

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

Art. 1 General, Scope of Application, Definition

1. These General Terms and Conditions of Purchase shall apply to all business relationships with our business partners and suppliers (hereinafter referred to as “person obliged to effect a performance or render a service” or “service debtor”). They shall only apply if the service debtor is an entrepreneur (Art. 14 of the German Civil Code, BGB), legal person under public law or a special fund under public law.
2. Our General Terms and Conditions of Purchase shall apply both to contracts on the sale and/or supply of movables (hereinafter also referred to as “goods”) to us, irrespective of whether the service debtor itself produces the goods or purchases them from suppliers (Articles 433, 651 of the German Civil Code), as well as to providing work, installation and services to us as customer. Our General Terms and Conditions of Purchase shall also apply in their valid version as framework agreement to future contracts on the sale and supply of movables to us with the same service debtor without the necessity of us referring to the General Terms and Conditions of Purchase in each individual case.
3. If and to the extent that these General Terms and Conditions of Purchase require the “written form” or a “declaration in writing” such declaration sent via telefax or e-mail shall be sufficient to fulfil the written form requirement.
4. Our General Terms and Conditions of Purchase shall apply exclusively. Different, adverse and amending general terms and conditions of the service debtor shall only and to such extent become part of the contract as we explicitly approved of their validity in writing. This requirement of approval shall apply in any case, for example also if we accept the service debtor’s supplies without any reservation while being fully aware of ist general terms and conditions.
5. Agreements made with the service debtor in individual cases (including supplements, amendments and changes) shall, in any case, have priority over these General Terms and Conditions of Purchase . Regarding the contents of such agreements a written contract or our written approval shall be prevailing.
6. Legally relevant declarations and announcements to be submitted to us by the service debtor after concluding the contract (e.g. setting of deadlines, reminders, withdrawal declarations) shall be made in writing in order to be valid.
7. References to the applicability of legal regulations shall only have clarifying relevance. Also without such clarification the legal regulations shall apply unless directly changed or explicitly excluded by these General Terms and Conditions of Purchase.
8. In these General Terms and Conditions of Purchase, Monday to Friday shall be considered as working days.

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

Art. 2 Conclusion of Contract

1. Our order shall at the earliest be binding upon written order or written approval.
2. The service debtor shall be obliged to confirm (acceptance) our order within a term of one working day via telefax or e-mail. Delayed acceptance shall be considered as new offer and is subject to our acceptance.
3. Also after effecting an order we shall have the right to change and amend the order. Should the service debtor not immediately or within one working day at the latest, object to our order or possible amendments or changes via telefax or e-mail it shall be considered that the service debtor accepts the order or possible amendments or changes.

Art. 3 Delivery Time and Delay in Delivery

1. The delivery date specified by us on the order shall be binding. Should the delivery date neither be specified by the order nor be otherwise specified it shall amount to 3 working days from contract conclusion. The service debtor shall be obliged to inform us immediately in writing if – for whichever reasons – the agreed delivery period can presumably not be adhered to.
2. Should the service debtor not fulfil its performance or does not do so within the agreed delivery period or should it be delayed, our rights, especially withdrawal and compensation for damages, shall be governed by the legal regulations. The regulations under Paragraph 3 shall remain unaffected.
3. Should the service debtor be in delay, we shall, apart from further legal claims, be entitled to demand a lump-sum compensation of our damage incurred by the delay in the amount of 0.2% of the order value (net) per calendar day, however in total not more than 10% of the net price of the delayed goods. The provision of proof that bigger damage was incurred shall be reserved to us. The provision of evidence that no damage at all or only a substantially smaller damage was incurred shall be reserved to the service debtor.

Art. 4 Performance, Delivery, Place of Performance, Transfer of Risk, Default in Acceptance

1. The service debtor shall not have the right to have third parties (e.g. sub-contractors) execute the service the service debtor is obliged to perform without our prior written consent. The service debtor shall bear the procurement risk for its services unless a custom-made item is concerned.
2. The delivery shall be made in compliance with the Incoterms® 2010 DDP to the location specified by the order. Should the place of destination not be specified and nothing else agreed upon the delivery shall be made to our head office at the following address: Zeller Str. 17, 73217 Holzmaden. The place of destination shall also be the place of performance for the delivery and possible supplementary performances (obligation to provide).
3. The risk of accidental destruction and accidental perishing of the goods shall be transferred to us upon delivery at the place of performance. If a takeover is agreed upon it shall be

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

binding with respect to the transfer of the risk. Besides, upon acceptance the legal regulations of the Law on Contracts for Services shall apply accordingly. Delivery or acceptance shall be deemed to have been effected if we are in default of acceptance.

4. The legal regulations shall apply with respect to the occurrence of our default in acceptance. However, the service debtor shall also explicitly offer us its services if a specific or definable calendar date is agreed with respect to an action or involvement on our part (e.g. supply of material). Should we be in default in acceptance the service debtor may require compensation for additional expenditures in compliance with the legal regulations (Art. 304 of the German Civil Code). Should the contract refer to an untenable item to be produced by the service debtor (custom-made item) the service debtor shall be entitled to further rights only if we committed ourselves to cooperate and are responsible for not doing so.

Art. 5 Prices and Terms of Payment, Set-Off, Right of Retention

1. The price specified by the order shall be binding. All prices include legal value added tax if not specified separately. Possible price reductions, for example market price alignments, in the period between the order and the payment of the invoice shall be credited to us in the case of delay in delivery.
2. Unless otherwise agreed upon in an individual case, the price shall include all services and supplementary work by the service debtor, as well as all additional expenses (e.g. appropriate packaging, transport costs including possible transport and liability insurance). Upon request, the service debtor shall take back any packaging materials.
3. The agreed price shall be due for payment within 30 calendar days from the complete delivery and service (including a possible agreed acceptance), as well as receipt of a correct invoice unless agreed otherwise. The payment shall be effected subject to the orderly delivery, as well as correctness with respect to price and calculations. In the case of a notice of defects we shall have the right to retain due payments in an appropriate amount for already issued invoices until the fulfilment of the warranty or proof of the contractual performance by the contractor.
4. We shall not owe any maturity interest. The service debtor's entitlement to payment of default interest shall remain unaffected. The legal regulations shall apply with respect to the occurrence of default on our behalf. In any case, a reminder by the service debtor shall be required.
5. We shall be entitled to the rights to offset and retain payments, as well as the plea of the unfulfilled contract within the legal scope. We shall in particular be entitled to retain due payments as long as we have claims from incomplete or poor services vis-à-vis the service debtor.
6. The service debtor shall only have the right to set off or retain payments for counter-claims determined without further legal recourse or undisputed counter-claims.

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

Art. 6 Confidentiality and Reservation of Title

1. We shall reserve title and copyrights with respect to images, plans, drawings, calculations, instructions, product descriptions and other documents. Such documents shall only be used for the contractual service and shall be returned to us after fulfilment of the contract. The documents shall be kept confidential also after the termination of the contract. The obligation to confidentiality shall only expire when and as far as the knowledge stated by the documents has become generally known.
2. The above provision shall apply respectively to substances and materials (e.g. software, finished goods and semi-finished goods), as well as tools, templates, samples and other items we provide to the service debtor for production. As long as they have not been processed, such items shall be stored separately at the costs of the service debtor and shall be insured within the ordinary scope against destruction and loss.
3. The assignment of goods to us shall absolutely be effected irrespective of the payment of the price. In any case, all forms of extended or prolonged reservation of title shall be excluded so that an effectively declared reservation of title on behalf of the service debtor shall only be applicable until payment of the goods delivered to us.

Art. 7 Bad Delivery, Duty to Inspection and Objection

1. With respect to our rights regarding material defects and defects of title (including wrong and short delivery, as well as incorrect assembly, wrong assembly, wrong operating instructions or instructions for use) and regarding other violations of duty by the service debtor, the legal regulations shall apply unless otherwise stipulated hereinafter.
2. In compliance with the legal regulations, the service debtor shall particularly be liable that upon passing of risk the goods dispose of the agreed quality. In any case, those product descriptions which are – especially by description or reference to in our order – subject matter of the respective contract or were integrated into this contract in the same way as these General Terms and Conditions of Purchase shall be considered as agreement on the quality. It shall not make any difference whether the product description is by us, the service debtor or the manufacturer.
3. We shall also be unrestrictedly entitled to claims for defects if the defect remained unknown to us upon conclusion of the contract due to gross negligence.
4. The commercial duty to inspection and objection shall be subject to the legal provisions (Articles 377, 381 of the German Commercial Code) as follows: Our inspection duty shall be restricted to defects which manifest themselves openly upon the external inspection of the incoming goods, including shipping documents, as well as upon our sample quality control (e.g. transport damages, wrong and short deliveries). If acceptance has been agreed upon there shall be no duty to inspect. Apart from that it shall depend on to what extent an inspection is feasible according to orderly business routines considering the circumstances of the individual case. Our duty to give notice of defects discovered later shall remain unaffected. In any case, our complaint (notification of defects) shall be regarded as immediate and timely if received by the service debtor within 5 working days.

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

5. The costs incurred for the purpose of inspection and subsequent improvement shall also be borne by the service debtor if it is later assessed that there really was no defect. Our liability for compensation regarding unjustified requests to remedy defects shall remain unaffected; however, we shall only be liable if we recognized or did not recognize that there was no defect due to gross negligence.
6. Should the service debtor not fulfil its obligation for supplementary performance – by, subject to our discretion, remedying the defect (rectification of defects) or by supplying items free of defects (replacement) – within an adequate period specified by us we may remedy the defect ourselves and require compensation of the necessary expenses or an appropriate advance payment. If the supplementary performance by the service debtor failed or is unacceptable for us (e.g. due to special urgency, endangering employee safety or impending threat of excessive damage) it shall not be necessary to set a deadline; the service debtor shall be informed immediately, if possible in advance.
7. Moreover, in the case of material defects or defects of title we are entitled in compliance with legal provisions to reduce the purchase price or withdraw from the contract. Furthermore, in compliance with the legal provisions we shall be entitled to compensation and reimbursement of expenses.

Art. 8 Supplier Recourse

1. Apart from the claims based on defects, we shall be unrestrictedly entitled to our legally stipulated recourse claims within a supply chain (supplier recourse in compliance with Articles 478, 479 of the German Civil Code). We shall especially have the right to require from the service debtor exactly the kind of supplementary performance (subsequent improvement or replacement) which we owe our customer in the individual case. Our legal right of choice (Art. 439 Para. 1 of the German Civil Code) shall remain unrestricted.
2. Before acknowledging or fulfilling a claim for defects by our customer (including reimbursement of expenses in compliance with Articles 478 Para. 3, 439 Para. 2 of the German Civil Code) we will inform the service debtor and request the service debtor's written opinion after shortly explaining the facts. Should the service debtor not provide an opinion within an adequate period and should no mutual settlement be found, the claim for defects actually granted by us shall be considered as owed to our customer; in such case, counter-evidence shall be incumbent upon the service debtor.
3. Our claims from supplier recourse shall also apply if the goods were processed prior to their sale to a consumer by us or one of our customers, e.g. by incorporating the goods into another product.

Art. 9 Manufacturer's Liability

1. Should the service debtor be responsible for a product defect the service debtor shall indemnify us against third-party claims as far as the cause lies in its domain and organisational area and the service debtor is liable in relation to third parties.

General Terms and Conditions of Purchase

TelePart Distribution GmbH, Zeller Str. 17, 73271 Holzmaden, Germany (as of June 2018)

2. In the framework of its indemnity obligation the service debtor shall reimburse expenses in compliance with Articles 683, 670 of the German Civil Code arising from or in connection with demands of third persons including product recalls carried out on our part. We shall inform the service debtor on the content and scope of recall measures – as far as possible and reasonable – and give the service debtor opportunity to explain. Further legal claims shall remain unaffected.

Art. 10 Limitation of Action

1. Mutual claims of the Parties to the Contract shall be subject to a limitation period as prescribed by law unless otherwise agreed upon hereinafter.
2. Notwithstanding Article 438 Para. 1 Subpara. 3 of the German Civil Code the general period of limitation regarding claims for defects shall amount to three years from the transfer of risk. As far as acceptance is agreed the period of limitation shall commence upon acceptance. The three-year period of limitation shall also correspondingly apply to claims from defects of title while the legal period of limitation for claims of return by third parties (Article 438 Para. 1 Subpara. 1 of the German Civil Code) shall remain unaffected. Claims from defects of title shall not be subject to a limitation period in any case as long as the third party may exercise the right – especially for lack of limitation of action.
3. The periods of limitation of the Law on the Sale of Goods including the extension specified above shall apply – according to legal regulations – to all contractual claims for defects. If we are entitled to noncontractual claims for defects due to a defect the regular legal period of limitation shall apply (Art. 195, 199 of the German Civil Code), unless the application of the periods of limitation of the Law on the Sale of Goods stipulates a longer period of limitation in an individual case.

Art. 11 Choice of Law and Jurisdiction

1. The Law of the Federal Republic of Germany shall apply to these General Terms and Conditions of Purchase and all legal relations between us and the service debtor. Requirements and effects of the title of retention shall be subject to the law at the respective location of the item if according to that the selected choice of law is illegal or ineffective in favour of the German law.
2. Should the service debtor be an entrepreneur within the scope of the German Civil Code, legal person under public law or a special fund under public law the competent court at our head office in 73271 Holzmaden shall have sole – also international – jurisdiction regarding all disputes arising from the contractual relationship. We shall, however, also have the right to file a suit at the place of performance of the delivery commitment or at the company seat of the service debtor/supplier.

June 2018