



HENGSTENBERG GMBH & CO. KG  
Mettinger Str. 109  
D-73728 Esslingen

## General Terms and Conditions of Purchase

Rev. 20th May 2019

1. We place orders on the basis of our General Terms and Conditions of Purchase. Any other terms and conditions shall not become part of the contract even if we do not expressly object to them. If we take the delivery/service without express objection, there cannot be inferred in any case from such receipt that we have accepted your terms and conditions of delivery. These General Terms and Conditions of Purchase shall also apply to all future contractual relations with you.

2. If you do not immediately object to our order, it shall be regarded as accepted.

Only orders placed in writing are legally binding. Any orders placed orally or by phone must be subsequently confirmed in writing to become legally effective. The same applies to oral collateral agreements and alterations of the contract. Orders, requests for delivery of goods ordered as well as any alterations of and additions to them may - after prior written agreement - also be made by means of remote data transmission or machine-readable data carriers.

3. We accept binding quotations only. Quotations and samples shall be submitted free of charge; visits or the preparation of quotations and projects will not be remunerated.
4. Contract negotiations shall be conducted confidentially; their respective contents must not be made accessible to third parties.

### 5. Changes

In case of long periods for delivery, changes with regard to the object of delivery can also be requested after conclusion of the contract as far as such change is reasonable for the supplier. In the event of changes of such kind, the consequences, especially in terms of additional or lower costs as well as delivery dates, must be appropriately taken into account by both parties.

### 6. Prices, Shipment, Packaging

- 6.1. The prices agreed upon are fixed prices and exclude additional claims of any kind. Unless expressly otherwise agreed upon, the costs of packaging and transport up to the address for shipment or the place of utilization specified by us as well as the costs of customs formalities and customs duties are included in these prices.  
If no prices are indicated in the order, there shall apply the current list prices minus deductions as usual in the trade. The way of determination of prices does not affect the agreement on the place of performance.
- 6.2. Immediately upon performance, every delivery is to be announced to us by a shipping advice exactly structured by type, quantity and weight. Shipping advices, consignment notes, invoices and all correspondence must contain our order number.
- 6.3. We will only take delivery of the quantities or piece numbers we have ordered. Any additional or short deliveries are only admissible subject to prior arrangement with us.



- 6.4. The supplier is obliged to check any requests for delivery and orders with regard to freight and handling and submit suggestions for optimization to us.
- 6.5. Shipment shall be at your risk. The risk of deterioration of any kind, including accidental loss, continues to lie with the supplier until delivery to the address for shipment or place of utilization specified by us.
- 6.6. The obligation to take back packaging is subject to the respective legal provisions.
- 6.7. The goods shall be packaged in such a manner that any damage in transit is avoided. Packaging material shall only be used to the extent required for achieving this objective. There may only be used environment-friendly packaging materials.  
If, by way of exception, packaging is charged to us separately, we shall be entitled to return to you free of freight any packaging that is in a good condition against compensation to an amount of 2/3 of the respective value resulting from the invoice.

## 7. Invoicing and Payment

- 7.1. Invoices in duplicate together with all related documents and data shall be submitted to us separately in a due form after the delivery has been made. Any invoices not properly submitted shall only be regarded as received by us at the time of their correctness.
- 7.2. Payment shall be made in the manner usual in the trade. Payment of an invoice is subject to receipt and approval of the goods. The term of payment commences upon receipt of the invoice, together with or before which the goods must have been received, too.
- 7.3. To the extent certificates of tests of materials or goods standards or purchase by sample have been agreed upon, they constitute an essential part of the contract and of the delivery. The requested documents are to be sent to us together with the invoice. However, we must have received them not later than 10 days after receipt of the invoice. The term of payment of invoices commences upon receipt of the agreed certificates. In case of defective delivery, we are entitled to withhold payment on a pro-rata basis until proper performance.
- 7.4. Payment on advance is only made against bank guarantee.

## 8. Delivery Dates, Delay in Delivery, Force Majeure

- 8.1. Delivery dates agreed upon are binding. Observance of the delivery date or delivery period depends on the receipt of the goods at the place of receipt or utilization specified by us or on the timeliness of successful acceptance.
- 8.2. If an agreed date cannot be observed, that must be immediately communicated in writing, indicating the reasons for and the expected duration of the delay.
- 8.3. The supplier is obliged to make up for all damage directly or indirectly caused by delay.
- 8.4. In case of default, we shall be entitled, at our option, to claim damages for non-performance, to procure replacement from a third party or to rescind the contract after fruitless expiry of a reasonable additional period fixed by us.
- 8.5. You can only invoke absence of documents to be provided by us if you have sent a written reminder with regard to such documents and have not received them within a reasonable period of time.
- 8.6. Force majeure and labour disputes shall release the parties to the contract from their respective obligations to perform during the time of the impediment and to the extent of its effect. The parties to the contract shall be obliged to immediately give the required information and adjust their respective obligations to the changed circumstances in good faith within the scope of what is reasonable.  
We shall be completely or partly released from taking the delivery ordered and in so far entitled to withdraw from the contract when, as a consequence of the above-described delay, the delivery is not usable for us anymore, taking into account economic aspects.



- 8.7. In the event a delivery is made earlier than agreed, we reserve the right to return it at your expense. If not returned, the goods shall be stored by us at your expense and risk. Payment shall only be made on the respective due date.
- 8.8. We accept partial deliveries only when expressly agreed. In case of agreed partial deliveries, the remaining quantity is to be stated.

## 9. Warranty

- 9.1. The manufacturing of the products and the products as such must be in full conformity with "all regulations under German food law". In addition, all regulations under European food law as well as existing regulations of the World Health Organization (WHO), if applicable, must be met. The supplier represents and warrants that all deliveries/services correspond to the latest state of technology, to the relevant legal provisions and to the regulations and guidelines issued by authorities, professional and trade associations. The defined specifications are to be regarded as contractually assured and warranted properties of the delivery.
- 9.2. The supplier is obliged, within the bounds of what is economically and technically possible, to use for its deliveries environment-friendly products and methods.  
You are liable for the environmental compatibility of the products and packaging materials delivered and for all consequential damage caused by violation of your legal duties of disposal.
- 9.3. We oblige ourselves to examine the delivery as to any deviations in quality and quantity within a reasonable period of time. Our complaint shall be in due time when you receive it within 5 working days from the receipt of goods or in case of hidden defects from the time of their detection.
- 9.4. Upon request, you must immediately and free of charge, including all ancillary costs, remove any defects in the delivery notified during the warranty period, including also a failure to achieve warranted data or the absence of warranted characteristics, at our choice by repair or replacement of the defective parts.  
Apart from the above, we are entitled to the legal claims for rescission of contract, reduction of price, replacement delivery and/or damages.
- 9.5. In case you culpably fail to comply with your warranty obligation within a reasonable period fixed by us, we can either take the necessary measures at your expense and risk or have them taken by a third party - without affecting your warranty obligations -. Minor defects can be removed by us without prior coordination - in compliance with our duty to mitigate damage -, without affecting your warranty obligations. Then, we can charge the required expenses to you. The same applies if extraordinarily high damage is threatening.
- 9.6. The warranty period has a maximum length of five years; however, it covers at least the period until expiry of the best-before date of the products manufactured by us therefrom. It begins upon handing the delivery item over to us at the place of receipt defined by us.  
For devices, machines and systems, the warranty period begins on the date of acceptance. In case acceptance is delayed with no fault on your part, it shall be one year from the date the delivery item is made available for acceptance. The warranty period for spare parts is one year from installation and ends not later than two years from delivery.
- 9.7. For delivery items that cannot remain in operation during examination of the defect and/or removal of the defect, the current warranty period shall be extended by the period of interruption of operation. For repaired parts or parts delivered as replacement, the warranty period shall start anew at that point of time - beyond legal suspension -.
- 9.8. Warranty claims shall become statute-barred six months after notification of the defect within the warranty period, but not before its end.



## 10. Product Liability

In the event we are held liable for infringement of official safety regulations or on the basis of national or foreign product liability regulations or product liability acts in connection with a defectiveness of our product that is attributable to your goods, we shall be entitled to claim compensation for such damage to the extent it was caused by the products delivered by you.

Within the scope of your liability for cases of damage, you are also obliged to reimburse any expenses incurred by or in connection with a recall of products carried out by us. We will inform you - as far as possible and reasonable - about content and scope of the recall measures to be taken.

Your delivery items are marked in such manner that they can be permanently recognized as your products. You have to carry on quality assurance of an appropriate type and scope according to the latest state of technology and furnish proof of it to us upon request. In so far, you are ready to enter into a respective quality assurance agreement with us. Moreover, you will maintain appropriate insurance cover against all risks resulting from product liability and submit the respective insurance policy to us for inspection upon request.

The supplier warrants, among other things, that the goods it delivers are in conformity with the REACH regulation and that, with regard to the goods, all obligations under that regulations have been complied with, in particular that - to the extent prescribed - all components of the goods have been and are registered within the meaning of that regulation. The supplier further warrants that the formulations of the products do not contain any ingredients on the basis of

- SVHC (substances of very high concern);
- vPvt / PBT (persistent bioaccumulating toxic substances);
- CMR (carcinogenic, mutagenic and reprotoxic substances);
- Substances of the current list of candidates for Annex XIV.

If, due to alterations in the legislation or because of purchasing problems, a change in formulation (substitute substances with a diverging chemical composition) should become necessary, the seller must enter into contact with us without delay.

The respective confirmation is to be submitted by the seller without being asked.

## 11. Protective Rights

You represent and warrant that all deliveries are free from protective rights of third parties.

You will indemnify us against any third-party claims based on possible infringements of protective rights. We shall be entitled to obtain the permission to use the respective delivery items from the respective proprietor at your expense.

## 12. Minimum wage compliance in case of service provider engagements

The Supplier shall be obliged in relation to Hengstenberg to comply with the respectively applicable regulations concerning the statutory minimum wage and to pay at least the currently applicable statutory minimum wage to its employees who come under the area of applicability of the German Minimum Wage Act (Mindestlohngesetz) .

The Supplier shall release Hengstenberg from all claims due to breaches of the minimum wage on the part of the Supplier. The said release shall also include breaches of the minimum wage by subcontractors engaged by the Supplier.

The Supplier must provide immediate proof concerning the compliance with its obligations within the framework of the German Minimum Wage Act (Mindestlohngesetz) at any time on request by means of the submission of corresponding documents.

Should the Supplier culpably breach the obligation to pay the minimum wage, Hengstenberg shall be entitled to terminate the contract without notice.



### 13. Code of conduct on taking social standards into account

The company Hengstenberg pursues a corporate philosophy which is based on social, ethical and sustainability principles. This philosophy is based on the BSCI guidelines in their valid version at any time. As a business partner of Hengstenberg, your company confirms that it supports and upholds the BSCI principles. Your company also confirms its commitment to sustainable corporate management.

### 14. Final Provisions

- 14.1. If any individual parts of these General Terms and Conditions of Purchase should be legal ineffective, that shall not affect the effectiveness of the remaining provisions.
- 14.2. Subcontracting of the order is not admissible, unless with our prior written approval.
- 14.3. Unless expressly otherwise agreed, the place of performance for the delivery obligation shall be the address for shipment or place of utilization desired by us; the place of performance for all other obligations shall be Esslingen.
- 14.4. The place of jurisdiction shall be Esslingen. However, we may also sue you at your general place of jurisdiction.
- 14.5. In addition, there apply exclusively the laws of the Federal Republic of Germany.