

Purchasing terms and conditions

1. Scope of application

1.1 These purchasing terms and conditions shall be exclusively applicable to the legal relations between the centrotherm business association - and thus all companies belonging to the group of companies ("centrotherm") - and the Supplier. centrotherm shall only acknowledge General Business Terms and Conditions of the Supplier that are contrary to or deviate from these purchasing terms and conditions if it has expressly consented to them in advance. The receipt of or payment for merchandise or, as the case may be, services of the Supplier shall not be deemed to signify such consent or consent to different terms and conditions.

1.2 These purchasing terms and conditions shall also be applicable to all future business relations with the Supplier, unless a different agreement has been concluded by way of individual contract.

Only orders or purchase orders that are issued in writing shall be binding. The same shall apply to amendments or addenda.

1.3 These purchasing terms and conditions shall only be applicable in relation to enterprises, public entities or special public funds.

2. Conclusion of the contract, purchase orders

2.1 Supply contracts (purchase order and acceptance) and delivery call-offs, as well as amendments thereof and addenda thereto, must be in writing.

2.2 Legally important declarations and notices by the Supplier that the Supplier is required to submit to centrotherm or a third party following the conclusion of the contract must be in writing. Written form shall be deemed to be satisfied by remote data transfer, fax or e-mail as well; however, receipt must be confirmed in the case of unilateral declarations of intent.

2.3 centrotherm shall be entitled to revoke if the Supplier does not accept a purchase order without reservation by way of order confirmation within a period of two weeks.

2.4 centrotherm shall be entitled to demand changes to the merchandise in terms of design or execution (before, after or during the purchase order process), provided that this is reasonable to the Supplier from a scheduling and feasibility standpoint. The contracting parties shall regulate the effects, added costs and reduced costs, as well as the effect on delivery dates, in a partner-like manner.

- 2.5 The Supplier shall not be permitted to cause the performance that is owed to be rendered by third parties, unless centrotherm has consented thereto in advance.
- 2.6 The agreement concerning quality shall constitute a component of the contractual relationship. The Supplier promises to comply with the statutory provisions that govern him with respect to dealing with employees, environmental protection and worker safety. He shall be required to subject his suppliers to corresponding obligations.
- 2.7 The distribution of specific parts (called "customised" for centrotherm) to third parties shall not be permitted and shall require the express, written, prior consent of centrotherm.

3. Delivery, delivery deadlines

- 3.1 Agreed upon delivery deadlines and delivery periods shall be strictly binding as a result of their "fixed delivery character." The receipt of merchandise or acceptance at the place of performance shall govern satisfaction thereof (see subs. 17.2). In the case of "ex works" delivery, the Supplier shall be required to send a notification of readiness for shipping at least five business days prior to the delivery deadline. If the delivery "free works," DAP, DDU or DDP is not agreed upon, the Supplier shall be required to provide the merchandise for loading and shipping in a timely manner, taking into the account the time for loading and shipping, which is to be coordinated with the forwarding agent.
- 3.2 If the Supplier is able in advance to recognize difficulties that might hinder him in making timely delivery or delivering with the agreed upon level of quality, he shall be required to promptly notify centrotherm in writing, including identification of the reasons, the expected duration of the delay, and the measures that are planned in order to remedy the difficulties.
- 3.3 Unless otherwise agreed, delivery shall be made "free delivered" (DDP Incoterm 2010) to the location stated in the purchase order. If a place of destination is not stated, a delivery shall be made to the domicile of the centrotherm enterprise that made the order. The risk of accidental loss or accidental deterioration of the item shall pass in accordance with DDP Incoterm 2010.
- 3.4 The Supplier shall be required to package the merchandise at his own expense in accordance with the HPE packaging guidelines or in conformity with the agreed upon level of quality. At centrotherm's request, the packaging material must be picked up and taken back by the Supplier at the Supplier's expense. If take-back cannot reasonably be required, the Supplier shall be required to reimburse centrotherm for reasonable disposal costs; a lump-sum amount of 1% of the purchase order price shall be assumed in this regard.

- 3.5 A shipping ticket stating the date, weight and customs tariff number of the content of the delivery according type and quantity, as well as the purchase order number, is to be attached to the delivery. centrotherm shall not be responsible for delays with respect to payment as a result of defective shipping tickets or the absence of shipping tickets.
- 3.6 Partial deliveries and early deliveries shall not be permissible without written consent. If the Supplier delivers earlier than the agreed upon delivery date, centrotherm shall be entitled to send back or warehouse the merchandise at the Supplier's expense. In the event of early delivery, payment periods shall not start to run until the date stated in the purchase order, not the delivery date.
- 3.7 At centrotherm's request, storage instructions, assembly instructions, operating instructions and safety data sheets are to be included in the delivery in the official languages of the EU, the national languages of the member states of the EFTA, and in Chinese (simplified) at no charge, if this is requested in the purchase order. This shall apply *mutatis mutandis* to records that are necessary to the servicing and maintenance of the merchandise. centrotherm shall be entitled to reproduce and adapt such documents and forward them to its customers.

4. Delivery default

- 4.1 In the event of default, centrotherm's rights - particularly rescission and compensatory damages - shall be determined in accordance with the statutory provisions, except to the extent otherwise designated below and except to the extent that the Supplier proves that he is not responsible for the default.
- 4.2 If the Supplier is in default, centrotherm can demand - in addition to further statutory claims - lump-sum compensation in the amount of 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the merchandise that is delivered late. The right to prove that greater damage has occurred remains reserved. The Supplier can prove that no damage or substantially less damage occurred. Receipt of the merchandise or service without reservation shall not be deemed to establish a waiver of the aforementioned claims.

5. Prices, payment terms and conditions

- 5.1 The price stated in the purchase order is a fixed price and is binding. Unless otherwise agreed, transport costs (see subs. 3.3) and proper packaging (see subs. 3.4) are included. The statutory sales tax is not included. centrotherm is a customer that waives insurance coverage according to RVS/SVS [cartage/forwarding agent insurance certificate].
- 5.2 Unless otherwise agreed, centrotherm shall pay the purchase price within 14 days, calculated from delivery and receipt of the invoice, with a 3% early payment discount or within 30 days net from receipt of the invoice.

- 5.3 centrotherm shall be entitled to rights of offset and rights of retention, as well as the defence of non-performance of the contract, to the extent provided by statute. The Supplier shall only be entitled to rights of offset and rights of retention in the case of counterclaims that are established by final judgment or acknowledged.
- 5.4 Contractual claims against centrotherm may only be assigned with written consent. This shall not affect § 354 a HGB [German Commercial Code].

6. Reservation of title, objects that are provided by centrotherm

- 6.1 Ownership of the merchandise that is delivered shall pass to centrotherm upon payment in full. An extended or expanded reservation of title shall be barred.
- 6.2 Objects that centrotherm provides to the Supplier shall remain under centrotherm's ownership. Any processing, mixing or combining of such objects shall be undertaken solely for centrotherm. If centrotherm's ownership is extinguished in the course of such processing, mixing or combining with objects of third parties, centrotherm shall acquire joint ownership of the new item according to the relationship that exists between the value of the objects that are provided and the other items.

7. Defects, warranty

- 7.1 The rights that exist in the event of physical and title defects shall be based on the statutory provisions, unless otherwise provided below.
- 7.2 Upon receipt, centrotherm shall inspect the merchandise for externally recognizable freedom from defects, completeness and correctness, as well as qualitative and quantitative deviations and damage, to the extent that this is typically done in the normal course of business. centrotherm shall promptly inform the Supplier of defects that are discovered in the course of the inspection.
Defects that are discovered later shall be reported to the Supplier promptly after they are discovered. A notice of defect shall in any case be deemed to be timely if it is made within five business days of discovery of the defect. No duty to inspect shall exist if an acceptance test of the merchandise is agreed upon pursuant to contract for work and services.
- 7.3 If the Supplier fails to fulfil his duty to provide remedial performance by means of remediation of the defect or - at our election - delivery of a defect-free item within a reasonable time period set by centrotherm, centrotherm can itself remedy the defect, or cause the defect to be remedied by a third party, and demand reimbursement from the Supplier for the necessary expenditures or a corresponding advance. The setting of a time period shall not be necessary if remedial performance by the Supplier has failed or is not reasonable to centrotherm (for example, due to particular urgency, endangerment of the safety of the business operation, or the threat of occurrence of disproportionate damage). The seller must be notified promptly and, to the greatest extent possible, in advance.

- 7.4 The Supplier shall bear the costs that he has incurred for the inspection and rectification, even if it becomes apparent that no defect was present. centrotherm's duty to bear costs in the event of illegitimate defect remediation requests shall be based on the statutory provisions. centrotherm shall only be liable in this regard if it recognized, or was grossly negligent in failing to recognize, that no defect was present. The Supplier shall be required to reimburse centrotherm if centrotherm incurs inspection costs after a legitimate suspicion of a defect has arisen.
- 7.5 If the Supplier fulfils the remedial performance obligation by means of replacement delivery, the limitations period for the merchandise delivered as a replacement shall begin to run anew after it is delivered. A different provision shall only apply if the Supplier expressly asserts the reservation at the time of the remedial performance that he is only undertaking the replacement delivery as a gesture of goodwill, for the purpose of avoiding disputes, or in the interests of preserving the continuing existence of the supply relationship.
- 7.6 Warranty claims shall become time-barred three years from the transfer of risk or from acceptance.
- 7.7 If centrotherm incurs costs and expenditures, particularly transport costs, travel costs, labour costs, installation costs, de-installation costs, material costs or costs of an inspection of incoming merchandise that extends beyond the usual scope, the Supplier shall be required to bear such costs and expenditures, provided that they do not result from stocking measures (costs that would have been "incurred in any case") and result directly from the defective delivery.

8. Product liability

- 8.1 If the Supplier is responsible for damage caused by a product, he shall be required to indemnify centrotherm from all compensation claims by third parties to the extent that the Supplier is responsible for the cause.
- 8.2 The Supplier shall bear all costs incurred for any recall action conducted by centrotherm or expenditures made in this regard. centrotherm shall inform the Supplier of the content and scope of the recall measure and give the Supplier an opportunity to respond. Further claims on the part of centrotherm shall remain unaffected hereby.
- 8.3 The Supplier promises to maintain adequate product liability insurance and document the existence thereof for centrotherm upon written request.

9. Liability

The Supplier shall be liable to centrotherm for damage caused by the Supplier or his statutory representatives or servants in the full amount and for each degree of culpability in accordance with the statutory provisions.

10. Trademark use

For the purpose of fulfilment of the Supplier's contractual obligations, centrotherm hereby grants the Supplier a non-exclusive, non-transferable right to place word marks of the centrotherm business association onto the merchandise being delivered strictly in the legally protected form, to the extent that this is intended for the purpose of performance of the contract.

11. Proprietary rights

The Supplier guarantees that no rights of third parties are infringed in connection with his delivery and that no rights of third parties preclude performance of the contract. The Supplier shall indemnify centrotherm from claims and expenditures in the event that claims are asserted by third parties.

12. Rights of rescission and termination

12.1 In addition to the statutory rights of rescission and termination, centrotherm shall be entitled to dissolve the contract and/or purchase orders effective immediately ("dissolution of the contract") if (i) the Supplier has discontinued supplying centrotherm, (ii) a petition has been filed for the opening of an insolvency proceeding concerning the Supplier's assets, or (iii) the opening of an insolvency proceeding has been denied due to a lack of assets, or if other grounds exist in accordance with § 321 BGB [German Civil Code].

12.2 In the event of such dissolution of the contract, the Supplier shall be required to compensate the damage and expenditures incurred by centrotherm as a result, unless the Supplier is not responsible for them.

13. Furnishing of records and know-how, confidentiality

13.1 The Supplier shall be required to maintain secrecy with respect to all reproductions, drawings, calculations, records and information, as well as know-how ("materials"), to the extent that they are provided to the Supplier by centrotherm for the purpose of contractual performance. centrotherm shall retain ownership rights, copyrights, trademark rights and other proprietary rights with respect to such materials. The records are to be used exclusively for the purpose of performance of the contract. They are to be returned, including all copies, after the end of the contract upon written request. The confidentiality obligation shall also continue to exist after the end of the contract.

13.2 Such materials are to be stored separately at the Supplier's expense until processing, declared as the property of centrotherm, and insured in the usual amount against damage and loss. The Supplier shall grant centrotherm an irrevocable right of entry in this regard.

- 13.3 Merchandise or services that the Supplier has produced with the records, drawings, models, statements, information or tools furnished by centrotherm may not be used by the Supplier for his own purposes or for third parties.
- 13.4 The Supplier may only advertise by means of making reference to centrotherm if he has received centrotherm's written consent.

14. Force majeure

Force majeure, labour disputes, unrest, governmental measures and other unforeseeable, unavoidable and serious events shall release the contracting parties from the obligations to perform for the duration of the disruption and within the scope of the effect thereof. This shall also apply if such events occur at a point in time at which the affected contracting party is in default. The contracting parties shall be obligated to promptly provide the necessary information and adjust their obligations to the changed circumstances in good faith.

15. Compliance with legal provisions, hazardous substances

- 15.1 centrotherm's merchandise is distributed on a worldwide basis. The Supplier therefore promises to comply with the provisions applicable to the merchandise and its use in the Federal Republic of Germany, as well as corresponding provisions of the EU, NAFTA, ASEAN and their respective member states and the corresponding provisions of the People's Republic of China, Japan, the Russian Federation and South Korea.
- 15.2 The Supplier shall be required to comply with the relevant statutory prescriptions, regulations and other provisions in the country of manufacture and country of distribution applicable to merchandise, materials and processes, to which special handling is applicable, particularly in relation to transport, packaging, labelling, storage, handling, manufacture and disposal. Such provisions include, in particular, EC Directive 67/548/EEC, the European Convention on the International Transport of Hazardous Goods on Roads, EC Machinery Directive 2006/42/EC and radiation protection law.
- 15.3 Prior to delivery, the Supplier shall provide centrotherm with the necessary records and documents, particularly the EC security data sheet in accordance with 91/55/EC. At centrotherm's request, the Supplier shall be required to issue a CE conformity declaration and attach the CE label.
- 15.4 If the provisions in this regard also change with respect to par. 2 and 3, the Supplier shall be required to promptly send adjusted records and documents to centrotherm.

- 15.5 The Supplier promises to comply with the respective statutory provisions concerning the handling of employees, environmental protection and worker safety and to work to reduce the lasting effects on people and the environment in connection with his activities, as well as to implement and monitor these principles in his enterprise and those of his subcontractors.

16. Export control, customs

- 16.1 The Supplier shall be obligated to inform centrotherm in writing of any approval obligations with respect to (re)exports of his merchandise in accordance with German, European, U.S. export and customs provisions, as well as the export and customs provisions of the country of origin of his merchandise. This duty to inform shall exist, in particular, if one of the following provisions is pertinent: export list in accordance with Appendix AL to the German Foreign Trade and Payment Regulations; Appendix I to the EC Dual Use Regulations; Commerce Control List of the U.S. Export Administration Regulations.
- 16.2 If the requirements set forth in par. 1 change, the Supplier shall be required to promptly inform centrotherm in writing prior to delivery of the affected merchandise.
- 16.3 The Supplier shall be responsible for all damage and harm suffered by centrotherm resulting from a lack of or deficient information or, as the case may be, non-compliance.

17. Final provisions

- 17.1 German law, excluding UN purchasing law, shall be exclusively applicable to the contractual relations.
- 17.2 centrotherm's domicile shall be the place of performance, unless otherwise stated in the purchase order. The place of performance shall generally be the location at which performance is to be rendered or, as the case may be, the merchandise is to be delivered (shipping address).
- 17.3 The place of judicial jurisdiction for all disputes arising from the contractual relationship shall be the court with jurisdiction over centrotherm's domicile.
- 17.4 Severability clause. If a provision of these purchasing terms and conditions is invalid in whole or in part, this shall not affect the validity of the other provisions. The parties promise [...] to replace any invalid provision with a provision that is valid and comes as close as possible to the economic purpose of the invalid provision.