

GENERAL TERMS AND CONDITIONS OF PURCHASE OF TOPAS ADVANCED POLYMERS GMBH,

MAY 2021

1. Applicability

These General Terms and Conditions of Purchase shall also apply to all future services and deliveries by our suppliers ("Suppliers") to us.

Our General Terms and Conditions of Purchase apply exclusively; we do not acknowledge any conflicting or deviating terms and conditions of the Supplier. This also applies if we accept services or delivery or pay for these in knowledge of the Supplier's conflicting or deviating terms and conditions.

Agreements which deviate from our General Terms and Conditions of Purchase shall only apply if these are made in writing or text form (e.g. email or fax). In this case, the deviating agreements shall only apply to the respective individual contract

All declarations and notifications by the Supplier in connection with the contract (including setting of deadlines, withdrawal, termination) must be made in writing or text form (e.g. letter, e-mail, fax).

If applicable, the INCOTERMS of the International Chamber of Commerce in Paris as well as the Uniform Guidelines and Custom and Practice for Commercial Documentary Credits in the version in force at the time of contract shall apply.

These General Terms and Conditions of Purchase do only apply to commercial dealings with enterprises as well as public sector legal entities pursuant to Section 310 of the German Civil Code [*Bürgerliches Gesetzbuch - BGB*].

Should any provision in our General Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of all other provisions.

2. Orders

Unless otherwise agreed only written orders (e-mail or fax is sufficient) are binding for us. Orders placed by phone shall only be accepted and executed by Supplier if such order procedure is expressly agreed with us in writing or text form.

3. Prices, Invoicing, Payments

Agreed prices are fixed prices inclusive of packaging and shall include all ancillary services necessary for the performance of the contract. Unless otherwise agreed in writing, delivery to us has to be free of charge.

Unless otherwise agreed, payments by us are made within 14 days after receipt of invoice less 3 % discount, or with 60 days net after receipt of invoice.

Invoices shall be issued to the following address:
TOPAS Advanced Polymers GmbH, Rechnungsprüfung, Am Prime Parc 9, 65479 Raunheim, Germany.

If advance payments have been agreed, these shall only become due upon receipt of an irrevocable and directly enforceable bank guarantee of a German first-class merchant bank in our favour and over the same amount as the advance payment.

If the Supplier lowers the prices or improves the terms and conditions of purchase during the period between the order and the date of delivery, the prices and terms and conditions in effect on the date of delivery shall apply.

4. Terms of Delivery

If we order 'exact' quantities, the supplied quantities have to be determined exactly. In all other cases, we accept higher or lower quantities of up to 5% upon an adequate price adjustment.

The delivery time specified in the order is binding. Supplier is obliged to notify us in writing without delay of any circumstances that occur or become known to him, which are expected to cause a delay in delivery.

We are entitled to all statutory rights in case of delay in delivery. In particular, we are entitled to claim damages instead of delivery upon an unsuccessful expiry of a reasonable deadline for delivery and/or to withdraw from the contract.

We shall receive full credit for returned packaging.

Each delivery has to be accompanied by duly completed dispatch notes stating the Topas order number. Otherwise we are entitled, at our choice and at the Supplier's cost, to return the delivered goods or to store the goods at the Supplier's risk until submission of duly completed dispatch notes. Return of the goods does not constitute withdrawal from contract. If goods are delivered to a third party upon our instructions, we shall receive duplicates of the dispatch documentation.

Dispatch address for deliveries to Topas:

Oberhausen site:
TOPAS Advanced Polymers GmbH, Topas Werk Oberhausen, Otto-Roelen-Straße 3, 46147 Oberhausen

Leuna site:
TOPAS Advanced Polymers GmbH, Topas Werk Leuna, Am Hauptort, 06237 Leuna

Frankfurt site:
TOPAS Advanced Polymers GmbH, Topas Werk Raunheim, Am Prime Parc 9, 65479 Raunheim.

Details of the location for unloading can be found in the respective purchase order.

5. Quality

The Supplier warrants that its deliveries and services have the properties, quality and characteristics designated in the order and comply with the specifications and other descriptions provided by us.

Prior to delivery, the Supplier undertakes to carry out a quality control which is suitable in terms of type and scope and which corresponds to the state of the art.

We further expect the Supplier to constantly align the quality of its deliveries and services with the latest state of the art and to point out possible improvements to us. However, changes to the agreed deliveries and services require our prior written consent in any case.

The Supplier assures to observe all relevant German and European safety and environmental regulations.

6. Passing of Risk

Supplier bears the price and transport risk until such time the goods are accepted by us or our representative at the location where the goods have to be delivered to.

Insofar as acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for works [*Werkvertragsrecht*] shall also apply accordingly in the event of acceptance.

Goods which we cannot use due to a defect will be accepted by us at the expense and risk of the Supplier only and we shall store the goods on behalf of the Supplier. In case of return of defective goods, Supplier shall bear the cost of return.

7. Complaints, Warranty

We are under an obligation to check the goods within a reasonable period of time in respect of any deviations to quality and quantity. Our obligation to inspect is limited here to those external defects which become apparent during a visual inspection. A complaint is considered to be made in due time within Section 377 of the German Commercial Code [*Handelsgesetzbuch - HGB*], if we notify apparent defects to the Supplier within 14 days from receipt of the goods at the place of delivery. Defects which become noticeable at a later stage only will be notified by us within 14 days from the date of notice. Insofar Supplier explicitly waives the right to claim that notice of defect is delayed.

In the event of a defect we are entitled to the statutory rights to the full extent; in each case we are entitled to claim, upon the Supplier's choice, rectification of the defect or supply of new goods. The right to claim damages, including claiming damages instead of performance and including loss of profit is expressly reserved.

If the Supplier does not fulfil his obligation to rectify the defects within a reasonable period of time set by us, we may remedy the defect ourselves or acquire a new item and demand reimbursement of expenses from the Supplier. If subsequent performance by the Supplier has failed or is unreasonable for us (e.g. due to special urgency or the threat of disproportionate damage), it shall not be necessary to set a deadline.

Claims in respect of defects known at the time of acceptance shall not be excluded even if a respective proviso is not made upon acceptance.

The obligation to rectify defects shall also include the removal of the defective goods and the re-installation if the goods have been installed in another item or attached to another item in accordance with their type and intended use. Any statutory claims for reimbursement of expenses to which we are entitled shall remain unaffected. Even if it should turn out that there was actually no defect, the Supplier shall bear any expenses required for inspection and subsequent performance. In the event of an unjustified request for rectification of a defect, we shall only be obliged to pay damages if we recognized or were grossly negligent in not recognizing that there was no defect.

In the event of a defect becoming noticeable within six months from the date of passing of the risk of loss, it is presumed that the goods were already defective at the time the risk of loss passed to us, except where such presumption is not in accordance with the type of the goods or the defect.

8. Limitation

The statutory limitation periods shall apply. Deviating from this, the limitation period in the case of § 438 para. 1 no. 3 Civil Code [*Bürgerliches Gesetzbuch - BGB*] shall be 36 months from the transfer of risk.

9. Supplier recourse

Irrespective of our other claims for defects, we shall be entitled without restriction to the claims arising from Supplier recourse pursuant to §§ 445a, 445b, 478 Civil Code [Bürgerliches Gesetzbuch - BGB]. In particular, we shall be entitled to demand from our Suppliers exactly the type of subsequent performance that we owe our customer in the individual case. Our statutory right of choice pursuant to Section 439 (1) Civil Code [Bürgerliches Gesetzbuch - BGB] shall not be restricted hereby.

Before we acknowledge or fulfil a claim for defects asserted by a customer against us as seller pursuant to §§ 445a para. 1 Civil Code [Bürgerliches Gesetzbuch - BGB], we shall notify our Supplier and request a written statement with a brief description of the facts. If we do not receive a substantiated statement and a concrete approach to a solution within a reasonable period of time, the defect claim actually granted by us shall be deemed to be owed to our customer. In this case, however, the Supplier shall be entitled to provide evidence to the contrary.

Our claims from Supplier recourse shall also apply if the defective goods have been further processed, mixed or combined by us or another entrepreneur.

10. Quality Assurance System, Long-Term Supplier Declaration

Supplier guarantees to have in place an up-to-date and in the individual case suitable quality assurance system pursuant to ISO 9001 or of an equivalent type and to produce the goods in accordance with this quality assurance system.

Supplier shall ensure traceability of all products and all materials and substances contained in the goods delivered to us.

Supplier undertakes to supply, in principle, only products from the European Union or other countries subject to most favoured nation agreements. Supplier shall, to the extent possible, give long-term Supplier declarations for all goods purchased from him upon our request.

11. Safety, Compliance

Supplier is obliged to adhere to relevant legislation and regimes applicable in the individual case concerning environmental protection, industrial safety, prevention of accidents, energy efficiency pursuant to ISO 50001, transport and plant safety, as well as to our general and site-specific regulations which we will make available upon request.

Supplier shall comply with the requirements of the Regulation (EG) No. 1907/2006 of the European Parliament and the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemical Substances (REACH-Regulations), including all its amendments, implementing legislation, guidance and communications of the European Commission and the European Chemicals Agency for Chemical Substances as well as any national legislation applying or interpreting these requirements.

Supplier shall indemnify us from and against all liabilities resulting from the Supplier's non-compliance with his obligations under the REACH-Regulations.

Supplier guarantees that he will comply with all applicable anti-bribery and anti-corruption laws.

In particular, Supplier guarantees that neither he nor one of his employees has received any advantage in connection with providing services to us which are not stated in the respective invoice.

12. Indemnity

The Supplier shall indemnify us upon first request from and against all claims from third parties based on a defect or other fault of the goods supplied to us by Supplier. In addition, Supplier shall also reimburse us for all necessary legal cost incurred by us.

Within the scope of his liability for damages within the meaning of sub-paragraph 1 above, the Supplier shall also refund any expenses arising from or in connection with any recall campaign carried out by us. We will inform the Supplier – to the extent possible and reasonable – about the content and scope of the recall measures to be carried out, and give the Supplier the opportunity to comment. Any other statutory claims shall remain unaffected.

13. Changes to Product or Process

Our regular Suppliers shall notify us in writing at an early stage about their intention to change products or manufacturing processes as well as methods of analysis concerning products purchased by us.

14. Retention of Title

We only accept simple retention of title.

Any material provided by us shall remain our property. If the material is processed, we acquire ownership of the new item. If the material is processed, combined or mixed with other items which do not belong to us, we acquire co-ownership in proportion of the value of our material (purchase price plus VAT) to the value of the other items at the time of the processing, combining or mixing of the materials.

15. Implementation Documents

Plans, drawings, calculations, models, samples etc. which we have made available to the Supplier for the purpose of implementation remain our property and

these have to be kept confidential by safeguarding our copyrights. They shall neither be made available to third parties for inspection or at their disposal nor shall they be copied without our prior written consent. They shall be used exclusively for the purpose of manufacturing according to our order and have to be returned to us immediately and without further request once our order has been carried out. The duty of confidentiality also applies after execution of a contract; it shall only expire if and to the extent the manufacturing know-how contained in the plans, drawing, calculations, models, samples and other documentation that were made available has become public knowledge.

16. Intellectual Property Rights

Supplier guarantees that the supply of goods/services does not infringe any intellectual property rights of a third party.

In the event of a claim against us based on existing third party rights, Supplier shall indemnify us upon first request from and against such claims. We are not entitled to enter into any agreements with the third party, in particular any settlements without the prior written consent of the Supplier.

17. Continued Non-Performance

If the Supplier repeatedly carries out the same or similar services or supplies insufficiently or delayed despite having received a written warning, we are entitled to withdraw from the contract immediately. Our right to withdraw also applies to such services and deliveries to us which the Supplier has to carry out in the future under the same or a different contract.

18. Confidentiality

Supplier shall treat our orders and all connected commercial and technical details as business secrets. The Supplier shall be liable that this obligation extends to all of his employees, sub-contractors, Suppliers etc. for whose actions (as vicarious agent) the Supplier is also liable. Supplier agrees to pay a contractual penalty in the amount of EUR 5,000.00 for each breach.

19. Import and Export Regulations, Hazardous Goods

For deliveries and services originating from an EU-country outside Germany, the EU VAT identification number of the Supplier has to be provided.

Imported goods have to be delivered duty paid. Supplier shall at his own expense provide necessary declarations and information, allow audits by customs authorities and provide necessary official confirmations.

Supplier shall inform us in detail and in writing about any permit requirements in connection with (re-) exports according to German, European and international export and customs regulations as well as export and customs regulations of the country of origin of the goods and services.

If goods delivered to us contain any dangerous substances or if they are subject to any official regulations concerning hazardous goods, Supplier shall inform us comprehensively and in good time about the kind of danger and the required precautionary measures.

20. Assignment

Claims of the Supplier deriving from the contractual relationship with us can only be assigned with our prior written consent.

21. Data Protection

For the purpose of processing our business relationship with the Supplier we collect, store, process and use personal data of the Supplier (name, firm, mail and email address, telephone number etc.) to the extent legally permissible.

22. Advertising

References by the Supplier to the business relationship with us require our prior written consent.

23. Place of performance, Applicable Law, Jurisdiction

Place of performance for deliveries and services shall be the agreed delivery location, for payments this shall be Raunheim, Germany.

The exclusive place of jurisdiction is Darmstadt. However, we are also entitled to bring an action at the jurisdiction of the seat of the Supplier.

The entire legal relationship between us and the Supplier shall be governed by German law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods are excluded.

Special Notice:

We store and process customer data in accordance with Section 28 of the Federal Data Protection Act [Bundesdatenschutzgesetz - BDSG] and we reserve the right to forward this data to third parties if it is necessary for the establishment, implementation or termination of legal obligations in connection with orders under these terms. We refer here to our privacy policy:

<https://topas.com/company/privacy-policy>

TOPAS Advanced Polymers GmbH
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