

Terms and Conditions of Purchasing of CVS Engineering GmbH Grossmattstrasse 14, 79618 Rheinfelden

I. General

(1) These Terms and Conditions only apply to companies within the meaning of Section 14 German Civil Code (BGB), legal persons under public law or special funds under public law.

(2) Unless otherwise agreed in writing, the following General Terms and Conditions of Purchasing shall apply exclusively to all - current and future - contracts for the delivery of goods and services. The general terms and conditions of the supplier or contractor (hereinafter uniformly referred to as "Supplier") shall only apply where CVS has agreed to them in writing.

II. Conclusion of the Contract

(1) Any purchase order which deviates from the Supplier's offer must be confirmed by the Supplier without delay, in writing, by email (preferably in PDF format) to einkauf@cvs-eng.de. If CVS does not receive this confirmation within 14 days of the date of the order, CVS shall no longer be bound by the said order.

(2) Subsequent agreements which deviate from the order require written confirmation by CVS in order to be valid, such as oral ancillary agreements of any sort.

III. Prices and Payment

(1) The agreed prices are fixed prices including packaging and apply DDP CVS Rheinfelden Incoterms[®] 2020.

(2) Unless other payment terms have been agreed in writing, CVS shall pay the Supplier's invoices either within 10 days subject to 3% discount or within 30 days without deduction.

(3) The payment period commences following complete delivery of the goods in accordance with the contract, and after receipt of the shipping documents pursuant to Clause VI (5) as well as the properly issued invoice, but not before the agreed delivery date.

(4) Any assignment or pledge of the rights accruing to the Supplier under the contract requires the written consent of CVS.

(5) The Supplier may only effect a set-off against counterclaims or exercise a right of retention where the counterclaim is not disputed by CVS, is pending a decision or has been upheld by a final court judgement. The right of retention is also limited to counterclaims arising from the same contract as the claim.

IV. Delivery Dates, Default on Delivery

(1) Agreed delivery dates and lead times are binding. If the Supplier becomes aware that it is unable to meet a delivery date, it must inform CVS of this without delay, indicating the reasons and the likely new delivery date.

(2) Agreed acceptance dates are also binding. The agreed acceptance date is deemed to have been met where a person authorised by CVS confirms successful delivery in writing e.g. by signing the acceptance report.

(3) By way of contractual penalty in the event of a delay in delivery, unless the Supplier can show that it was not responsible for the delay, CVS is entitled to demand payment of 1.0% of the agreed price for the whole delivery, for each complete week of delay, up to a total maximum of 5%. This shall be without prejudice to additional statutory rights. The Supplier is free to show that the loss was lower. CVS reserves the right to claim the contractual penalty up until final payment.

V. Place of Delivery and Transfer of Risk

(1) All deliveries shall be DDP CVS Rheinfelden Incoterms[®] 2020.

(2) The risk shall pass to CVS only once the goods to be delivered have been properly handed over at the destination or - where acceptance has been agreed or is required by law - accepted by CVS. This also applies where CVS deploys its own transport personnel.

CVS Engineering GmbH

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VI. Scope of Delivery, Packaging and Shipment

(1) Where the order relates to machinery, appliances, vehicles and suchlike, the safety devices required under accident prevention regulations must also be supplied without the need for any special order or notification.

(2) In the case of raw materials (particularly plastic) the scope of delivery includes a work's test certificate 3.1 pursuant to EN 10204. The goods must be identified on the packaging by way of the order number, batch number, date, quantity and CVS item number.

(3) The Supplier is only entitled to effect partial or excess delivery with the prior written consent of CVS. In the case of approved partial deliveries, the remaining quantity must be indicated on the delivery note and the invoice. In the case of a delivery schedule, CVS is only obliged to accept the quantities that are expressly indicated as binding in the schedule.

(4) The goods must be packaged to customary commercial standards or, on request, with special packaging according to instructions from CVS. The item in the respective packaging unit must be identified by way of the order number, date, quantity and CVS article number. The Supplier shall be liable for damage resulting from defective packaging. CVS is entitled to return the packaging, carriage paid, to the place of departure and charge 1/3 of the invoiced value back to the Supplier in this regard.

(5) CVS shipping instructions must be observed. Shipping documents must contain the following details: Date, order/call-off number, part number including the drawing index - where available - part name, weight and delivery quantity. The data on the delivery note must be identical to that shown on the goods labelling. The shipping documents must be available to CVS by no later than receipt of the goods.

(6) Until the arrival of the duly completed shipping documents, CVS is entitled to store the delivery at the Supplier's expense and risk.

VII. Outgoing and Incoming Goods Inspections

(1) The Supplier is obliged to carry out an outgoing goods inspection to ensure that only defect free goods are shipped. If necessary, the extent of the examination shall be agreed in a Quality Assurance Agreement to be concluded separately.

(2) On receipt, CVS will examine the goods for obvious defects that are visible externally on the packaging, as well as externally visible transport damage, and based on the delivery documents will check the identity and quantity. There is no further obligation to examine the goods. CVS shall report any defects to the Supplier without delay following their discovery. In this regard, the Supplier waives its defence of late notification of defects.

(3) The Supplier shall bear the costs where, as a result of defective delivery, an overall inspection is required which exceeds the normal level of the incoming goods inspection specified in para. (2).

(4) The obligation to carry out an incoming goods inspection shall not apply where acceptance has been agreed or is required by law.

VIII. Warranty for Defects

(1) The Supplier warrants that, on delivery to CVS, the products are free of defects in title and material defects and that they comply with the recognised state of the art, relevant laws, health and safety provisions as well as the customary technical and quality assurance standards (e.g. DIN, EN/ISO, VDE, CE marking, ATEX standard). In case of varying interpretations of these standards, the German version shall take precedence.

(2) Unless otherwise indicated below, the Supplier's obligations in case of defective delivery are governed by the statutory provisions.

(3) In the event of a defect, CVS is entitled to withhold payment in proportion to the value until the defect has been duly rectified.

(4) CVS is entitled to opt either for free rectification of defects or delivery of defect-free goods. In case of urgency, CVS is entitled, following coordination with the Supplier, to effect rectification of the defects itself, have them rectified by a third party or to obtain a replacement elsewhere, at the Supplier's expense.

The same applies without the need for coordination where the Supplier defaults on its obligation to effect subsequent performance.

(5) All expenses arising, at the respective place of use of the goods, as a result of subsequent performance, shall be borne by the Supplier. On request, CVS shall notify the Supplier as to the place of use.

(6) CVS is entitled to claim the reimbursement of expenses pursuant to Section 445a BGB, even if the Supplier has only delivered a part, or only raw materials, and not the complete newly manufactured item.

(7) Unless the law provides for a longer time limit, the limitation period for claims based on defective delivery shall be 36 months from transfer of risk or - where agreed or provided by statute - from acceptance.

(8) Where, following notification of defects by CVS, delivery items are repaired or replaced, the limitation period under para (7) relating to this defect in these parts shall begin anew unless the subsequent performance work was minor or expressly indicated to be a gesture of goodwill by the Supplier.

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IX. Third-party Intellectual Property Rights

(1) The Supplier warrants that the use of the delivered goods will not infringe any third-party intellectual property rights, such as e.g. patents or utility models, other rights or any business or trade secrets (hereinafter together referred to as "Trade Secrets") of third parties - including in the country of use. The Supplier indemnifies CVS and its customers against all claims arising in that regard.

(2) In addition, the Supplier shall be liable for any additional direct or indirect loss incurred by CVS as the result of an infringement of such rights. This shall not apply where the Supplier manufactures goods according to drawings or models supplied by CVS or where the Supplier is not responsible for the infringement of such rights for other reasons.

X. Product Liability and Insurance

(1) Where claims are brought against CVS by a customer or other third party based on product liability, the Supplier is obliged to indemnify CVS upon its first written request against such claims if and insofar as the damage was caused, in whole or in part, by a defect in the part supplied by the Supplier. In the case of fault-based liability, however, this shall only apply if the Supplier is to blame.

(2) Insofar as the cause of damage lies within the Supplier's area of responsibility, evidence of a causal link between the defect and the damage shall suffice; otherwise the Supplier shall bear the burden of proof.

(3) The Supplier shall in any case assume the costs and expenses corresponding to its share of the cause/blame including the costs of any litigation or recall.

(4) On request, the Supplier is obliged to take out insurance to cover its liability risk and provide CVS with evidence of adequate cover.

XI. Trade Secrets

(1) The Supplier undertakes to treat all details of the contract, such as e.g. quantities, technical design, conditions etc. and any other confidential information which it receives intentionally or by accident from CVS, as Trade Secrets, to refrain from using them for its own purposes and keep them secret from third parties.

(2) The inclusion of CVS in a list of references or using the purchase order or mentioning the CVS name for advertising purposes, requires the prior written consent of CVS.

XII. Final Provisions

(1) Place of performance for all the obligations of the Parties under this contract and under any other business dealings shall be the registered office of CVS.

(2) The place of jurisdiction for all disputes arising from this contract or from any other business dealings between the Supplier and CVS is Freiburg im Breisgau, Germany. CVS may, however, bring proceedings in the court with jurisdiction over the Supplier's place of business.

(3) German law applies. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 shall not apply.

(4) Where one or more provisions of these Terms and Conditions is invalid, this shall not affect the validity of the remaining provisions.

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