

General Terms and Conditions of Purchase of Frenzelit GmbH, 95460 Bad Berneck, Germany - hereinafter referred as Frenzelit or the Buyer -

I. Scope

1. The following terms and conditions of the Buyer apply for all agreements concluded between the Buyer and the Seller/Supplier for the delivery of goods. They also apply to all future business relations, even if they are not expressly stipulated again. Deviating terms and conditions of the Seller that are not explicitly acknowledged by the Buyer are not binding for the Buyer, even if the Buyer does not expressly contradict them. The terms and conditions of the Buyer also apply if the Buyer unconditionally accepts the delivery of the Seller/Supplier in knowledge of terms and conditions that contradict or deviate from the Buyer's provisions.
2. All arrangements made between the Buyer and the Seller in connection with the purchase agreements are stipulated in writing in the purchase agreements, in these terms and conditions, and in the offers of the Buyer.

II. Offer and conclusion of contract

1. Deviations from the order of the Buyer are to be explicitly pointed out in writing. Deviations from the order of the Buyer will only be accepted if the Buyer consents to such deviation in writing. This applies in particular but not exclusively to the stipulated quality, specifications, and amount.
2. Drawings or plans, and other documents, belonging to the order remain the property of the Buyer, who retains all copyrights to such documents. If the Seller does not accept the offers of the Buyer within a reasonable period of time, the documents are to be returned to the Buyer without delay.
3. A copy of the order is to be sent back to the Buyer without delay as an order confirmation with the company stamp, commission number, and signature of the Supplier, whereby all possible deviations are to be explicitly pointed out in writing.
4. All orders of the Buyer will first become valid with a written contract (also via email and fax).
5. The Seller is bound to the offer made by the Seller up to the written acceptance by the Buyer, at longest for two weeks.

III. Payments

1. If applicable, the price shown by the Buyer in the order is binding and applies free domicile, unless otherwise stipulated in writing between the parties. Packaging costs, insurance costs, and other ancillary costs are included in the price. Prices include the respectively valid VAT. All invoices of the Seller must show the order number specified by the Buyer.
2. Unless a deviating agreement has been concluded in writing with the Seller, the Buyer is to pay with a 3% discount within 14 working days (as of the date on which the goods are delivered by the Seller and receipt of the invoice), with a 2% discount within 30 days, and net within 60 days.
3. The Buyer is entitled to the full extent of the statutory rights of off-setting and retention. The Buyer is authorized to assign all claims from the purchase agreement without the consent of the Seller. The Seller is not authorized to assign to third parties claims from the contractual relationship without prior consent of the Buyer in writing.
4. Invoices (showing the order numbers and position numbers) are to be sent separately in duplicate via mail to the Buyer.
5. If a complaint is made with regard to the delivery, the Buyer is authorized to suspend the payment of the invoice amount pending final clarification. The Buyer will only enter into arrears by way of reminder by the Supplier on the basis of a proper invoice in accordance with the stipulations made here.

IV. Deliveries/shipping

1. The delivery deadline or delivery date specified by the Buyer in the order is binding for the Seller. Strict observance of a stipulated delivery date or a stipulated delivery deadline is an unconditional obligation of the Supplier. In this respect, the parties agree that stipulated delivery dates or stipulated delivery deadlines apply as fixed-date transactions under commercial law.
2. Partial deliveries or partial performances of the Seller are subject to prior consent of the Buyer in writing, as are deliveries by the Supplier before the stipulated delivery date.
3. Deliveries by truck are to be made to the Buyer only from 7:00 a.m. to 1:00 p.m. on Monday to Thursday and from 7:00 a.m. to 12:00 p.m. on Friday. Demurrage incurred due to the non-observance of the goods receiving times above are to be borne entirely by the Supplier.
4. As soon as and to the extent that the Supplier recognizes that its contractual obligation cannot be fulfilled in full or in part, or cannot be done so in time, the Supplier is to inform the Buyer thereof in writing without delay, providing the reasons and the expected duration of the delay. This has no effect, however, on any occurrence of default.
5. If the Seller falls into default, the Buyer is entitled to the statutory claims.
6. Upon request by the Buyer, the Supplier agrees to provide the Buyer with an explanation with regard to the production status and to allow the Buyer to convince itself with regard to the production status at the production site.
7. Delivery is made for the Buyer, free of all charges for freight, packaging, and transport, as well as of any insurance costs, unless explicitly stipulated otherwise in writing.
8. All shipping documents must show the order number and mark of the Buyer, as well as the position number in the performance specifications, if shown in the order. Costs incurred by the non-observance of this provision are to be borne by the Supplier. The Buyer continues to reserve the right to return defectively declared shipments that cannot be allocated at the cost of the Supplier.

V. Warranty/liability

1. The Buyer is only obligated to inspect the goods upon delivery for transport damages if possible. In the event that a quality assurance agreement has been concluded between the Buyer and the Seller, the obligation of notice under commercial law does not apply to the Buyer but the rules and stipulations of the quality assurance agreement. Section 377 of the German Commercial Code (*Handelsgesetzbuch* (HGB)) is expressly excluded. If a quality assurance agreement has not been concluded between the Buyer and the Seller, the Buyer is first obligated to inspect the goods for defects when the processing of the delivered material has begun. The delivery is thus accepted conditionally until the processing. Notification of obvious defects, whether transport damage or obvious defects that are detected during processing, is deemed timely if it is sent by the Buyer to the Seller within six working days after receipt (transport damages) and/or after processing has begun. The notification of concealed defects is deemed timely if the Buyer notifies the Seller thereof within six working days after their detection.
2. The Buyer is entitled to the statutory warranty claims against the Seller, and the Seller is liable to the Buyer to the extent provided for by law. The limitation period for warranty claims is 36 months as of the passage of risk, unless explicitly stipulated otherwise in writing.
3. The Supplier is to indemnify the Buyer against all claims of third parties based on defective delivery.
4. The Supplier continues to ensure, in particular, that the deliveries and performances are made in accordance with the state of technology, with the generally recognized technical and occupational health safety provisions of governmental agencies and professional associations, and with the applicable legal provisions (such as TÜV standards, DIN standards, etc.).
5. Keyword-type designations, reference to generally recognized standards, and use of goods and quality marks, or advertising or prospectus information, in particular, suffice as warranted characteristics in accordance with the provisions of the German Civil Code (*Bürgerliches Gesetzbuch* (BGB)).
6. If a defect becomes apparent within the 36-month warranty period stipulated here, it is assumed that such defect already existed upon passage of risk, unless such assumption is incompatible with the nature of the defect.

VI. Liability of the Seller / insurance coverage

1. If, due to product damage for which the Seller is responsible, a third party asserts claims for damages against the Buyer, the Seller is to indemnify the Buyer upon first demand from all third-party claims, including the necessary costs of defending against such claims.
2. If, due to a damage case within the meaning of the subsection above, the Buyer must conduct a recall campaign, the Seller is obligated to reimburse the Buyer for all expenses that are incurred from or in connection with the recall campaign conducted by the Buyer. The Buyer will, to the extent that it is possible and reasonable for the Buyer, inform the Seller about the content and scope of the recall campaign and give the Seller the opportunity to respond. Further statutory claims of the Buyer remain unaffected thereby.
3. The Seller is obligated to take out and maintain product liability insurance reasonable for the goods with a coverage sum of at least one million euros per personal injury / property damage. Further statutory claims of the Buyer remain unaffected thereby.
4. In the event that the claims are asserted by a third party against the Buyer because the delivery by the Seller violates the intellectual property rights of the third party, the Seller agrees to indemnify the Buyer upon first demand against such claims, including all necessary expenses that the Buyer incurs in connection with the assertion of such claims by the third party and the defense against them, unless the Seller did not act culpably. The limitation period for this indemnification claim is also 36 months as of the passage of risk.

VII. Transfer of ownership/retention of title/passing of risk

The ownership will transfer to the Buyer when the goods are handed over; the retention of title in favor of the Seller is not deemed agreed and will not be accepted by the Buyer. Passing of risk takes place when the goods are handed over to the Buyer and the Buyer has a chance of expecting them.

VIII. Confidentiality/provided goods and documents

1. All parts and documents received from the Buyer remain the property of the Buyer. These may only be used by the Seller outside this agreement and/or disclosed or made available to third parties with the written consent of the Buyer. Upon performance of the respective agreement, the Seller is to return these at its own cost without delay to the Buyer.
2. In addition, the Seller is to view as business secrets and thus treat confidentially the offer, the work based thereon, and the documents. The Seller/Supplier is to correspondingly oblige its employees to confidentiality.

IX. Jurisdiction / place of performance / applicable law

1. The place of performance and the exclusive place of jurisdiction for deliveries and payments, as well as for all disputes between the Seller and the Buyer that arise from the contracts concluded between them, is where the company headquarters of the Buyer are located.
2. The relationships between the contractual parties are exclusively governed by the law applicable in the Federal Republic of Germany (excluding the CISG) in addition to the agreements stipulated in these terms and conditions of purchase.

Status: May 2018