

**HUECK System GmbH & Co. KG
HUECK Extrusion GmbH & Co. KG
HUECK Service GmbH & Co. KG
General Terms and Conditions of
Procurement for Purchase Contracts
and Contracts for Services
Last updated: April 2019**

§ 1

General - Scope

- (1) Our terms and conditions of procurement shall apply exclusively to all deliveries and services which we utilise, irrespective of the underlying legal relationship. We shall not recognise any terms and conditions of the supplier which conflict with or deviate from our terms and conditions of procurement unless we have expressly agreed to their validity in writing. Our terms and conditions of procurement shall also apply if we unconditionally accept the supplier's delivery in the knowledge that the supplier's terms and conditions conflict with or deviate from our terms and conditions of procurement.
- (2) All agreements made for the purpose of executing this contract between us and the contractor, hereinafter referred to as the "Supplier" irrespective of the underlying legal relationship, shall be set out in writing at a minimum.
- (3) Our terms and conditions of procurement shall only apply to entrepreneurs within the meaning of Section 13 of the German Civil Code.
- (4) The preparation of quotations, technical projects, preliminary studies etc. is at no cost to us in all cases and in particular does not oblige us to place an order.

§ 2

Inspection and acceptance of the order,
effects of acceptance, offer documents

- (1) The Supplier shall accept our order within a period of 1 week, stating the order data in accordance with § 3(3) below. This is preferably done by countersigning our order letter. Acceptance of the order constitutes the Supplier's acknowledgement that it has informed itself about the type of execution and scope of the service by inspecting the existing and possibly provided documentation, documents, drawings and plans.
- (2) We reserve ownership rights and copyrights to illustrations, drawings, calculations, samples, models, brands, presentations and other documents, and they shall not be made accessible to third parties without our express written consent. These shall be used exclusively for production on the basis of our order and shall be returned to us unsolicited after completion of the order. These shall be kept secret from third parties, in this respect the provisions of § 9(5) shall also apply.
- (3) We shall not be liable in the event of obvious and typographical errors and miscalculations in the documents, drawings and plans we submit. The Supplier shall inform us of such errors so that our order can be corrected and renewed. This also applies to missing documents or drawings.

- (4) The Supplier shall observe the following regulations within the scope of the respective area of application:
- (a) our specification of services and/or functional specifications, if available;
 - (b) The substance ban under Directive 2002/95/EC (ROHS) and Regulation (EC) No 850/2004 (POP);
 - (c) the relevant DIN/EN standards for the delivery item;
 - (d) VDE regulations;
 - (e) TÜV regulations;
 - (f) The German Product Safety Act;
 - (g) Substance bans on the Banned Lists of Chemicals. Cradle to Cradle CertifiedCM Product Standard

If and to the extent that there are any inconsistencies within these documents, the specification of services/functional specification shall always prevail. In the event of doubt, the Supplier shall clarify inconsistencies before execution and to remove any doubt.

§ 3

Prices - Terms of payment - Prohibition of assignment

- (1) The price stated in the order is binding. Unless otherwise agreed in writing, the price shall include delivery "free domicile", including packaging. Unless regulated by the German Packaging Ordinance, the return of the packaging requires a special agreement.
- (2) Invoices shall be sent to us separately in duplicate for each order. They shall not be enclosed with the consignment. We can only process invoices if they indicate the order number stated in our order. The Supplier is responsible for all consequences arising from non-fulfilment of this obligation unless it demonstrates that this is not attributable to it.
- (3) Payments shall be made 14 days after receipt of invoice and goods with 3% discount or within 30 days net.

Regarding invoices for construction services, the date of examination by the architect or our specialist department shall take precedence over the date of the invoice's receipt for the commencement of the discount or payment period.

- (4) We are entitled to rights of set-off and retention to the extent permitted by law.
- (5) Claims of the Supplier against us may only be assigned to third parties with our consent. Excluded from this are assignments within the scope of customary forms of extension of the retention of title or within the framework of factoring agreements.

§ 4

Delivery time

- (1) The delivery time stated in the order is binding. The goods shall be received at the place of receipt specified by us within the delivery period or on the delivery date.
- (2) The Supplier shall inform us immediately in writing if circumstances arise or become apparent to it which indicate that the stipulated delivery time cannot be met.
- (3) We shall be entitled to the statutory claims in the event of a delayed delivery. In particular, we shall be entitled to claim damages instead of performance in accordance with statutory provisions.
- (4) In the event of a delayed delivery, without prejudice to our statutory rights (see paragraph (3) above), we shall be entitled after a reminder to demand a contractual penalty of 0.5% of the net order value per commenced week, a maximum of 5% of the net order value and/or the delivery and/or to withdraw from the contract due to the delayed performance. Assessed and paid contractual penalties shall be set off against a claim for damages.
- (5) We are not obliged to accept the goods before the delivery date.

§ 5

Transfer of risk - Documents

- (1) Unless otherwise agreed in writing, delivery shall be effected free domicile.
The risk of accidental loss or accidental deterioration shall be borne by the Supplier until we have received the goods. This shall also apply if our staff have assisted in unloading the goods.
- (2) The Supplier shall indicate our exact order number on all shipping documents and delivery notes. We shall not be responsible for delays in processing in the event of its failure to do so.
- (3) Hueck waives any freight forwarders liability insurance.

§ 6

Inspection for defects - Liability for defects - Prescription

- (1) Unless an individual quality management agreement stipulates otherwise, the Supplier shall inspect the delivered goods prior to delivery for compliance with the contractual characteristics and, if individually agreed, shall record the condition of the delivered goods in a factory release certificate. Our incoming goods inspection is limited to checking the identity of the goods, the delivery quantity and the presence of transport damage and obvious defects. Further controls of the delivered goods only take place within the framework of our quality management system as quality controls accompanying production. Due to this handling, the Supplier waives the right to complain about insufficient or delayed incoming goods inspection in accordance with Section 377 of the German Commercial Code. A complaint shall be deemed to have been made in good time if it is received by the Supplier within a period of 10 working days, calculated from the receipt of the goods or, for latent defects, from discovery.

- (2) We shall be fully entitled to statutory remedies in the event of defects and/or other contractually non-compliant performance on the Supplier's part.
- (3) If we incur expenses in the course of remedying the defect through subsequent performance, in particular (but without limitation) for the retrieval of defective products, their removal and the incorporation of the products delivered as part of subsequent performance, the Supplier shall reimburse us for these expenses and indemnify us against claims from our customers directed at such expenses they have incurred.
- (4) In exceptional cases in which there is a risk of delay or special urgency which, after weighing the interests of both parties, does not permit a deadline to be set for subsequent performance, we shall be entitled to carry out the subsequent performance ourselves at the Supplier's expense after having informed the Supplier in advance.
- (5) Our products are predominantly building products within the meaning of Section 438(1)(2) of the German Civil Code and are subject to a 5-year warranty. For this reason, the warranty for the products manufactured by the Supplier or for the orders it executes shall end five years after delivery to our customer, but at the latest 66 months after delivery to us or our acceptance. If the delivered goods or services are not incorporated into a construction product, all claims arising from contractually non-compliant performance shall lapse within the statutory periods.
- (6) Hueck is entitled to verify the quality of the products and the Supplier's procedures within the framework of audits. Our customers' employees shall also be admitted to these audits where necessary.

§ 7

Product liability - Indemnity - Liability insurance cover

- (1) In accordance with the Product Safety Act (PSG), the Supplier bears full responsibility for the products it supplies. If measures according to the PSG are necessary or ordered by the authorities, the Supplier shall indemnify us against the costs if and to the extent that the cause lies in its product.
- (2) If the Supplier is liable for product damage, it shall indemnify us upon first request against claims for damages by third parties to the extent that the cause lies within its sphere of control and organisation and it would be directly liable itself in the external relationship.
- (3) Within the scope of its liability for damage cases within the meaning of paragraphs (1) and (2), the Supplier shall also reimburse any expenses arising from or in connection with a recall action carried out by us or ordered by the authorities in accordance with Sections 683, 670 of the German Civil Code as well as Sections 830, 840, 426 of the German Civil Code. As far as possible and reasonable, we shall inform the Supplier of the content and scope of the recall/inspection measures to be carried out and give it the opportunity to comment. Other statutory claims remain unaffected.

- (4) The Supplier undertakes to maintain product liability insurance with a reasonable sum insured for personal injury/property damage. Any further claims for damages to which we are entitled shall remain unaffected.

§ 8

Industrial property rights

- (1) Subject to paragraph (5), the Supplier shall be responsible for ensuring that no industrial property rights of third parties within the EEA states are infringed in connection with its delivery or service.
- (2) If claims are made against us or our customers by a third party for this reason, the Supplier shall indemnify us against these claims upon our first written request. We shall not be entitled to enter into any agreements with the third party without the Supplier's consent, in particular to conclude a settlement.
- (3) The Supplier's obligation to indemnify refers to all expenses necessarily incurred by us as a result of or in connection with claims asserted by a third party.
- (4) The prescription period shall be ten years, calculated from the contract's conclusion.
- (5) The above paragraphs (1) to (4) shall not apply insofar as the Supplier has manufactured the delivered goods in accordance with drawings, models or other equivalent descriptions or arrangements provided by us and does not know or, in connection with the products it manufactures, cannot know that industrial property rights are infringed thereby.

§ 9

Retention of title - Provision of materials - Tools - Confidentiality

- (1) We reserve the right of ownership if we provide materials or semi-finished products to the Supplier. These shall be stored separately as such and may only be used for our orders. The Supplier shall also be liable, even without fault, for any reduction in value or loss occurring during its possession. Processing or transformation by the Supplier shall undertake processing or carried out for us. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new items in the ratio of the value of our goods (purchase price plus VAT) to the other processed goods at the time of processing.
- (2) If the item we provided is inseparably commingled with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other commingled items at the time of commingling. If the commingling is carried out in such a way that the Supplier's item is to be regarded as the main item, co-ownership shall pass to us proportionally at the time of the combination or commingling and the Supplier shall hold the sole ownership or co-ownership on loan for us.
- (3) We retain ownership of tools provided.

Tools which the Supplier manufactures on our behalf and for which we pay full costs shall become our property upon completion. If we pay partial costs, ownership shall pass to us proportionally upon completion. In such cases, the Supplier shall then keep the tools on loan for us instead of handing them over.

- (4) The Supplier shall use tools in accordance with paragraph (3) above exclusively for the manufacture of the goods we order. The Supplier shall insure these tools at replacement value against fire, water and theft at its own expense. At the same time, the Supplier hereby assigns to us all claims for compensation under this insurance and we hereby accept the assignment. The Supplier shall carry out any necessary maintenance and inspection work as well as all maintenance and repair work on tools which are wholly or partly our property at its own expense and in good time. It shall notify us immediately of any malfunctions, and claims for damages shall remain unaffected if it culpably fails to do so.
- (5) The Supplier shall keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with our express consent. The confidentiality obligation shall also apply after completion of this contract and shall expire if and to the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known.
- (6) If the security interests to which we are entitled under paragraphs (1) and/or (2) exceed the purchase price of all our reserved goods not yet paid for by more than 10 %, we shall release the security interests at our discretion at the Supplier's request.

§ 10

Working in our factory

- (1) Persons who enter our factory areas in fulfilment of a supply contract are subject to the provisions of our company rules.
- (2) We shall only be liable for any accidents or damage in the event of wilful intent or gross negligence on the part of our managerial staff.

§ 11

Place of jurisdiction - Place of performance - Choice of law

- (1) If the Supplier is a businessman, the place of jurisdiction shall be the court with jurisdiction over Lüdenscheid, Germany. However, we shall also be entitled to sue the Supplier at its general place of jurisdiction.
- (2) Unless otherwise stated in the order, the place of performance shall be Lüdenscheid.
- (3) If the Supplier is domiciled abroad, the business relationship shall be governed by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (Vienna UN Convention on Contracts for the International Sale of Goods).

§ 12

Data protection clause

For the duration of the business relationship, including the initiation and processing phase, the Supplier's data shall be stored and processed in an automated file.

We hereby inform the Supplier of this. Legal basis: Sections 28 and 33 of the German Federal Data Protection Act.