

TERMS AND CONDITIONS



HEINZPLASTICS
member of **HEINZGLAS-Group**

General Terms and Conditions of Purchase

for application with regard to commercial parties
valid from April 1, 2013 for the companies:

Heinz Plastics Böhm GmbH
Heinz Plastics Group Holding HPGH GmbH

hereinafter referred to as the Purchaser

I. General / scope of the General Terms and Conditions of Purchase

1. These General Terms and Conditions of Purchase form an integral part of all deliveries, services and offers of suppliers. They shall apply to all such present and future business relations, even if they have not been expressly agreed. These terms and conditions shall be considered acknowledged upon the supplier's acceptance of the Purchaser's order.
2. General terms and conditions of business of suppliers or third parties shall not apply, even if the Purchaser does not specifically object to application thereof on an individual basis. Deviating or additional general terms and conditions of business of the supplier or a third party shall therefore not become part of the contract upon notification but only upon express agreement to their applicability.

II. Orders and conclusion of contract

1. All orders, particularly those submitted by employees of the Purchaser, must be in writing and signed exclusively by an authorized representative of the company. The supplier undertakes to accept the order in writing or by telex (e.g. by means of order confirmation) within a period of 3 days.
2. The Purchaser shall not be bound to deviating prices, deadlines or production conditions or other changes or additions, particularly in terms of dimensions, content, weights, quantities or colors, implemented by the supplier if this is not expressly agreed in writing. The supplier shall specifically highlight the deviations.
3. The Purchaser is entitled to change the time and location of delivery as well as the type of packaging at any time by means of written notification with a period of notice of at least 5 days before the agreed delivery date. The same shall apply to changes in production specifications and quantities, insofar as these can be implemented within the framework of the normal production and business operations of the supplier without considerable effort or expense; the period of notice here shall be at least 5 days as per the previous clause. The Purchaser shall reimburse the supplier for the additional costs incurred as a result of the change; these costs must be proven and reasonable.
4. The Purchaser is entitled to terminate the contract at any time by means of a written declaration citing the reason if the ordered products can no longer be used in business operations due to circumstances arising following conclusion of the contract. In such a case, the supplier shall be paid for the partial service that he has provided.
5. Additions and changes to the agreement made, including to these General Terms and Conditions of Purchase, must be confirmed in writing by the Purchaser in order to be effective.

III. Prices, packaging

1. The price cited in the order is binding and based on the agreement "Delivered Duty Paid" (DDP INCOTERMS 2010). Unless otherwise agreed in an individual contract, the purchase price shall include "free to door" delivery, including packaging as well as assumption of responsibility for transportation insurance and statutory sales tax.
2. Returnable packaging is to be marked as such and shall be returned at the cost of the supplier.
3. Insofar as the price does not include packaging and the remuneration for the packaging (not only returnable packaging) is not expressly determined in the agreement made, this shall be calculated at proven cost.
4. Subsequent changes, such as increases in material, energy and staff costs and other public contributions, shall not be considered.

IV. Payment terms, invoice details

1. Unless otherwise agreed, the Purchaser shall pay the purchase price with a discount of 3% within 14 days or net within 30 days following delivery of the goods and receipt of the invoice. Receipt of the transfer order at the bank of the Purchaser shall suffice as regards the timely nature of the payments due from the Purchaser.

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2. All order confirmations, delivery notes and invoices must contain the Purchaser's order number, the item no., the delivery quantity, the delivery address and, if known, the ordering person or department. Should one or more of these details be missing, thus resulting in a delay in processing as part of the Purchaser's normal business transactions, the payment periods cited in item 1 shall be extended by the same amount of time as the delay.
3. In the event of default on payment, the Purchaser shall be liable for default interest of 5 percentage points above the base interest rate in accordance with § 247 *BGB* (German civil code).
4. The cession of claims under the contractual relationship shall require the consent of the Purchaser. Although the cession of a monetary claim in accordance with § 354a *HGB* (German commercial code) shall be valid, the Purchaser shall still be able to pay the supplier with liberating effect.
5. The Purchaser is entitled to offsetting and retention claims in the statutory scope.

V. Delivery times and delivery, transfer of risk

1. The delivery time (delivery date or period) cited in the order is binding. Early deliveries are not permitted.
2. The supplier undertakes to immediately inform the Purchaser in writing if circumstances should arise or appear to suggest that the delivery time cannot be complied with.
3. Should the day on which the delivery must take place at the latest be determined on the basis of the contract, the supplier shall be in default at the end of this day without requiring a reminder on the part of the Purchaser.
4. In the event of default on delivery, the Purchaser shall have unrestricted entitlement to the statutory claims, including a right of cancellation and a right to compensation for damages instead of the delivery, following expiry of an appropriate grace period without result.
5. The Purchaser is entitled to demand a contractual penalty of 0.5%, maximum 10%, of the relevant order value in the case of delays in delivery, following prior written warning to the supplier, for each commenced week of default on delivery. The contractual penalty shall be offset against the damage caused by delay to be reimbursed by the supplier.
6. The supplier shall not be entitled to make partial deliveries without the prior written consent of the Purchaser.
7. The supplier may only call upon failure to receive necessary documents to be provided by the Purchaser if he has provided a written reminder regarding the documents and has not received these within a reasonable period.
8. Even if shipment has been agreed, the risk shall only be transferred to the Purchaser when the goods are handed over to the Purchaser at the agreed location.

VI. Protection of ownership

1. The Purchaser shall retain ownership and copyright of the submitted orders, contracts and drawings, diagrams, calculations, descriptions and other documents provided to the supplier.
2. Tools, devices and models provided to the supplier by the Purchaser or produced for the purposes of the contract and billed to the Purchaser separately by the supplier shall remain under or shall be transferred to ownership of the Purchaser. These shall be marked by the supplier as property of the Purchaser, be stored carefully, be protected from damage of any kind and only be used for the purposes of the contract. Upon request, the supplier shall be obligated to hand these items over to the Purchaser in an orderly condition if they are no longer needed to fulfill the contracts concluded with the Purchaser.

VII. Proprietary rights

1. The supplier guarantees that his delivery service does not violate any proprietary rights of third parties in countries of the European Union or any other country in which he produces the products or has them produced.
2. The supplier is obligated to keep the Purchaser indemnified from all claims that third parties assert against him due to the violation of commercial proprietary rights as set out in item 1 and to reimburse the Purchaser for all expenses incurred in conjunction with such an assertion of claim. This claim shall exist regardless of fault on the part of the supplier.

VIII. Rights in the case of defects, warranty

1. The Purchaser is obligated to inspect the goods for deviations in quality and quantity within a reasonable period. The complaint shall be considered on time if the Purchaser communicates it to the supplier within 4 days of receipt of the goods or, in the case of hidden material defects, upon discovery.

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2. In the event of defects, the Purchaser shall have unlimited entitlement to the statutory claims. The right to compensation for damages, particularly compensation for damages instead of the service, is expressly reserved.
3. The Purchaser shall not waive warranty claims by accepting or approving presented templates or samples.
4. The limitation of warranty claims shall be postponed upon receipt of the written notice of defects. In the case of provision of a replacement or rectification of the defect, the warranty period shall begin anew for replaced and rectified parts, unless the Purchaser had to assume from the supplier's behavior that he did not believe himself to be obligated to implement the measure but rather provided the replacement or rectified the defect out of goodwill or on similar grounds.
5. The warranty period shall be 36 months, unless the law provides for longer limitation periods.

IX. Product liability, insurance

1. The supplier shall be responsible for all claims asserted by third parties due to personal or material damage as well as product-asset damage due to a faulty product supplied by him and is obligated to keep the Purchaser indemnified against all liability resulting therefrom. If the Purchaser is obligated to carry out a product recall vis-à-vis third parties due to a fault in a product supplied by the supplier, the supplier shall bear all costs associated with the recall.
2. The supplier undertakes to maintain business and product liability insurance with coverage of at least € 2 million for personal damage on the one hand and material and product-asset damage on the other, as well as recall cost insurance for non-vehicle parts with coverage of at least € 1 million. The scope of the product liability insurance must encompass the forms of cover of what is known as "extended product liability insurance" (ProdHV), including insurance for personal and material damage due to a lack of agreed properties in the supplied products in accordance with item 4.1 ProdHV (template conditions of GDV – as at August 2008), joining, mixing and processing of the delivered products in accordance with item 4.2 ProdHV, further processing and handling in accordance with item 4.3 ProdHV, installation and removal costs in accordance with item 4.4 ProdHV, reject production by machines in accordance with item 4.5 ProdHV as well as an inspection and sorting costs clause in accordance with item 4.6 ProdHV. The coverage must also cover damage abroad. The supplier shall provide the Purchaser with confirmation of the aforementioned coverage from the insurer (certificate of insurance) at the latest with the first delivery or service.

X. Safety provision

The supplier guarantees that the delivery item corresponds to the recognized regulations of the applicable technology, the *Gerätesicherungsgesetz* (device safety act), the *Verordnung über gefährliche Arbeitsstoffe* (directive on hazardous working materials), the *Gesetz zum Schutz vor gefährlichen Stoffen* (law on protection against hazardous substances) and the accident prevention regulations.

XI. Confidentiality

1. The supplier is obligated to treat the conditions of the order as well as all information and documents provided for this purpose (with the exception of information accessible to the public) as confidential and to only use it to complete the order. This shall be immediately returned to the Purchaser, upon request, once queries or orders have been dealt with and completed.
2. The supplier must not make reference to the business relationship in advertising material, brochures, etc. without the prior written consent of the Purchaser.
3. The supplier shall ensure that his sub-suppliers also commit to the provisions of this regulation.

XII. Place of performance, place of jurisdiction, applicable law

1. The place of performance for all obligations arising from the contractual relationship and the exclusive place of jurisdiction for all disputes arising from the contractual relationship is the Purchaser's headquarters.
2. The law of the Federal Republic of Germany shall apply, to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
3. The supplier recognizes that, in the event of doubt or questions regarding interpretation of these General Terms and Conditions of Purchase, as well as the contract as a whole, the German-language version and German legal conception shall be authoritative.