

Mehrer Compression GmbH
Terms of Purchase
From 01/07/2019

I. Scope

1. The following terms apply to all contracts concluded between us and the supplier regarding the delivery of goods. They also apply to all future commercial relationships, even if they are not explicitly agreed to again. Deviating terms of the supplier which we have not expressly recognised are non-binding for us, even if we have not explicitly objected to them. The following terms also apply if we accept a delivery from the supplier without reservation when aware of conflicting terms or terms that deviate from theirs. The acceptance of deliveries/services or payment for them in no way constitutes consent to the supplier's terms of sale.
2. All agreements made between us and the supplier in relation to purchase contracts are laid out in writing in the purchase contracts, these terms and our offers.
3. These terms of purchase only apply to entrepreneurs within the meaning of §310, Para. 1 of the German Civil Code [BGB].

II. Offer and contract conclusion

1. We are bound by our order for two weeks. The supplier can only accept the offer by declaring this to us in writing within these two weeks.
2. Drawings, plans and other documents that belong to the order remain our property. We reserve all copyrights to these documents. If the supplier does not accept our offers within the aforementioned period, these documents must be returned to us immediately. They must be treated confidentially with respect to third parties. VII. Para. 3 applies accordingly.

III. Pricing and transfer of risk

1. The price shown by us in the order is binding and includes shipping and packaging costs, unless something else is agreed in writing between the parties. The price is subject to the statutory value-added tax applicable in each case.
2. All of the supplier's documents, including invoices, must show the order number specified by us. Otherwise, processing them will not be possible. The supplier is responsible for all consequences resulting from failing to comply with this obligation, unless it demonstrates that it is not responsible for this. The supplier bears the risk of accidental loss, destruction or deterioration up to acceptance of the goods by us or our representatives at the location where the goods are to be delivered according to the order.

3. Unless a different written agreement has been made with the supplier, we will pay at a 3% discount within 14 working days calculated from the time the goods are delivered by the supplier and receipt of invoice or net within 30 days.
4. Payment is made subject to an invoice check.
5. We are entitled to statutory offsetting and retention rights to the fullest extent. We are entitled to assign all claims from the contract without the supplier's consent. The supplier is not entitled to assign claims from the contractual relationship to third parties without our prior written consent.

IV. Delivery and delivery period

1. Deviations from our agreements and orders are only permitted following our prior written consent. Agreed dates and periods are binding. When the goods are received by us is definitive in terms of compliance with the delivery date or delivery period. If an "ex-works" or "shipping-included" delivery is not agreed, the supplier must supply the goods taking account of the usual times for loading and shipment.
2. If the supplier does not meet the deadlines it promises, then we are entitled – after granting an appropriate grace period – to withdraw from the contract, conclude a congruent hedging transaction and/or demand compensation due to non-fulfilment at our own discretion without prejudice to further legal provisions. We have the right to claim for the reimbursement of all additional costs incurred by us due to late deliveries or service provision. Accepting delayed deliveries or services does not mean claims for reimbursement are waived.
3. The supplier is obligated to make us aware in writing immediately if circumstances emerge or become known to it which could result in the confirmed delivery times not being complied with.
4. Subject to proof to the contrary, the values determined by us during goods receiving inspection are definitive for piece quantities, weights and dimensions.
5. The acceptance test certificate is a component of the delivery. In the event of arrears, we are entitled to demand lump-sum damages for arrears amounting to 1% of the delivery value for every full week lapsed, but no more than 5%; we reserve the right to assert further legal claims (withdrawal and compensation instead of performance). The supplier is entitled to demonstrate to us that no damage or essentially minor damage has been incurred as a result of the arrears.

V. Warranty / liability

1. Acceptance is performed subject to a check for correctness and suitability. We are entitled to hold off with this check until this is doable as part of the respective course of business; in this regard, the supplier waives its objection to any notices of defects raised late.

If the delivered goods are not intended for our own use, then we have no obligation to check the goods. The forwarding of a notice of defects sent to us by our customer about the delivered goods is also considered to be a timely notice of defects with respect to the supplier.

2. For defective deliveries or services, we are entitled at our own discretion to claim for supplementary performance free of charge (substitute delivery or subsequent improvement), to demand a lowering of the purchase price (reduction) or to withdraw from the contract without prejudice to other rights to which we are entitled according to statutory regulations.
The period of limitation is 36 months, calculated from the time of the transfer of risk, unless the mandatory provision of §445 b and §478, Para. 2 of the BGB intervenes.
3. If a receiving inspection is necessary which exceeds the usual scope as a result of a defective delivery, then the supplier will bear the costs for this. This does not apply if the supplier demonstrates that it is not responsible for the defective deliveries.
4. In urgent cases, especially to prevent acute dangers or to avoid excessive damage, we are entitled to remedy the identified defects ourselves at the supplier's cost. We are also entitled to do this if the supplier is in arrears.
5. The remaining mandatory provisions of delivery recourse remain unaffected.

VI. Supplier liability / insurance protection

1. If claims for compensation are made against us by third parties due to a product defect for which the supplier is responsible, the supplier must indemnify us against all claims from third parties at the first request and reimburse us the costs necessary to defend against these claims if the cause is in the supplier's sphere of control and organisation and it alone is liable in relation to third parties.
2. If we have to perform a recall action due to a defect within the meaning of the number above, the supplier is obligated to reimburse us for all expenses resulting from or involved in performing a recall action. We will notify the supplier of the content and scope of the recall action and provide it with an opportunity to make a statement as far as this is possible and temporally reasonable. Any further legal claims remain unaffected by this.
3. The supplier is obligated to procure product liability insurance with a coverage amount appropriate to the goods of at least €10m per person / property damage and to maintain this. Any further legal claims remain unaffected by this.
4. The supplier ensures that no rights of third parties are violated in connection with its delivery. If we are subjected to a claim from a third party because the supplier's delivery violates a statutory property right of the third party, then the supplier obligates itself to

indemnify us against these claims at the first request, including all necessary expenses incurred by us in relation to the claim by the third party and its defence. We are not entitled to recognise the claims of the third party nor make agreements with the third party regarding these claims without the written consent of the supplier. The statute of limitations for these indemnity claims is three years, calculated from the time of our knowledge of the claim by the third party, but 10 years from delivery of the item at the latest.

5. The supplier indemnifies us against all claims which a customer of ours asserts due to the advertising statements of the supplier, the manufacturer within the meaning of §4, Para. 1 or 3 of the German Product Liability Act or of an assistant of one of the aforementioned and which would not have existed without the advertising statement, or not to this amount. This rule applies irrespective of whether the advertising statement comes before or after the conclusion of this contract.

VII. Retention of title

1. All parts and documents supplied by us remain our property. They must only be used for their intended purpose. The processing of materials and the assembly of parts take place for us. There is agreement that we are a joint owner of the products manufactured using our materials and parts based on the ratio of the value of the provision to the value of the overall product, insofar as these products are kept safe for us by the supplier. If the item provided by us is inseparably mixed with other items not belonging to us, then we shall acquire joint ownership of the new item based on the proportion of the value of the reserved item (purchase price plus value-added tax) to the other mixed items at the time of mixing. If the mixing is such that the item of the supplier is considered to be the main item, then it is considered to be agreed that the supplier will assign joint ownership to us on a proportional basis; the supplier will keep the sole title or joint ownership safe for us. We reserve ownership of tools. The supplier is also obligated to use the tools exclusively for manufacturing the goods ordered by us. From the outset, the supplier assigns to us any claims for compensation from the insurance of our tools; we hereby accept this assignment. The supplier is obligated to have any maintenance, inspection or servicing work performed at its own cost. It must notify us immediately of any incidents; if it is guilty of neglecting to do so, claims for compensation remain unaffected. Rules from any signed tool lending contracts take priority over these general terms. If the security interests to which we are entitled as per these regulations exceed the purchase price of all of our as yet unpaid reserved goods by more than 10%, we are obligated to release the security rights at our discretion upon the request of the supplier.
2. The supplier may exploit the items outlined in Number 1 beyond this contract, and/or pass them on to third parties or make them accessible to third parties, only with our written consent. Once the respective contract is fulfilled, the supplier must return these parts / documents to us immediately at its own cost.
3. The supplier is obligated to treat in strict confidence all obtained illustrations, drawings, calculations, other documents and information. They may be disclosed to third parties only with our express consent. The confidentiality obligation also applies after the contract is completed. It ceases to exist, however, if and insofar as the production know-how contained within the handed-over illustrations, drawings, calculations and other documents has become general knowledge or the supplier was demonstrably aware of it before the time of notification.

VIII. Confidentiality

1. Documents of all kinds which we provide to the supplier, such as samples, drawings, models, data and suchlike, and all other information given by us, provided it is not clearly intended for the public or the knowledge contained within it is already known, must not be made accessible to third parties, unless this is required for the fulfilment of the contract. The confidentiality obligation also applies after this contract is completed; it ceases to exist if and insofar as the production know-how contained within the handed-over illustrations, drawings, calculations and other documents has become general knowledge.
2. Documents as laid out in No. 1 must only be used for production based on our order. They are to be returned unprompted after completing the order.
3. Products that are manufactured according to documents drafted by us, such as drawings, models and suchlike, or according to our confidential specifications or with our tools or reproduced tools, may neither be used by the supplier itself nor offered or delivered to third parties.
4. In the event of the obligations cited in nos 1 to 3 being violated, the supplier will pay us a contractual penalty amounting to EUR 20,000.00.
5. The regulations of Germany's Trade Secrets Act [Geheimnisschutzgesetz] remain unaffected.

IX. Court of jurisdiction / place of fulfilment / applicable law

1. If the supplier is a merchant, the court competent for Balingen is the exclusive court of jurisdiction for all disputes between the supplier and us resulting from and in relation to this contract.
2. Unless nothing other emerges from the order, our company headquarters is the place of fulfilment.
3. The relationships between the contractual parties are based exclusively on the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).