

General Terms and Conditions

General Terms and Conditions of purchase of the company RheinComposite

The conclusion of contract is subject exclusively to our General Terms and Conditions of Purchase, which you can see on our homepage (<http://www.rheincomposite.com/pages/deutsch/agb/einkauf>) and download.

§ 1 General

1. The conclusion of contract is subject exclusively to our General Terms and Conditions of Purchase (hereinafter referred to as AGB); AGB of the supplier will not be accepted, unless we have expressly given our consent in writing to the validity thereof. Our AGB apply even in cases where we fulfil our contractual obligations without any reservations, being fully aware of the AGB of the supplier.
2. Our General Terms and Conditions apply solely to business persons (as defined in Section 310, Paragraphs 1 and 14 of the German Civil Code (BGB) to public law entities and to funds created pursuant to public law.
3. All covenants agreed upon between our company and the supplier to make amendments to the contract or in performance of this contract will be put down in writing for evidentiary purposes. The same applies to all supplements. The written form agreement for individual cases may be repealed only in writing.
4. Our General Terms and Conditions of purchase also apply for all future transactions with the supplier.
5. Our registered office shall be the sole place of international and local jurisdiction for all disputes arising from this contract and its settlement including any disputed on warranty claims. We may, however, proceed legally against the supplier at the place of his legal domicile if we so choose.
6. Unless otherwise specified in the order confirmation, the registered office shall be the place of performance for all deliveries and services including those resulting from warranty.
7. The contract is subject to German substantive law with the exclusion of the UN law on the international sales of goods.
8. The contractual language is German; in so far as the translation of the General Terms and Conditions in another language does not form an integral part of the contract, in case of any discrepancies in the text, the German version will be the authoritative one.

§ 2 Severability Clause

Should a provision of this contract be or become invalid, the legal effectiveness of all other provisions shall remain unaffected. In so far as a provision in the individual contractual agreement becomes invalid, the contractual parties are under obligation to replace the invalid provision by a valid provision, the purpose of which is as close as possible to the original provision. The same shall apply if it is subsequently established that there is a loophole in the contractual agreement.

§ 3 Purchase orders and Contracts

1. In so far as our order does not expressly contain a commitment period, we commit ourselves to the purchase for two weeks from the date of the order. Receipt of the acceptance declaration by us is decisive for punctual receipt.
2. We are at any time entitled to change the time and place of delivery and the type of packaging by writing within a period of at least 7 calendar days before the agreed delivery deadline.

§ 4 Prices, Payment conditions, Invoice details

1. The price stated in the order shall be binding. The statutory Value-added tax must be indicated separately. Any price increases are not permitted; the supplier reserves the right to object on the grounds of frustration of the inherent basis of the transaction.
2. In the absence of any written agreement to the contrary, the price shall include delivery and transportation to the delivery address stated on the contract including packaging. The supplier shall, on demand, take the packaging back at his own expense.
3. If no other arrangements are made, we pay the purchase price after delivery of the goods and receipt of the invoice within 14 days with 3% cash discount or within 30 days net.
4. The article number, our order number, the delivery amount and the delivery address are to be stated in every order confirmation, delivery papers and invoices. Should one or more of these details be missing and processing is delayed by us in our normal business operations, the payment periods mentioned in paragraph 3 are extended by the period of the delay.

5. We are not in payment arrears if the supplier is delayed in the performance of obligations to us on his side as stated in this contract.
6. We shall be entitled to the rights of offsetting and retention as well as the plea of non-performance of the contract. We shall be entitled in particular to retain due payments as long as we are still holding claims arising from incomplete or faulty services vis-à-vis the supplier.
7. The supplier shall only have a right of offset or retention in the event of res judicata, approved or undisputed counterclaims.

§ 5 Delivery and delivery time, Service, Transfer of risk - Contractual penalty

1. The delivery time (Delivery deadline or period) stated in the order shall be binding. Early deliveries or partial deliveries may only be made with our written consent.
2. The supplier is obliged to send us without delay a written notification on circumstances arising or becoming recognisable to him from which is evident that the delivery time requested cannot be met.
3. In the case of delivery delays, in accordance with the statutory regulations, we are entitled to unrestricted legal claims, including the right to step back from the contract and the right to compensation for damages instead of the supply/service not delivered within an appropriately set deadline in so far as such is not legally superfluous (§ 323 Para 2 of the German Civil Code).
4. In the case of culpable delivery delays we are entitled, after prior written notification to the supplier, to levy a contractual penalty charge of 0.5%, but no more than 5% of the net value of the goods for every week of arrears commenced. In the case of culpable delays in delivery of partial services, a contractual penalty charge of 0.5%, but no more than 5% of the net order value apportionable to the part performance can be levied for every week of arrears commenced. The total sum of several contractual penalties shall not exceed 5% of the total net order value. Further claims for compensation based on which the contractual penalty is worked out, remain reserved. If we accept the delayed service, the reservation of the contractual penalty will be claimed at the latest at the time of the final payment.
5. The supplier is not entitled to pass the order or single parts of it to sub-contractors or to contract third parties with the execution of our order without our written consent.
6. The risk is transferred to us, including if a despatch has been agreed, only when the goods are transferred at the agreed destination or if there is a delay of receipt on our side.

§ 6 Spare parts

1. The supplier is obliged to keep spare parts for the products delivered to us for a period of at least 5 years after delivery.
2. If the Supplier intends to stop the production of spare parts for the products delivered, to us, he must inform us immediately after making the decision. This decision must – subject to Paragraph 1 – be communicated to us at least 6 months before production is stopped.

§ 7 Guarantee and Warranty claims

1. The supplier guarantees that the delivered goods fully correspond to the agreed description of services in the purchase order. Deviations without our express, written consent are not permitted even if the objects that the supplier wished to deliver, are functionally identical to the objects described in the order.
2. In the event of defects being discovered, we are entitled to unrestricted legal claims. The supplier is also responsible for disassembling the defective parts and assembling the parts supplied as subsequent fulfilment or the repaired parts. The warranty period expires at the end of 3 years from the delivery.
3. The supplier assumes responsibility for quality assurance of the products to be delivered by him. For this reason, our obligation to inspect and to complain is restricted to defects that become evident during our incoming goods inspection by external examination (e.g. damage in transit, incorrect or incomplete deliveries), about which we shall lodge complaint without any delay. If acceptance of the contractual objects has been agreed upon, a separate obligatory examination shall not be applicable. Besides, in case of any variations in quality or quantity the respective complaint shall be considered as made in due time, if it reaches the supplier within a period of 10 working days from the day the goods were received by us. Any hidden material defects also count as rebuked on time if the notification is sent to the supplier within 15 working days after the defect is discovered.
4. Expenditures incurred for testing and subsequent compliance, shall be borne by the supplier even if the demand for supplementary performance is proven to be unjustified. This does not apply if our demand for supplementary performance has been made in knowledge of or in gross negligent ignorance of the fact that no defect actually exists.
5. Acceptance or approval of provided samples does not signify a waiver on our part of guarantee claims.
6. Upon receipt by the supplier of our written notification of defect, the statutory limitation of warranty claims is inhibited. In the case of a replacement delivery or removal of defects, the warranty period for parts replaced starts once again, unless we are aware that the step was taken only in accordance with fair trade and without the acknowledgment of an obligatory right.

§ 8 Supplies

1. Items of all types lent to the supplier, which may be required for production of deliveries and products ordered by us, remain our property. Such items shall be used exclusively for performance of the ordered deliveries.
2. If the item made available by us is inseparably mixed with other objects not belonging to us, then we shall acquire co-ownership of the new item in proportion to the ratio of the value of the item subject to retention of title to the other objects mixed in at the time objects were mixed. If mixing is carried out in such a way that the object of the supplier can be regarded as the primary object, it is agreed that the supplier shall assign the co-ownership to us on a pro-rata basis.

The supplier shall preserve for us the sole or joint ownership.

3. The supplier is obliged to carry out any necessary maintenance works and inspections and adequately insure the objects made available and evidence the same to us upon our request.
4. The supplier is obliged to treat all models, samples, drawings, diagrams, calculations and other documents along with information in the strictest confidence. Only with our express written consent may third parties be allowed access to these.
The obligation to maintain confidentiality also applies after the execution of this contract. It shall not expire until and insofar as the manufacturing knowledge contained in the models, samples, drawings, diagrams, calculations and any other documents provided, is in the public domain.

§ 9 Liability - Product liability

1. For all claims for damages against the customer due to us, irrespective of their legal grounds, the statutory requirements shall apply, unless anything contrary emerges from our AGB.
2. The supplier is responsible for every claims made by third party on the grounds of personnel or material defects, which can be traced back to a defective product which he delivered and is obliged to release us from the resulting liability.
3. The supplier undertakes to maintain a product liability insurance with an insured sum of 10 Million Euros per personal damage/physical damage - as a lump-sum. This shall not affect any further claims for damages we might be entitled to.

§ 10 Trademark Rights

1. The supplier is responsible for ensuring that his deliveries do not infringe any trademark rights of third parties in connection with products produced by the supplier or on behalf of the suppliers in countries of the European Union, North America or other countries.
2. The supplier shall indemnify us from all claims that third parties make against us in connection with the infringement of industrial property rights mentioned in paragraph 1 and must reimburse us with all necessary expenses in connection with the demands. This claim exists independent of any fault on part of the supplier.

§ 11 Confidentiality

1. All conditions of the order, all information and documents (with the exception of information which is accessible by the public), which are made available to the supplier by us for this purpose, shall be treated strictly confidential for a period of two years after the end of the contractual relationship and shall be used exclusively for the purpose of execution of the order. The supplier will hand back any information immediately upon our request after processing enquiries or orders.
2. Without our previous written acceptance, the Supplier is neither allowed to refer to our business relations on advertising material, brochures, etc. nor to exhibit the products manufactured for us.
3. The supplier shall oblige his subcontractors according to the rules outlined in Para 1 and 2.

