect either to demand repair or delivery of a replacement. In the event of repair, the Partner is required to bear all the expenses necessary for remedy of the defect, especially transportation and shipment costs, labour costs and material costs.

43. Where the defect is not successfully remedied, we are entitled to choose either to withdraw from the contract or demand a discounting of the price.

44. If the goods are defective, the Partner shall reimburse us for all costs and damages we incur in connection with the delivery of the defective goods unless the Partner is not responsible for the defect. This does not extend to courtesy costs but does include all costs and damages incurred as a result of a recall or other service campaigns, regardless of whether these are undertaken voluntarily or on the basis of an order from the authorities, provided that the recall or service campaign is undertaken as a result of a defect in the contractual product or another breach of obligation by the Partner.

45. Claims for defects become time-barred after 36 months. This does not apply for defects in a building or in goods that were used for a building in accordance with their usual method of application and which have caused the building defect.

Defects of title

46. The Partner guarantees that deliveries are not subject to any third party rights and, in particular, that the supply and use of the goods does not infringe any patents or other industrial property rights held by any third party in the country to which the goods are to be delivered, within the European Union, Switzerland, Turkey or – insofar as the Partner has been informed of these – in the countries in which the goods are intended to be used.

47. Insofar as the Partner is directly liable to the third party by law, the Partner shall indemnify us against any claims by the third party arising as a result of infringements of industrial property rights.

48. We undertake to inform the Partner within 14 days of any claims made by third parties in respect of industrial property rights over the delivered products.

We shall be entitled to demand that the Partner make any changes which are necessary because of third-party industrial property rights claims at its own cost, including to goods which have been delivered and paid for. Further claims remain unaffected.

49. If the Partner is prohibited from manufacturing or supplying by a third party claiming an industrial property right, we shall be entitled to refuse to perform our obligation to accept delivery until we have clarified the legal position with the third party unless we are responsible for the infringement of the industrial property rights.

50. Should we incur costs as a result of the refusal to accept delivery of products, the Partner shall be required to compensate such costs. This does not apply to courtesy costs.

51. Should we incur damages as a result of the refusal to accept delivery of products, the Partner is required to compensate such damages unless the Partner is not responsible for the infringement of the industrial property rights.

52. If there are delays in the continued performance of the order which are not immaterial then, without prejudice to any other rights, we shall be entitled to withdraw from the contract.

53. Any claims arising from defects of title shall become time-barred in the same period as applies for material defects.

Quality assurance

54. The current version of ISO 9001 forms an integral part of these terms and conditions.

55. The Partner is not authorised to make changes to the products, processes, technical data, specifications, materials, quality criteria, timeframes, delivery quantities, or to relocate the production facilities unless these have no effect on our requirements for the product.

56. The Partner shall notify us immediately in the event that it fails a recertification audit. The Partner is required in such a case to establish the requirements for a fresh certification without delay.

57. We work on the assumption that the manufacturing process operated by the Partner is safe and that it will be possible to identify all deviations from the contractually agreed qualities through the testing methods and testing cycles set out in the production control plan before dispatch. The Partner is required to expressly notify us in writing where this is not the case.

Other claims, the Partner's liability

58. The Partner shall be liable for every form of contractual breach as well as for every form of statutory claim for damages under the statutory provisions, unless these terms and conditions provide otherwise.

59. If any claims are made against us because of a breach of official safety regulations or on the basis of domestic or foreign product liability regulations or laws due to a defect in the product which can be traced back to the Partner's goods then we shall be entitled to demand compensation from the Partner for such damage, provided that it has been caused by the products delivered by the Partner. Such damages also include the costs of any recall campaign carried out. Where a fault appears in a part delivered by the Partner, it shall be assumed that the fault has arisen exclusively within the Partner's scope of responsibility.

60. The Partner shall also indemnify us against all third-party claims brought against us in connection with a product liability claim the cause of which can be traced back to a fault in the Partner's product.

61. The Partner shall take out insurance with a suitable indemnity level to protect against all risks arising out of product liability including the risk of recall and exhibit a copy of the policy to us on demand.

Our liability

62. Any claims for damages arising on any legal grounds whatsoever can only be made against us in cases of wilful intent or gross negligence by our legal representatives or managers and in the event of culpable breach of fundamental contractual obligations, that is to say, those obligations which must be met in order for the fulfilment of the contract to be possible and the fulfilment of which the party to the contract routinely expects and is entitled to expect will be complied with. In the event of culpable breach of fundamental contractual obligations, we are only liable for reasonably foreseeable, contractually typical damages.

63. This limitation of liability does not apply for cases in which we are strictly liable for damage to persons or property in accordance with the German Product Liability Act (*Produkthaftungsgesetz*) or for injury to life, health or limb.

Right of HUESECKEN to withdraw / Termination of contracts of indeterminate duration

64. In the event of unforeseen circumstances for which we are not responsible which materially change the economic significance or the substantive nature of the performance or have a material effect on our operations and which in the individual case subsequently lead to impossibility for which we are not responsible, we shall have the right to withdraw from the contract in whole or in part unless such partial withdrawal would be unreasonable to the Partner. Other statutory rights of withdrawal are hereby unaffected.

65. The Partner shall have no claim for damages as a result of such a withdrawal. If we want to exercise our right of withdrawal, we must notify the Partner, even where we initially agreed an extension of the delivery period with the Partner.

66. Contracts of indefinite duration may be terminated by us on giving 3 months' notice.

Data protection

67. The processing of personal data about employees of the Partner takes place in accordance with Articles 6(1)(b) and (f) GDPR for the purposes of processing and handling business transactions which have already been entered into and ongoing business, entering into new contracts or for similar business relations which serve to safeguard HUESECKEN's legitimate interests.

68. HUESECKEN collects, processes, stores and erases personal data about the Partner's employees only in accordance with the principles of Art. 5 GDPR.

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Place of performance, place of jurisdiction, severability

69. For both parties to the contract, the place of performance for all rights and obligations arising from and in connection with this contract is 58119 Hagen, Germany.

70. For all disputes arising from and in connection with this contract, including those relating to the processing of bills of exchange or cheques, the place of jurisdiction shall be our registered office. We are also entitled to initiate claims at the Partner's registered office.

71. Should a provision of these terms and conditions be or become ineffective in whole or in part, this shall not affect the validity of the remaining provisions or the remaining part of the provision.

International contractual partners

72. Where the Partner has its place of business outside of Germany, the following provisions shall apply in addition or, where appropriate, instead of the above:

This contract is governed exclusively by German law.

73. In the event of conflicting offers and acceptances of contract, delivery shall be deemed to be a new offer containing the terms and conditions last declared by us.

74. In the event of a defective delivery, we shall be entitled in any event to claim rescission of the contract.

75. Claims arising out of breach of contract may be made at any time after notice of defect has been given regardless of the point during the warranty period at which the notice was given.

76. Claims for damages are not limited to foreseeable damages.

77. In the event of a conflict between a provision in the "International contractual partners" clause and the remaining General Conditions of Purchase, the provision in the "International contractual partners" clause shall take precedence.

78. The language of this contract is German. Where the parties use another language alongside this, the German wording takes precedence.

Please note:

HUESECKEN collects, processes and uses personal data, in particular contact details, for the handling of orders, including email addresses where these are provided to us. We may call on information (e.g. also a so-called score value) from external service providers to assist in decision making about credit worthiness and make the payment method dependent on this. Information also includes information about your address. This takes place under Articles 6(1)(b) and (f) GDPR for the purposes of performing the contract. Please refer to our Data Protection Policy at www.huesecken.de for details.

The Partner may, under the terms of the statutory provisions, ask for information about the personal data HUESECKEN stores about them. Should the Partner identify an infringement of the applicable law in HUESECKEN's behaviour then they should approach HUESECKEN directly. In the event of a justified complaint, HUESECKEN will stop the violation immediately. A legal warning notice or judicial assertion of a claim is not necessary in such cases. We draw your attention to the fact that, because of the risk of repetition, should the Partner assert a violation of applicable law through a warning notice or by raising a claim in court, the costs incurred by the Partner in doing so must be borne by the Partner.

As of: 01/06/2020