

General Terms and Conditions of Purchase

Benien Produktionstechnik GmbH, Lange Wand 13, DE-27753 Delmenhorst
FoamPartner Germany GmbH, Max-Näder-Straße 15, DE-37115 Duderstadt
Kureta GmbH, Moselstrasse 4, DE-35260 Stadtallendorf
Reisgies Schaumstoffe GmbH, Dieselstrasse 7, DE-51381 Leverkusen

These General Terms and Conditions of Purchase (“Terms and Conditions”) apply to all orders placed by any of the companies listed above.

§ 1 Scope of application

These Terms and Conditions apply exclusively. Unless we have expressly consented to them in writing, we will not recognise any terms and conditions of the supplier which conflict with or deviate from our own.

The Terms and Conditions will also apply to all future business dealings between the parties and will apply even where we accept the goods without reservation despite being aware of the existence of terms and conditions of the supplier which conflict with or deviate from our own.

These Terms and Conditions only apply to business relationships with traders.

§ 2 Conclusion of contracts

Contracts based on our orders must be in writing in order to be valid. The supplier is obliged to issue us with a written order confirmation.

Orders placed verbally/by phone will only be valid if they have been followed up by a written order confirmation.

The supplier is obliged to accept our orders within a reasonable period, but no later than within a period of two weeks.

The supplier must include our order and item number on all documents.

§ 3 Prices and payment

Unless otherwise agreed in writing, prices stated are for door-to-door delivery and include all costs and duties as well as costs of packaging. The prices mentioned in the order are fixed prices and are always stated exclusive of VAT. Prices may not be amended during the agreed delivery period. This also applies to blanket orders and call-off orders.

Unless agreed otherwise, the purchase price will be payable within 14 days from receipt of the invoice with a 3% discount for prompt payment or payable net within 30 days.

§ 4 Delivery

The delivery dates mentioned in the orders or otherwise agreed are binding.

All delivery dates refer to the dates when we take delivery of the goods. The supplier is obliged to immediately notify us in writing if a delay in delivery is likely to occur or has occurred and to inform us of the reasons for the delay and its expected duration. The foregoing will not change the fact that the supplier is in default of delivery.

In the event of a default in delivery, we will be entitled to the full range of statutory rights.

§ 5 Hazardous substances (REACH Regulation)

The supplier will ensure that its deliveries comply with the provisions of Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation) and the requirements and duties contained in EU Directive 2011/65/EU (RoHS Directive). In particular, the supplier will ensure that the substances in the products which it delivers have been pre-registered or registered after the expiry of the transitional deadlines if this is necessary according to the REACH Regulation and will ensure that we are provided with REACH-compliant safety data sheets or the information necessary pursuant to Art. 32 of the REACH Regulation. If the supplier supplies articles within the meaning of Art. 3 of the REACH Regulation, it will ensure in particular that it complies with its duty to communicate certain information pursuant to Art. 33 of the REACH Regulation.

In addition, the supplier agrees to comply with all legal provisions affecting our business relationship, in particular in relation to the handling of conflict minerals.

§ 6 Passing of risk and title

Risk and title in relation to the goods pass to us at the place of destination, unless the parties agree otherwise in a written clause incorporating an Incoterm published by the International Chamber of Commerce.

§ 7 Express warranties and quality

The supplier expressly warrants that the goods conform to all specifications as well as statutory and regulatory provisions. The supplier will notify us in writing about any changes to the products/specifications without delay.

§ 8 Liability for defects and statutory warranties

We will be entitled to the full range of statutory warranties. In particular, we may, at our option, demand the repair of the defect or the delivery of goods free from defects or, alternatively, demand damages.

Our duty to examine the goods is limited to examining them for obvious defects and otherwise to checking that the information in the test certificates and analysis certificates matches the specifications. Any statutory warranty rights in respect of defects that are not discovered until a later time will remain unaffected.

In cases where the defect poses an immediate danger or in order to avoid the occurrence of significant damage, we will, after notifying the supplier, be entitled to repair the defect at the supplier's expense should it fail to take action immediately.

The warranty period for defects in quality is 36 months from the passing of risk unless the law provides for a longer period.

§ 9 Product liability and insurance

The supplier's liability is governed by law unless agreed otherwise in these Terms and Conditions.

The supplier will, on first demand, indemnify us against any liability towards third parties or liability for third-party claims for loss or damage arising from the manufacture, delivery, storage or use of the goods supplied if and to the extent that the loss or damage was caused by a defect in the goods delivered by the supplier. In cases of strict liability, no such duty of indemnification will exist if the supplier is able to prove that it was not at fault.

The supplier agrees to take out product liability insurance with coverage of at least EUR 5 million and coverage for recall costs for the duration of the business relationships. This will not affect any further claims for damages.

§ 10 Defects in title

The supplier warrants that the goods are unencumbered by third-party rights and that their supply does not infringe third-party rights. The supplier will, upon first demand, indemnify us in this regard.

The warranty period for defects in title is 36 months from the passing of risk.

§ 11 Confidentiality

The supplier is obliged to treat confidential information confidentially and may not make such information available, in particular to third parties, without our written consent. This duty includes, but is not limited, to all data, drawings and samples.

§ 12 Set-off and rights of retention

We will be entitled to the full range of set-off and retention rights stipulated by law.

§ 13 Writing, legal succession, choice of law, and place of jurisdiction

Amendments of or supplements to the contract must be made in writing in order to be valid.

The supplier agrees to subject its legal successors, if any, to all of the obligations contained in the contract.

German law applies to the exclusion of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and conflict of laws rules.

The place of performance is the registered office of our respective company, and the courts at such place will have exclusive jurisdiction.

Regardless of the legal invalidity of any individual sections, the remainder of these Terms and Conditions will remain binding.