

Terms of Purchase for Telegärtner Group

Last changed: January 2018

1. Scope of application

1.1. The terms below shall apply for all orders from

Telegärtner Karl Gärtner GmbH, Lerchenstr. 35, D-71144 Steinenbronn,
Telegärtner Kunststofftechnik GmbH, Gewerbestraße 4-6, D-71144 Steinenbronn,

(hereinafter: "**Purchaser**") that are places with a supplier (hereinafter "**Supplier**").

1.2. Terms different from these Terms of Purchase shall not apply unless they are explicitly stipulated in Purchaser's offer or order confirmation. Nor shall different terms apply if Purchaser does not expressly object to such terms and/or accepts the delivery and/or service or makes payments without objection.

1.3. The following terms shall also apply to future agreements within the framework of ongoing business relationships, even if not expressly stipulated in the future.

1.4. The Terms of Purchase shall only apply with respect to commercial actors (Unternehmer) in terms of Sec. 14 of the German Civil Code (BGB).

2. Orders

2.1. Orders shall only be valid if Purchaser places them in text form. Pre-orders placed orally, particularly over the phone, shall only become valid once confirmation is received in text form.

2.2. Supplier may only accept the order in writing or by fax within a period of 15 business days unless a different term of acceptance has been agreed between the parties. Supplier shall provide Purchaser's order number on such an occasion. The period shall begin to run when the order is placed with Purchaser. The order including all terms specified herein shall be considered accepted at the latest when Supplier executes the order.

2.3. Clauses 2.1 and 2.2 shall apply accordingly to requests for delivery of framework orders.

3. Prices

3.1. Unless otherwise agreed, the price shown in the order shall be understood to be stated in EUR gross and shall be binding for the entire execution time for the order. The costs for any estimates made shall be included in the price. Purchaser does not agree to price adjustment or price increase clauses.

3.2. Absent a different agreement, the price shall include freight and transportation costs provided in the order to the delivery address provided by Purchaser, transport insurance, packaging, and any applicable taxes and duties.

3.3. Insofar as a price is stipulated "ex works", "ex stock" or the equivalent by way of exception, Purchaser shall only assume the costs for the cheapest shipping method and the cheapest transport route; Supplier shall bear all costs incurred up to delivery to the shipper including loading and freight charges in this case, as well.

3.4. The statutory value-added tax is to be shown separately, where applicable.

4. Payment Terms and Effects

- 4.1. Invoices shall be submitted to Purchaser separately from the delivery. Apart from the ordering information, the invoices must include a detailed description of the delivery items with the respective order number ("proper invoice").
- 4.2. Payment shall be made within 20 calendar days less a 3% cash discount from the gross price or within 30 calendar days respectively from the date from the arrival of the complete shipment/rendered performance and receipt of a proper invoice by Purchaser.
- 4.3. What is relevant for the timeliness of the payment is the receipt of the remittance order by the Purchaser's bank. A discount deduction is also possible if Purchaser sets off a claim against Supplier instead of payment.
- 4.4. When early deliveries are accepted, the payment shall become due in conformity with the stipulated delivery date.
- 4.5. Payments by Purchaser do not signify acceptance of the delivery or service as being in accordance with the agreement.
- 4.6. Purchaser does not agree with a limitation of its legal right to set-off or the stipulation of default interest or interest on maturity, which are higher than the statutory interest owed.

5. Delivery, Transfer of Risk

- 5.1. The exact shipping address is to be taken from the respective order.
- 5.2. Every delivery shall include a packing slip for Purchaser with the exact description of the delivery item and order details, at least the order and drawing number including Purchaser's index as well as the delivery quantity for the packaged goods.
- 5.3. Insofar as legal regulations at the delivery location and/or the deployment location impose declaration obligations and/or obligations to provide supporting documents with respect to material characteristics (e.g. declaration on the use of conflict minerals in accordance with Dodd-Frank Act in the US), Supplier shall include the relevant documents and shall provide Purchaser with the required information at its option either in writing or by telecommunication (email, fax).
- 5.4. Early deliveries, partial deliveries or the delivery of additional quantities require prior consent from Purchaser in writing or by telecommunication (email, fax).
- 5.5. Even if shipment has been stipulated, the risk shall only pass to Purchaser if the delivery item transferred to Purchaser at the stipulated destination. Should a required acceptance inspection be conducted prior to shipment in accordance with the agreement, the risk shall not pass upon acceptance but only with transfer of the delivery item at the stipulated destination. If acceptance is to take place at the stipulated destination, the risk shall only pass to Supplier upon this acceptance.
- 5.6. Should it be stipulated by way of exception that Supplier has a retention of title to the delivery item, Purchaser shall be entitled to have the delivery items which he has received under retention of title at its disposal in the normal course of business.

6. Delivery Time, Delay, Contractual Penalty and Rescission

- 6.1. The delivery time specified in the order is binding. Supplier is obligated to inform Purchaser immediately in writing if circumstances become discernible to Supplier indicating that the established delivery time cannot be met, even if Supplier is not responsible therefor.
- 6.2. In the event of a culpable delay in delivery, Purchaser shall be entitled to demand a contractual penalty of 1% of the net price of the delivery items for every complete week of delivery delay, but up to a maximum of 5% of the net price of the respective delivery item. Insofar as Purchaser has not reserved its right to the contractual penalty when accepting the delivery item, Purchaser may claim the penalty until payment is made. Purchaser shall be entitled to assert contractual penalties in addition to fulfillment and to deduct these from the Supplier's payable claims. The assertion of additional damage is not excluded. The contractual penalty shall, in this case, be offset against the overall damage caused by the delay.
- 6.3. In the event that the agreed delivery deadline is not met, after a reasonable grace period has been granted and has expired to no effect, Purchaser shall be entitled to rescind the agreement and the orders not yet executed under this agreement without additional rights arising therefrom for Supplier.

7. Warranty, Notifications of Defects

- 7.1. Supplier warrants that the delivery item shall be produced and accordingly examined before shipment pursuant to Purchaser's specifications in accordance with the latest technical documents submitted by Purchaser for the assignment.
- 7.2. In any event, the delivery item must comply with the state of the art as well as the applicable statutory provisions in Germany including EU regulations, in particular with respect to material characteristics (e.g. the European Chemicals Regulations (REACH)). Further agreements in a potential quality assurance agreement shall remain unaffected.
- 7.3. Supplier further warrants that the delivery item shall comply with the statutory provisions at the delivery location as well as the statutory provisions at the deployment location for the delivery items via Purchaser and that it does not infringe third party rights, in particular third party intellectual property rights.
- 7.4. Unless it has been stipulated otherwise between Purchaser and Supplier, such as in a quality assurance agreement, Purchaser shall review the delivery for deviations in quality and quantity within a reasonable period and notify Supplier in writing of obvious defects within a reasonable period. The complaint is timely if it is received by the Supplier within seven (7) business days, calculated from the acceptance of the delivery item or, in the event of hidden defects, from the date they were discovered. The Supplier waives the plea of a late notice of defect in this regard.
- 7.5. In derogation of Sec. 442 para. 1 clause 2 of the German Civil Code (BGB), Purchaser shall be entitled to defect rights even if Purchaser remained unaware of the defect at the conclusion of the agreement due to gross negligence.
- 7.6. In the event of material defects, Supplier shall compensate Purchaser for all costs, in particular all costs of installation and removal that Purchaser incurs for the purpose of eliminating defects or replacement delivery.
- 7.7. Claims by Purchaser due to material defects or defects of title shall lapse within 36 months from when risk is transferred.

- 7.8. Otherwise, the statutory provisions covering liability for material defects and defects of title shall apply.
- 7.9. Supplier shall undertake to take out and maintain adequate business liability insurance as well as extended product liability insurance and to prove the existence of the respective insurance coverage to Purchaser upon request.

8. Ownership of Products Provided and Production Documents

- 8.1. So far as Purchaser provides Supplier with drawings, drafts, samples, manufacturing specifications, tools, etc., it shall retain ownership thereof. Processing or modification by Supplier shall be undertaken for Purchaser. In the event of processing or combination, Purchaser shall acquire joint ownership of the new goods at the ratio of the value of the items provided to the other processing items at the time of processing.
- 8.2. Drawings, drafts, samples, manufacturing specifications, tools, etc. not provided by Supplier but rather temporally provided to submit a tender or to execute the order shall remain the property of Purchasers and may not be used, copied, or made available to third parties for purposes other than to submit a tender or to execute the order. These shall be returned to Purchaser or destroyed in consultation with Purchaser after a separate request or as soon as they are no longer needed for these purposes, but in any case at the latest 3 years after the order is placed.
- 8.3. Supplier may not supply any other companies with the delivery items ordered by Purchaser if these delivery items are manufactured based on documents containing Purchaser's development expertise.

9. Confidentiality

- 9.1. Supplier shall not divulge drawings, drafts, samples, manufacturing specifications, tools, molds or other technical documentation, irrespective of the data medium, or knowledge or information (hereinafter collectively: "information") to third parties or use said information for purposes other than those pursuant to the agreement without Purchaser's consent. They shall be protected against unauthorized inspection and/or use. Subject to additional rights, Purchaser may demand their return if Supplier violates these obligations.
- 9.2. A confidentiality obligation does not exist
 - 9.2.1. with respect to information that was already in the public domain at the time of disclosure or that became public domain after it was disclosed;
 - 9.2.2. if Supplier or one of its employees is obligated to share the disclosed information to inform thereof due to a law, regulation or decision by court or an administrative authority. It is then entitled to disclose the information to the extent that a disclosure obligation exists.
- 9.3. This confidentiality obligation shall also apply after the end of the contractual relationship between the parties so long as the confidential information is not public knowledge.
- 9.4. Insofar as employees of Supplier, subcontractors and/or other third parties obtain access to the confidential information in accordance with this provision, Supplier shall use appropriate contractual agreements and/or additional measures to ensure that the respective persons are likewise obligated to maintain confidentiality in terms of this clause. Supplier shall provide Purchaser with evidence of relevant measures upon request at any time.
- 9.5. Any separate confidentiality agreements shall remain unaffected.

10. Liability

- 10.1. Supplier shall be responsible for deliveries from its suppliers as it is for its own.
- 10.2. If a product liability claim is made against Purchaser due to a defect in a delivery item provided by Supplier, Supplier shall release and hold Purchaser harmless from liability resulting from the defect.
- 10.3. For measures taken by Purchaser to prevent damages (e.g. recalls), Supplier shall be liable for the expenses incurred and losses sustained as a result (including legal costs), insofar as the measure is based on the deficiency of the delivery item provided by Supplier or another breach of duty by Supplier.
- 10.4. Apart from this, Supplier's liability shall conform to statutory provisions. Purchaser does not agree to a limitation of Supplier's statutory liability.

11. Force Majeure

If a party is unable to perform a service to which it is obligated under this agreement due to force majeure, for example due to unforeseeable events such as war, strike, lock-out or natural phenomena, this party shall be exempt from its performance obligation in the scope of the hindrance provided that the respective party informs the other party directly of the event and makes all reasonable efforts to remove or respectively to mitigate the cause and the consequences of the non-performance and advises that it will immediately resume the performance as soon as the reason for the non-performance ceases to exist.

12. Place of Jurisdiction, Applicable Law

- 12.1. The place of jurisdiction is Böblingen in the case of legal disputes and in connection with this agreement. Purchaser shall also be entitled to file suit at Supplier's registered office.
- 12.2. German material law, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG), shall apply to legal relationships in connection with this Agreement.