

GENERAL TERMS AND CONDITIONS

of purchase

1. Scope of Application

1.1 Our terms and conditions of purchase apply exclusively. Where these terms contain no specific regulations, statutory law shall apply. We do not recognize any terms and conditions of the contracting party that conflict with or deviate to our disadvantage from our terms of purchase or statutory provisions, unless we have explicitly agreed in writing to their application. This also applies when we accept deliveries or services without reservation while aware of conflicting or deviating terms.

1.2 These terms apply only to entrepreneurs, legal entities under public law, or special funds under public law as defined in Section 310 (1) BGB (German Civil Code).

1.3 These terms apply to all future transactions with the contracting party.

1.4 They apply to purchases as defined in Section 433 BGB, the delivery of goods to be manufactured or produced as defined in Section 650 BGB, and services as defined in Section 631 BGB.

1.5 Agreements between us and the contracting party shall apply in the following order of precedence:

- Individual agreements
- Quality assurance agreements
- These terms of purchase

Any void provisions within agreements will not affect the validity of other provisions

2. Conclusion of Contract and Subject Matter

2.1 If the contracting party does not accept our order within two weeks of its receipt, we may cancel it at no cost to us. Call-offs become binding unless the contracting party objects in writing within five business days of receipt.

2.2 Orders, contracts, and call-offs, as well as their changes and supplements, must be made in writing.

2.3 Oral agreements prior to or at contract conclusion are effective only if confirmed in writing.

2.4 Oral agreements after contract conclusion, including changes and supplements to this paragraph 2.4, also require written confirmation.

2.5 Cost estimates are binding and not subject to payment unless expressly agreed otherwise.

2.6 Product specifications must be strictly adhered to; deviations are allowed only with our prior written consent.

2.7 The contracting party is not permitted to alter the agreed goods or services after contract conclusion or to manufacture them using methods different from those agreed upon, even if specifications remain unchanged, without our written consent.

2.8 The contracting party must verify the completeness and accuracy of agreed product specifications and any provided documentation for its contractual obligations. Any issues must be immediately reported to us in writing with a detailed explanation.

2.9 Our purchase order details, including all referenced specifications, are integral to the contract. These include technical documentation like drawings, material specifications, and assembly instructions.

2.10 Contract transfer or subcontracting is permissible only with our written consent. Violations entitle us to withdraw from the contract.

2.11 Liability for damages under Section 122 BGB requires our culpability.

2.12 All declarations requiring written form may also be transmitted electronically, provided they are storable and printable.

2.13 Our quality assurance agreement is part of contracts for deliveries or services.

3. Rights to Documents, Manufacturing Tools, Confidentiality, and Penalties

3.1 All documents, data, and manufacturing tools provided by us remain our property. This includes:

- Drawings, calculations, designs, manufacturing instructions
- Know-how related to deliveries, services, and manufacturing processes
- Models, samples, and prototypes
- Supplied materials and components
- Tools
- Software

3.2 Supplied manufacturing tools must be clearly marked as our property.

3.3 The contracting party processes or modifies our supplied materials or parts ("reserved goods") on our behalf. If combined with other items, we gain co-ownership proportional to the value.

3.4 Materials and components provided by us must be stored separately and labeled as our property.

3.5 Intellectual property rights and usage rights related to our provided documentation and tools remain ours, unless transferred to the contracting party for contractual purposes.

3.6 The contracting party must insure our tools against fire, water, and theft at their expense.

3.7 Maintenance and repairs of our tools must be carried out by the contracting party at their cost. Any faults must be reported immediately.

3.8 Confidentiality agreements apply to all manufacturing tools and related data.

4. Prices and Payment Terms

4.1 Agreed prices are fixed prices. Price increases require our explicit written approval.

4.2 Invoices must comply with our order requirements and include all necessary identifiers.

4.3 Payments are made on the 15th of the following month with a 3% discount or within 60 days net.

4.4 We are entitled to statutory rights of set-off and retention.

5. Delivery, Performance, and Deadlines

5.1 Deliveries are made "DDP, Incoterms 2010" to the specified destination.

5.2 Deadlines and schedules are binding.

5.3 Timely notice of obstacles to delivery or performance must be provided.

5.4 We reserve statutory rights for delayed deliveries, including withdrawal and claims for damages.

6. Transport, Transfer of Risk, Documents, Packaging

6.1 If we exceptionally cover transportation costs, the contracting party is obliged to choose the most economical shipping method. Higher costs will only be reimbursed if they result from specific packaging or shipping instructions provided by us. Deliveries must be packaged to prevent damage under normal handling conditions. Hazardous substances and dangerous goods must be packaged, labeled, and shipped in accordance with applicable legal and regulatory requirements.

6.2 Risk transfers to us upon unloading at the destination for deliveries and upon full completion for additional contractual obligations such as assembly and commissioning. The contracting party must insure deliveries against transport damage at its expense if:

- They include materials or parts provided by us; or
- Prepayments have been made, or the risk of price has been transferred to us due to special agreements.

6.3 All shipping and delivery documents must include the following identifiers from the order: order number, order position, our material number, and quantity. Each shipment must include a delivery note with the order date. The order number must also be indicated on the packaging address label. The contracting party is responsible for any consequences of non-compliance with these requirements unless they prove no fault on their part.

6.4 Unless otherwise agreed, we are not obligated to store or return packaging materials to the contracting party.

7. Acceptance

7.1 If we are prevented from accepting deliveries or services or performing associated obligations, such as inspection and complaint duties, due to force majeure or other obstacles beyond our control, we are released from these obligations for the duration and extent of such obstacles. Valid reasons include legitimate labor disputes (strikes and lockouts), operational disruptions, shortages of materials or personnel, etc.

7.2 We may refuse early deliveries or services. Prematurely delivered items may be returned or stored at the contracting party's expense and risk.

7.3 For work services, acceptance must be announced at least 14 days in advance unless a binding date is agreed upon. Acceptance may involve preparation of inspection protocols and material certificates. For software, adequate testing time must be allowed before acceptance.

8. Requirements for Contractual Items, Inspection for Defects, Liability for Defects, Statute of Limitations

8.1 The contractual items must comply with the agreed quality requirements (product specifications), recognized technical standards, and relevant legal provisions in effect at the time of manufacture, distribution, and use, as well as the regulations and guidelines issued by authorities, trade associations, and professional organizations. The contracting party must inspect these items before shipment and, upon our request, issue a factory or inspection certificate. Additionally, the contracting party must provide, upon request, conformity declarations for the applicable European directives pertaining to the respective product batch/series delivered. These declarations confirm the completion of relevant tests and compliance with the contractually agreed requirements or safety criteria. The necessary protective devices required under applicable accident prevention regulations must also be included without additional notice in our orders.

8.2 Our rights in cases of defects in deliveries or services are governed by statutory provisions unless otherwise agreed in individual contracts, quality assurance agreements, or these terms of purchase.

8.3 Only contractual items that have undergone and passed the contracting party's final inspection to ensure compliance with the requirements outlined in Section 8.1 (including a fully documented review of all quality-relevant features, with inspection reports and production dates stored and available upon request) may be delivered to us. If deviations are detected during the final inspection, delivery is only permissible after prior written notification to our quality assurance department and subsequent written approval by us. The notification must include details such as the quantity already produced, our order number, the defect description, and the extent of the defect. Affected items must be clearly marked until a decision is reached. We will promptly process such special approval requests and inform the contracting party in writing of our decision. Any special approval is limited to a specific quantity, at most the quantity already produced that deviates from the specification.

8.4 If the contracting party identifies an increase in discrepancies between the actual and target quality of contractual items (quality problems or declines), they must notify us immediately and provide planned remedial actions. If defective items are returned to the contracting party, they must investigate the return and report the causes and proposed remedies to us upon request.

8.5 The contracting party must ensure that contractual items are traceable through appropriate identification

(e.g., serial and/or revision numbers) and other suitable measures. If a defect arises, the contracting party must determine which items are or may be affected. The contracting party must also inform us of their traceability measures.

8.6 Any planned changes to manufacturing processes, equipment (especially production facilities), or quality management systems that could affect the agreed product quality must be communicated to us in writing at least six months before implementation. Contractual items affected by such changes may only be delivered with our explicit written approval.

8.7 We reserve the right to conduct a process acceptance inspection at the contracting party's facilities. The date of the inspection will be mutually agreed upon. The contracting party is responsible for ensuring all necessary measures for a successful inspection are completed beforehand. If repeat inspections are required due to the contracting party's fault, we reserve the right to charge the contracting party for the associated costs.

8.8 We are obligated to accept deliveries or services only if they are complete, include the agreed documentation and certificates, and meet the contractual requirements specified in Section 8.1.

8.9 For deliveries, we may issue complaints about obvious defects within five business days of delivery and about hidden defects within five business days of discovery. For deliveries requiring additional services, such as assembly and commissioning, the complaint period begins after these services are completed.

8.10 The statute of limitations for defect claims regarding material defects is governed by statutory provisions but is at least 36 months for deliveries and services. For contractual items that are repaired or replaced within the limitation period, the limitation period restarts upon completion of the repair or replacement. The limitation period for legal defects is ten years. The limitation period for recourse claims is governed by statutory provisions.

8.11 For defective deliveries, we may demand supplementary performance at our discretion, such as replacement or defect rectification. For defective services, we may demand the creation of a new service or defect rectification. The contracting party must bear all costs necessary for supplementary performance. If supplementary performance is not completed within a reasonable period, we retain all statutory rights, including reduction, withdrawal, and claims for damages.

8.12 If a defective item is resold by us to a customer, and we incur expenses due to defects under Sections 439(2), 475(4), or 475(5) BGB, we retain full recourse rights against the contracting party in accordance with statutory regulations.

8.13 In urgent cases or when there is an immediate need, we reserve the right to rectify defects ourselves at the contracting party's expense. This does not affect our right to self-remedy under Section 637 BGB for services.

8.14 If deliveries or services are partially defective, we may exercise our rights either for the entire delivery/service or only for the defective part.

8.15 The contracting party must inform us of significant errors and potential or actual risks associated with their deliveries, including auxiliary services, that have been identified among their customers or end-users.

8.16 The contracting party guarantees an ethically sound supply chain. Specifically, for precious metals, the conflict-free origin of the materials supplied must be documented upon request.

9. Product Liability, Recall Actions, Liability Insurance Coverage

9.1 If we are held liable for product liability claims under domestic or foreign law by an injured party, the contracting party shall indemnify us against such compensation claims upon first request if the cause of the damage lies within their sphere of responsibility and organization, and if they are liable in external relations.

9.2 Within the scope of their liability for damages as per Section 9.1, the contracting party is also obligated to reimburse any expenses incurred under Sections 683, 670 BGB or Sections 830, 840, 426 BGB that arise from or in connection with a recall action carried out by us. We will inform the contracting party of the content and scope of the recall measures to be conducted, insofar as possible and reasonable, and provide them with the opportunity to comment. Additional statutory claims remain unaffected.

9.3 The contracting party is obliged to maintain an appropriate product liability insurance policy for the duration of this contract, including the limitation periods for defects. Should we be entitled to further claims for damages, these shall remain unaffected.

10. Third-Party Intellectual Property Rights

10.1 The contracting party guarantees that no third-party rights within Germany are violated in connection with their deliveries or services unless these infringements result from our manufacturing documents, specifications, or instructions. This also applies to the contracting party's knowledge of the export countries of the delivered contractual items. The contracting party shall ensure through agreements with their employees or agents that the contract purpose, particularly the agreed scope of use (including software), is not affected by potential third-party claims.

10.2 If a third party asserts claims against us due to an infringement of rights, the contracting party is obligated to indemnify us against such claims at first request. We shall not be entitled to enter into agreements with the third party without the contracting party's consent, especially to conclude settlements.

10.3 The indemnification obligation of the contracting party also includes all expenses incurred by us due to or in connection with third-party claims. The contracting party shall provide legal assistance if necessary and, upon request, enter any legal disputes at their own expense.

10.4 We reserve the right to assert claims for damages against the contracting party.

10.5 The limitation period for our claims under Sections 10.1 to 10.4 is ten years from the conclusion of the respective contract.

11. Procurement Responsibility of the Contracting Party

The contracting party is fully responsible for the quality and performance of goods and services provided by their subcontractors, as if they were their own. This applies particularly to defects.

12. Our Liability

12.1 In cases of negligence, our liability is limited to foreseeable and typical damages. For minor negligence, we are only liable for breaches of essential contractual obligations (obligations whose fulfillment enables the proper execution of the contract and on which the contracting party may regularly rely).

12.2 This limitation of liability applies regardless of the legal nature of the asserted claim, including claims for damages due to breaches of contract, other obligations, or tortious claims for property damage under Section 823 BGB.

12.3 Where our liability is excluded or limited, this also applies to the personal liability of our employees, workers, staff, representatives, and agents.

12.4 Liability for culpable injury to life, body, or health remains unaffected, as does mandatory liability under the German Product Liability Act.

13. Set-Off, Retention Rights, Assignment

13.1 The contracting party may only offset claims against our claims if their counterclaims are undisputed, legally established, or explicitly recognized by us. The same applies to the exercise of retention rights.

13.2 Claims may only be assigned with our prior written consent.

14. Ownership of Contractual Items and Tools

14.1 Ownership of contractual items, documents, and tools created or procured at our expense transfers to us upon payment.

14.2 The contracting party assigns ownership rights at the time of creation. Sections 3.2 (Marking), 3.3 (Processing, Combination, and Storage), and 3.4 (Custody) apply accordingly.

14.3 Extended retention of title by the contracting party is excluded unless explicitly agreed upon.

15. Intellectual Property Rights, Use, and Confidentiality

15.1 Intellectual property rights, including copyrights, patents, and licenses, arising from the development of tools, designs, and software, transfer to us where these are created specifically for us or based on our specifications.

15.2 Software rights include unlimited use, modification, and sublicensing without additional approval from the contracting party. Copies and related materials must be handed over upon request or deleted.

15.3 Confidentiality obligations apply to all development and project-related information, including know-how and documentation. The contracting party must impose the same obligations on its employees and subcontractors.

16. Confidentiality

16.1 All information and documents marked as confidential, or identifiable as trade secrets, must be kept secret and not used or disclosed without explicit authorization.

16.2 This obligation does not apply to information that was public at the time of disclosure or later became public without the contracting party's fault.

16.3 The contracting party shall ensure that its employees and agents are also bound by these confidentiality obligations.

17. Place of Performance

The place of performance for deliveries is the destination specified by us, or our business location if none is specified. Payment shall be made at our business location.

18. Jurisdiction and Governing Law

18.1 For all disputes arising from this contractual relationship, the courts at our place of business have jurisdiction. We may also choose the contracting party's location as the venue.

18.2 The contract is governed exclusively by German law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

18.3 If any provision of these terms is invalid, the validity of the remaining provisions remains unaffected.

Enayati Oberflächentechnik GmbH

Panoramastraße 76
75217 Birkenfeld
Tel. 07231 94950
info@enayati.de
www.enayati.de