

BE-012 GENERAL PURCHASING TERMS AND CONDITIONS OF VEYHL GMBH

A. Order issuance

1. These General Purchasing Terms and Conditions apply only to entrepreneurs. An entrepreneur in this sense means a natural or legal person or a partnership (*Personengesellschaft*) with legal capacity that acts in exercise of its commercial or independent professional occupation when concluding a transaction. A partnership with legal capacity is a partnership that is furnished with the capacity to acquire rights and enter into liabilities. These General Purchasing Terms and Conditions apply to all business transactions between Veyhl and the supplier, even where they are no longer expressly mentioned in connection with subsequent contracts. Changes to these General Purchasing Terms and Conditions are hereby rejected, particularly divergent business terms and conditions of the contractor in order confirmations. If we do not contest order confirmations that indicate divergent terms and conditions, this is not to be deemed agreement therewith.
2. Unless agreed otherwise in a given case, an order is not considered issued until we have written it up or, in the case of verbal or telephonic orders, confirmed it in writing.

B. Acceptance of orders; scope of performance for construction and engineering services

1. Our orders must be promptly confirmed by the contractor in writing. If we do not receive such order confirmation within three days after the date of the order, our order is deemed accepted without change. We make special reference to the deadline for rejection and its significance. To this extent, section 362 of the German Commercial Code (HGB) is deemed expressly agreed to between the parties.
2. For construction and engineering services, the contractor may bill for actual time and labour at hourly rates only if this was expressly agreed to. In such case, the contractor must obtain our decision prior to exceeding the time and labour indicated in the order or in the order confirmation. In all other cases, the complete creation of a work at an indicated final price is also agreed to where same is calculated on the basis of anticipated time and labour. In these cases, it is irrelevant if the actual time and labour is more or less than this.

C. Prices

1. Unless expressly agreed otherwise, the contractually agreed prices – including with successive-supply contracts – are fixed prices and net of value-added tax.

D. Delivery periods

1. The agreed delivery periods and delivery deadlines are binding and begin to run on the date of the order. Controlling for compliance with delivery deadlines or periods is receipt of the delivery at the place of acceptance indicated by us. If delays are expected in connection with order performance, the contractor must promptly notify us thereof, irrespective of the cause of the delay, and provide the reasons for and expected duration of the delay.
2. If the supplier is in default, then irrespective of farther-reaching claims for compensation of damage, Veyhl has the right to impose a contractual penalty of 1% of the order value for each commenced calendar day, up to a maximum of 20% of the order value, and to rescind the contract once a reasonable grace period has expired without success. The proviso of the contractual penalty does not have to be declared when accepting the service. However, the contractual penalty must be asserted within at most three months after acceptance of the service.

E. Transfer of risk

1. For purchase contracts, risk passes when Veyhl receives the goods, and for contracts to produce a work, after express inspection and acceptance.

F. Warranty

1. The contractor warrants that the items and services to be delivered will correspond to the samples approved by us, the relevant standards (DIN and EC standards), and all safety rules, as well as the other agreed quality (section 434 of the German Civil Code (BGB)). Likewise, the contractor warrants that dimensions, weights, and productions based on drawings will conform to the content of orders.
2. If we provide plans, drawings, and/or accessories to the contractor, it is obligated to review same to ensure that they are complete, accurate, and suitable for the intended purpose, as well as to promptly notify us if the provided documents are incomplete or inaccurate. If the contractor does not lodge any objections, it is also bound by warranty without limitation in this regard.
3. The deadline for inspection and complaint (sections 377 and 378 HGB) is 10 days in each case. If a defect cannot be ascertained until after special inspection or testing, or if the defect is latent, the deadline is 10 days after discovery of the defect. The contractor waives the objection of untimely inspection or untimely complaint. These arrangements also apply to excess or short deliveries, whereby excess or short deliveries generally require our express approval.

4. If delivery items are defective or lack assured features, we may demand cure at our discretion. The contractor must reimburse us for all costs incurred with the cure, including the costs of transport, labour, and materials. This also applies where expenses increase because a purchased item has been forwarded to our customers as required following delivery. In the event of rescission, these expenses are to be reimbursed by the contractor to us as contract costs, including our costs for assembly and disassembly at our customer. In urgent cases, we are entitled, after informing the contractor, to eliminate the defects in the delivery item, or have same eliminated, or to obtain replacement from a third party, in each case at the contractor's expense. In addition, we have all contractual and statutory claims to compensation of damages, which in no event may be limited by the contractor.
 5. The warranty period is two years, unless longer statutory periods apply. For repaired or newly delivered goods, the warranty period begins to run anew in each case. The written complaint of defects is deemed to be the start of negotiations about the warranty claims to which Veyhl is entitled and suspends prescription.
- G. Invoicing, payment**
1. Unless agreed in writing otherwise, payment is made, subject to the accuracy of invoicing, within 14 days, with a 3% discount for early payment, or within 30 days, net. The period begins at the time at which we receive both a verifiable invoice and the goods or at which the services are rendered.
 2. The time between complaint of defects and complete cure is not taken into consideration in calculating the payment period pursuant to No. 1.
- H. Assignment of receivables**
1. In the scope of application of section 399 BGB, every assignment of receivables is precluded. However, if the situation is different under section 354a HGB and receivables have been assigned, we can pay the supplier as former creditor with the effect of discharge.
- I. Manufacturer liability**
1. If we are sued under manufacturer liability based on domestic or foreign law, the contractor must reimburse us for the damages resulting therefrom, including the costs of a necessary recall action and legal prosecution costs, insofar it would itself be directly liable. The contractor waives the object of prescription, unless for our part, we rely on prescription vis-à-vis the claimant.
- J. Supplied materials**
1. We retain title to supplied materials, and same must be stored separately by the contractor and used only for our order. The contractor is liable for damage or loss. It must insure all supplied parts against damage due to fire, water, or theft.
 2. The materials are processed or reshaped on our behalf. In any event, we become owner of the newly created item. If processing involves third-party materials, we acquire co-title.
- K. Ownership rights, exclusive rights**
1. We retain title to all items, samples, drawings, plans, models, tools, and technical instructions provided to the contractor. The contractor must keep such items confidential and return same at no charge upon request at any time. They may not be passed on to third parties or used for the contractor's own purposes. The same applies to items that were manufactured in whole or in part at our expense (e.g. forms, tools, devices). Modifications may be made to these only with our written consent. The contractor must insure these parts as well. The contractor is liable for their damage or loss.
 2. If in connection with the order, the contractor makes improvements, we have a free, non-exclusive right of use with regard to the commercial exploitation of the improvement and any proprietary rights.
- L. Proprietary rights**
1. With regard to its deliveries, the contractor is solely liable to third parties for violation of industrial property rights in countries of the European Communities, the U.S., and Canada, as well as in countries that have proprietary rights covering the same subject as in the aforementioned countries. The contractor undertakes to indemnify us against all third-party claims and to reimburse us for the incurred legal prosecution costs.
- M. Place of performance, place of jurisdiction, and applicable law**
1. The place of performance is that location to which the goods are to be delivered in accordance with the order.
 2. Stuttgart is agreed to as the place of jurisdiction. However, we are also entitled to assert claims at any other statutory place of jurisdiction.
 3. The contractual relationship is subject to the law of the Federal Republic of Germany. The application of international laws governing the sale of goods is precluded.
- N. Compliance**
- The supplier undertakes to comply with the relevant statutory arrangements concerning treatment of workers, environmental protection, and workplace safety and with regard to its activities to work toward reducing the deleterious effects on humanity and the environment. In this respect, the supplier is, where possible, to establish and enhance a management system in accordance with ISO 14001. In addition, the supplier is to comply with the principles of the UN's Global Compact Initiative. These mainly concern protection of international human rights, the right to collective bargaining, the abolishment of forced labour and child labour, the elimination of discrimination in hiring, responsibility for the environment, and the prevention of corruption. Further information about the UN's Global Compact Initiative can be found at www.unglobalcompact.org. In the event that a supplier repeatedly and/or despite a corresponding warning acts unlawfully and does not prove that the violation of law has been remedied as far as possible and that reasonable steps

have been taken to avoid future violations of the law, we reserve the right to rescind existing contracts or terminate same without notice.

O. Purchase of technical facilities and equipment

1. Duty to manufacture “according to the state of the art and under compliance with relevant laws, requirements, and conditions, particularly under compliance with the Occupational Safety Act (*Arbeitsschutzgesetz*), the Workplace Safety Regulation (*Betriebssicherheitsverordnung*), and the Device and Product Safety Act (*Geräte- und Produktsicherheitsgesetz*, GPSG), as well as their regulations and technical rules. The directly applicable EC directives are to be complied with, including Directives 98/37/EC (Machinery Directive), 73/23/EEC (Low-voltage Directive), and 89/336/EEC (EMC Directive).”
2. The contractor must ensure that equipment does not consume more energy than is necessary for its proper use. Where possible, energy-efficient drives, engines, and other active components are to be used for the manufacture of equipment. Total energy requirements of equipment may not amount to more than that of comparable reference equipment of the same construction type and size/output.”
3. The nominal capacity of equipment is to be selected in such a way that it is sufficient for the planned use of the equipment but not excessively over-sized. The requirements for nominal capacity of equipment are stipulated by us (intended user).”
4. We make the contractor aware that an evaluation of products, facilities, and services that have a material impact on our energy use is partly based on energy-related performance. In this regard, we expect active support from the contractor with respect to possible optimisation of our energy use and energy consumption, as well as our energy efficiency over the expected useful life of the products, facilities, and services using the needed energy.
5. “The contractor must notify us about required professional operation, requisite servicing and maintenance measures, and inspections that are necessary for proper use and flawless operation and provide corresponding documents, e.g. servicing instructions.”

P. Terms and conditions for architect and engineer services

1. Point out that the relevant safety and conduct rules are pointed out to the contractor’s employees when entering our plant grounds.
2. the requirement of using only electrical operating resources that have been tested pursuant to DGUV 3 (contractor’s responsibility).
3. the prohibition of changing settings on energy-providing, heating, ventilation, and air-conditioning equipment, unless this is necessary to perform the work. In that case, written permission must be obtained from us.
4. Keep windows and doors closed.

Q. Amendments, severability clause

Amendments to these General Purchasing Terms and Conditions or other contractual understandings must be set down in writing.

If individual parts of these General Purchasing Terms and Conditions lapse due to statute or individual contract, this does not affect the effectiveness of the other provisions.