

Terms and Conditions of Purchase

These Terms and Conditions of Purchase are an essential part of all Grünbeck purchase orders. If other conditions are mutually agreed upon, such conditions must be contained in the official purchase order. Therefore, the conditions contained in the purchase order shall take precedence.

1. General

All purchase orders of Grünbeck shall be made exclusively on the basis of these Terms and Conditions of Purchase. They shall also apply to all future business relationships even if they are not explicitly agreed upon again. Grünbeck hereby explicitly rejects and disregards any provisions in the General Conditions of the supplier that are to the contrary of these Terms and Conditions of Purchase. This shall also apply to all provisions of the supplier that are not contrary to these Terms and Conditions of Purchase, but only amend them. Deviations from these Terms and Conditions of Purchase shall only be valid if Grünbeck confirms them by an instrument in writing. Grünbeck's Terms and Conditions of Purchase shall apply if there are differences between Grünbeck's Terms and Conditions of Purchase and the Sales Conditions of the supplier. Any costs that will be incurred as a result of non-compliance with Grünbeck's provisions shall be borne by the supplier.

The supplier undertakes to confirm each individual order from Grünbeck that arises on the basis of this terms and conditions of purchase in writing within 2 working days. Confirmation shall be made in exact delivery days and not in calendar weeks.

2. Invoice and Payment

The Invoice may also be sent electronically to poststelle@gruenbeck.de. Payment shall not be made unless all contractual obligations are properly fulfilled.

3. Completeness Clause, Delivery Agreements, Duty to Inform

3.1 The scope of delivery and services shall comprise all deliveries and all services which are required for the intended purpose and which enable appropriate operation as well as all special features (such as individual parts, extension parts, connection parts, etc.) which must be included according to the applicable technical directives or which typically belong to the delivery, irrespective of whether or not these deliveries and services and special features are listed in detail in the contract documents.

3.2 Upon written request of Grünbeck, the scope of delivery and services shall also include installation supervision, commissioning, test run, participation in performance verification as well as project documents e.g. manuals.

3.3 The supplier shall make sure that all deliveries meet the applicable legal requirements and provisions and especially comply with (EC) regulation no. 1907/2006 (REACH) and (EC) regulation no. 528/2012 (BPR). The supplier shall in particular be obliged to fulfill his obligation to provide Grünbeck with information (e.g. safety data sheets) upon delivery at the latest and to perform possibly required registration, certification, approval or notification processes in his own name and for his own account, insofar as these are a prerequisite for the legitimacy of the delivery; Grünbeck shall be entitled to demand submission of suitable proof.

3.4 The supplier shall be obliged to immediately inform Grünbeck in writing if he becomes aware of circumstances (e.g. based on the purchase order) that are in conflict with the intended use of the delivery by Grünbeck (e.g. registration requirements and restrictions according to [EC] regulation no. 1907/2006 [REACH], bans according to [EC] regulation no. 528/2012 [BPR]).

3.5 The supplier undertakes regarding all materials, components and substances to be supplied, that they are in compliance with the restrictions of the use of certain hazardous substances in electrical and electronic devices according to the Directive 2011/65/EC and the German Ordinance on the restriction of the use of certain hazardous substances in electrical and electronic equipment respectively (ElektroStoffverordnung – ElektroStoffV) and especially that the maximum allowable concentrations according to Section 3(1) ElektroStoffV as amended are not exceeded ("RoHS-conformity").

4. Delivery Dates

4.1 The delivery date stated in the purchase order is binding.

4.2 The period of delivery begins with the date of the purchase order. The supplier shall be obliged to immediately inform Grünbeck in writing if there are circumstances that prevent the agreed delivery time to be complied with or if such circumstances become foreseeable (e.g. based on the purchase order). This shall also apply if the delivery date cannot be complied with for the reason alone that supplementary registration, certification, approval or notification processes are or may be required as a prerequisite for the legitimacy of the delivery.

4.3 In case of delayed delivery, Grünbeck shall be entitled to legal claims. In particular, after a reasonable period has passed without results, Grünbeck shall be entitled to compensation instead of the fulfillment of the contract and to cancellation of the contract. If Grünbeck claims compensation, the supplier shall be entitled to provide evidence that he was not responsible for the violation of the contractual obligation.

5. Contractual Penalty for Delayed Delivery

5.1 Without the need for a reminder to this effect, the supplier shall be deemed in default if he does not comply with the dates and periods agreed upon in the contract.

5.2 If the supplier is responsible for non-compliance with binding periods and deadlines or if the supplier is defaulting, Grünbeck shall be entitled, without further proof, to a compensation for delayed delivery to the amount of 0.3 % for each workday of the default, however, limited to a maximum of 5 % of the net order value, unless Grünbeck can provide evidence of a greater damage or the supplier can provide evidence of a lesser damage. Grünbeck shall be entitled to deduct agreed compensation for delayed delivery from the invoice amount of the supplier.

6. Inspection for Defects, Liability for Defects

6.1 Before delivery of the goods, the supplier shall take appropriate measures to ensure that the goods comply with the requirements specified in the order/specifications. The supplier documents the results of the relevant quality inspections and makes them available to Grünbeck.

6.2 In view of the process-controlled quality assurance maintained at the suppliers premises, the supplier waives any further legal requirements for the inspection of incoming goods at the ordering parties premises in this respect. Therefore, the ordering party shall not be obliged vis-à-vis the supplier to conduct any further inspections and provide further notification other than those already mentioned. This applies in particular to the inspection and notification obligations pursuant to § 377 HGB (German Commercial Code) in case of obvious effects which can be fulfilled within up to two weeks of receipt of the goods.

6.3 Grünbeck shall be entitled to the legal defect claims without limitations. In any case whatsoever, Grünbeck shall be entitled to demand, at Grünbeck's discretion, remedy of the defect or delivery of new goods. Grünbeck expressly reserves the right to compensation and in particular the right to compensation instead of performance.

6.4 Grünbeck shall be entitled to remedy defects at the cost of the supplier if there is imminent danger (periculum in mora) or if the delivery is particularly urgent.

6.5 The warranty period shall be 24 months form acceptance of the product.

7. Long-term availability of goods and spare parts

7.1 If the Supplier foresees that it shall be objectively unable to deliver goods (e.g. because necessary primary material is no longer available on the market and cannot be procured or manufactured in another way), the Supplier shall immediately inform Grünbeck in writing and shall grant the option of a residual order to the fullest extent possible.

7.2 For spare parts, the Supplier shall promise an availability of 10 years after the product has been discontinued to the fullest extent possible. Relevant primary products can be secured before EOP by means of corresponding general agreements.

8. Technical Regulations, Norms and Delivery Conditions

Performance and monitoring of deliveries and services shall always be subject to the latest DIN standards and AD Sheets (Arbeitsgemeinschaft Druckbehälter – Working Group for Pressure Vessels) in effect when the delivery begins as well as pertinent directives (such as the German Directive on Substances and Directive on Dangerous Goods and, in particular, industry-specific standards) in accordance with the state-of-the-art. If, during the development, production or inspection of the subject matter of the contract, the supplier detects errors, inconsistencies, incompleteness or deviations from the sample, the supplier shall immediately inform Grünbeck in writing of such circumstances and provide suggestions as to remedying such circumstances.

9. Quality Assurance and Inspection – Testing and Test Documents

9.1 Grünbeck shall be entitled, at Grünbeck's cost, to participate directly or through representatives in the inspection of materials and raw materials used for the production of the system components. This shall also apply to those materials already used in the production process.

9.2 Acceptance tests and approvals by Grünbeck do not free the supplier from his contractual obligations, even if no objections were made.

9.3 If the supplier procures production or inspections equipment, software, services, materials or any other deliveries from subcontractors for the productions or quality assurance of the products, the supplier shall contractually include these in the suppliers quality management system or assure the quality of the deliveris himself.

9.4 If the supplier procures deliveries from subcontractors for producing or assuring the quality of the objects to be delivered, the supplier shall be obliged to either assure the quality of such deliveries from the subcontractor himself or to obligate the subcontractor to do so by a binding contract.

10. Guideline for incoming goods

<https://www.gruenbeck.de/de/agbs/>

11. Drawings, Models, Tools, Forms, Samples and Non-disclosure

11.1 All required drawings or documents shall be supplied to Grünbeck free of charge. If Grünbeck provides the supplier with parts, Grünbeck reserves the title to such parts. Processing or remodelling through the supplier shall be done on behalf of Grünbeck. If goods under retention of title are processed along with objects not belonging to Grünbeck, Grünbeck obtains co-ownership to the new object to a ratio of the value of Grünbeck's object (purchase price plus value added tax) and the value of the other processed objects at the time of processing.

11.2 The supplier shall be obliged to keep strictly confidential all illustrations, drawings, calculations and other documents and information he has received. Such illustrations, drawings, calculations, other documents and information may only be disclosed to third parties if Grünbeck expressly approves such disclosure. This non-disclosure obligation continues to apply after termination of the contract. It shall no longer apply if and when the production knowledge contained in such illustrations, drawings, calculations and other documents has become generally known.

11.3 If all of Grünbeck's claims exceed the purchase price of all of Grünbeck's goods under retention of title not yet paid by more than 10 %, Grünbeck shall be obliged, upon request of the supplier, to release the claims according to Grünbeck's discretion.

12. Patent Violation

12.1 The supplier shall be responsible for ensuring that within the Federal Republic of Germany no rights of third parties are violated in connection with his delivery.

12.2 If third parties levy claims against Grünbeck in connection with violation of rights, the supplier shall be obliged to indemnify Grünbeck from such claims upon written request by Grünbeck. Grünbeck shall not be entitled to make any arrangements whatsoever with such third parties, in particular not to make compromise settlements, without the approval of the supplier.

12.3 The indemnification obligation of the supplier shall refer to all expenditures necessarily incurred by Grünbeck as a result of or in connection with claims of third parties.

12.4 The period of limitation is 10 (ten) years after the date of conclusion of the contract.

13. Data Protection

13.1 When providing the services specified in the contract, the Supplier in its capacity as the controller or processor undertakes to observe the pertinent rules on data protection, especially the rules of the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (BDSG-new). Irrespective of the other rules in this Sec. 14 regarding the legitimate handling of personal data, the Supplier is responsible for such data provided to it by us for the purpose of rendering the contractual services. The Supplier is also responsible for complying with formal data protection rules (e.g. appointment of a Data Protection Officer, conducting a privacy impact assessment, keeping processing records).

13.2 The Supplier undertakes to process the personal data we have provided exclusively in a legitimate and transparent manner, in good faith and only for the purpose of rendering the contractual services. Any further use of the data, especially any use for the Supplier's own purposes or those of a third party, is inadmissible. Moreover, the Supplier shall restrict processing to what is absolutely necessary both in terms of content and time and ensure both accuracy of the data and their integrity and confidentiality.

13.3 To protect confidentiality, availability, integrity and authenticity of the personal data provided by us, the Supplier undertakes to take technical and organisational measures to the degree stipulated by pertinent data protection rules. This obligation also comprises measures for ensuring privacy by design and privacy by default.

13.4 The Supplier undertakes to assign the contractual services only to employees who have been familiarised with the legal rules on data protection and the special requirements of our orders and assignments in terms of data protection and – unless already subject to adequate statutory obligations of confidentiality – have been asked to sign a commitment to confidentiality (formerly data secret).

13.5 If personal data are processed under a contract processing relationship, the Parties shall enter into a processing agreement as stipulated by Article 28 GDPR.

14. Place of Jurisdiction

If the supplier is a merchant, Grünbeck's adress of record shall be the place of jurisdiction; the place of performance for both parties shall be Hoehchstaedt a. d. Donau, Germany. The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract shall be Dillingen a. d. Donau, Germany, if the supplier is a merchant according to the German Commercial Code. Irrespective of the question of whether or not the supplier is a merchant according to the German Commercial Code, this shall also apply if the supplier has moved his domicile or habitual place of residence to a foreign country or if his place of residence is unknown when legal action is taken. Grünbeck shall in any case be entitled to institute legal proceedings at the general place of jurisdiction of the supplier as well.

15. Severability Clause

In the event that a provision in these Terms and Conditions or a provision to another agreement should be invalid or become invalid, such invalidity shall not effect the validity of any other provision hereof. Such invalid provision shall be replaced by a provision which comes closest to the purpose of the contract and the conditions and which is legally valid.