

General Terms and Conditions of Purchase

In our capacity as customer, we will purchase and enter into contracts for work and services solely pursuant to the following General Terms and Conditions of Purchase. They are applicable exclusively vis-à-vis companies and public authorities. Any terms and conditions of the supplier/contractor deviating from or contradicting these General Terms and Conditions of Purchase shall not apply unless expressly accepted by us in writing. Where our order is confirmed by the supplier/contractor subject to terms and conditions deviating from our own, our General Terms and Conditions of Purchase shall nevertheless apply even in the event that we fail to reject the contrary terms and conditions imposed by the supplier/contractor. Where the supplier/contractor should not accept this provision, it shall expressly notify us to this effect in a separate communication. In this case, we reserve the right to retract our order, it being understood that the supplier/contractor shall not have any remedies against us as a result. Our General Terms and Conditions of Purchase shall also apply to any future contracts for work and services entered into by us in our capacity as purchaser/customer even in the event that we do not expressly refer to them. We reserve the right to apply special, supplementary terms and conditions to the purchase of plant and machinery. Where the requirement of the written form is provided for in these terms and conditions, it shall be deemed to be satisfied where transmission takes place by means of telecommunications (e.g. e-mail, telefax).

I. Offers

1. All offers shall be made in writing and be free of charge. Preparatory costs (e.g. travel expenses, drafting of plans) shall be assumed by the supplier/contractor.
2. Offers shall include the details required by us for processing purposes, i.e. our inquiry (RFQ) or order number, our stock number as well as the name of the employee handling the matter.

II. Orders

All orders and agreements entered into with us shall be set out in writing.

III. Confirmation of order

1. Unless agreed otherwise, all orders shall be immediately confirmed by the supplier/contractor, stating the name of the responsible employee, the stock number and the order number.
2. If we do not immediately receive a confirmation of order, we shall be entitled to rescind the contract, in which case no remedies for any legal reason whatsoever shall be available against us, irrespective of the legal grounds on which they are founded.

IV. Prices

1. The prices stated in our order are binding and include packaging, material certificates in line with prevailing standards, certificates of origin and any other approvals such as CE, CSA, UL-marking as well as carriage paid to the delivery address, customs cleared.
2. Unless stated otherwise, prices shall include VAT.
3. We reserve the right to return packaging material at the supplier's/contractor's expense.
4. Invoices shall include the delivery address, the name of the employee in charge, the order number, our stock number, the quantity supplied, the price as well as any other details required by us for processing purposes. Invoices shall not be payable as long as these requirements are not met.

V. Delivery, obligations of the manufacturer

1. The delivery date and quantity stated in our order shall be binding.
2. The supplier/contractor undertakes to inform us in writing without delay as soon as it realizes that it is unable to comply with the delivery date for all or part of the order. Where no new delivery date is agreed upon as a result, we shall be entitled to rescind the contract, in which case no remedies shall be available to the supplier/contractor against us. This shall also apply where the delay is due to orders issued by government authorities, strikes and/or force majeure.
3. Where the supplier/contractor is in arrears in fulfilling contractual obligations, i.e. defect-free delivery, we shall be entitled to claim damages at a lump-sum of 2% of the value of the delivery per week, up to a maximum of 10%. The supplier/contractor shall be entitled to prove that the actual loss sustained by us is substantially lower or that we have not sustained any loss at all. We reserve the right to utilize other legal remedies available to us such as rescission or the recovery of damages on account of non-performance.
4. As to products to which the German Electrical Equipment Act is applicable, the supplier/contractor is regarded as the manufacturer and shall assume the obligations associated with the return of goods, especially registration. We may pass on the registration number through to the end customer.

VI. Dispatch, Logistics Manual

1. The supplier/contractor undertakes to state the destination, order date, order number, the stock number and responsible employee in a readily visible manner on the shipping papers (delivery notes, consignment notes, packages, labels etc.).
2. The risk of loss or damage shall not pass to us until the goods reach their destination.
3. Our Logistics Manual shall constitute an integral part of the contract (available on our website at: www.hydac.com→Support→Container Management).

VII. Warranty/liability for material defects

1. The supplier/contractor shall warrant that the goods and services supplied are free of all defects and comply with statutory and government requirements.
2. This warranty shall apply for a period of two years starting on the date on which risk passes to us, unless the warranty period provided for by statute or offered by the supplier/contractor is longer.
3. We shall be deemed to have complied with our statutory duty to examine goods immediately and report any faults as applies to apparent defects. The supplier/contractor undertakes to carefully examine the quality of the goods prior to dispatch. Any claims for defects lodged by us shall be deemed to have been lodged in good time if they are received within two weeks of receipt of the goods or, in the case of hidden defects, upon their detection.
4. To remedy the defect, we may demand that the supplier/contractor repairs the faulty goods or, at our discretion, provide us with defect-free replacements. Where applicable, the supplier/contractor shall assume all expenses related to remedying the defects or providing replacements. This shall be without prejudice to our statutory rights and remedies in the event of defects. Where the supplier/contractor is obligated to remedy defects, the warranty period shall begin anew upon delivery of the new item. The same shall apply when subsequent repairs are carried out, to the extent that the repaired part is affected by the same defect, or the repair was carried out in an incorrect manner.
5. The place of performance for remedying defects shall always be the geographical location of the item.

6. In particularly urgent cases or when the supplier/contractor is in arrears with its warranty obligations, we shall be entitled to remedy the defects ourselves or have them remedied. A particularly urgent situation shall be deemed to be present in particular if a production interruption or shutdown, inability to provide products or services, non-timely commissioning or imposition of a contractual penalty is imminent and we cannot be reasonably expected to notify the supplier/contractor of the defect and establish a date for having the defect remedied by it. The cost of any warranty work arranged by us shall be borne by the supplier/contractor.

VIII. Liability

1. Liability on the part of the supplier/contractor is based on applicable statutory provisions. In the event any claims are lodged against us on account of liability, the supplier/contractor shall hold us harmless against such claims including any cost of factory recalls insofar as these claims are due to circumstances having their origin in the supplier's/contractor's sphere of responsibility or organization and for which the supplier/contractor would be liable in direct dealings.
2. In view of this, the supplier/contractor undertakes to maintain liability insurance cover providing for an adequate sum insured. This shall be without prejudice to any further entitlement on our part to recover further damages.

IX. Retention of title, confidentiality

1. We accept the supplier's/contractor's retention of title if and only if this is expressly agreed in writing in addition to these General Terms and Conditions of Purchase.
2. All documents (e.g. drawings, diagrams, calculations, samples, models, data media, computer records and software) provided by us to the supplier/contractor shall remain our property. These documents are strictly confidential and may not be made accessible to any third parties except with our prior written approval. They shall be returned to us on first request, at the latest however as soon as they are no longer required, this to be done without being requested to this effect. The documents may only be used for business dealings with us.
3. The supplier/contractor may not use our name or trademarks. Information which the supplier/contractor receives from us for the purposes of executing our orders, i.e. information relating to research and development work or our business activities, shall be kept confidential while the order is being executed as well as thereafter.
4. Any parts provided by us shall remain our property and shall be processed on our behalf. Where such parts are combined with third-party items, we shall acquire co-ownership rights in the resultant products proportionate to the value of our property in the third-party item.

X. Tools, dies/moulds and fixtures

Any tools, dies/moulds or facilities paid by us in part or full shall become our property/co-property and shall be deemed to be on loan only to the supplier/contractor.

XI. Payment

1. Invoices shall be sent to us immediately after delivery and include the details set out in Section IV above. They must not be enclosed with the delivery.
2. We shall be entitled at our discretion to pay as follows:
 - cash discount of 3 % for payment within 14 days of receipt of the goods and invoice,
 - net within 30 days of receipt of the goods and invoice.
3. Payment shall not be deemed to constitute approval or contractual acceptance of the goods.
4. Although we do not reject premature deliveries, we shall be entitled to postpone payment of invoices until the agreed

delivery date. In this case, the cash discount periods and the warranty periods shall commence as of the agreed delivery date. We reserve the right to retain at least 10 % of the entire invoice amount pending full delivery.

XII. Assignment of claims

Claims against us by the supplier/contractor may not be assigned to any third parties without our prior, written consent.

XIII. Suspension of fulfillment

Unless otherwise agreed, we shall be entitled to have work suspended on purchase orders placed by us for a period of three months where this is in our specific interest. A specific interest in having fulfillment suspended shall be deemed to be present where we do not require the item to be supplied for a specific contract/purpose until a later point in time than originally planned for reasons not attributable to us. Storage costs incurred by the supplier/contractor during any such suspension periods shall be borne by it. We shall not be held liable for any other related costs that may be incurred by the supplier/contractor during such suspension periods. Delivery dates shall be extended by the total length of any such suspension periods.

XIV. Cancellation

Notwithstanding the cases provided for by law, we shall be entitled to cancel work on orders placed by us where we are no longer able to use the item to be supplied for the proposed contract/purpose for reasons not attributable to us and are unable to resell the item. We will compensate the supplier/contractor for the costs incurred by it for the work completed and materials employed prior to the cancellation date, provided that the supplier/contractor presents documentary evidence of the costs incurred by it and submits an invoice for same. Upon payment of these costs, ownership of the products manufactured or procured by the supplier/contractor prior to the cancellation date shall revert to us, and the supplier/contractor shall deliver said products to the destination stated on our purchase order.

XV. Miscellaneous provisions

1. The place of performance shall be the registered office of our company. This shall also be the place of jurisdiction for all disputes arising from the business relations with the supplier/contractor where the supplier/contractor is a merchant as defined by the German Commercial Code. However, we shall be entitled to initiate proceedings before the competent courts at the supplier's/contractor's domicile.
2. All legal relations between the supplier/contractor and us shall be governed by and construed exclusively in accordance with the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. The supplier/contractor agrees to be bound by our Business Code (available on our website at: www.hydac.com→Company→Business Code).
4. If any of the above provisions should prove void or unenforceable, it shall not in any way or manner affect the validity or enforceability of any other provision hereof.