

Festo SE & Co. KG, Festo Polymer GmbH, Festo Didactic SE and Festo Vertrieb GmbH & Co. KG Purchase Terms
07/2024

All our present and future legal relations shall be subject exclusively to the following Purchase Terms. We shall not be subject to conflicting terms and conditions of business, sale or delivery issued by the supplier. Such conflicting terms and conditions are hereby contradicted. The supplier recognizes the general validity of our Purchase Terms on acceptance, at the latest on performance, of the contract order even if the supplier refers to its own terms and conditions. Acceptance of the deliveries and services of the supplier by us or payment for such deliveries and services shall not be construed as implying our acceptance of the terms and conditions of the supplier. The above terms shall also apply in the event that deviating or supplementary clauses, or clauses which modify our terms, are contained in quotations or letters of confirmation. Such conditions are hereby expressly contradicted.

1. Quotations/orders

Sample deliveries and quotations shall be provided at no cost and shall not be binding on us. Orders shall only be valid if made in writing or if they are confirmed in writing by us. Agreements reached verbally or on the telephone shall be subject to written confirmation. All contract terms shall be in written, legally-binding form. This requirement for written form may also be fulfilled by fax, EDI or e-mail. Purchase orders placed by us shall be considered as having been accepted if the supplier does not object to the purchase order by means of a differing sales order confirmation within a period of four working days subsequent to receipt of the written purchase order. Deviating provisions within active scheduling and delivery agreements agreed with the supplier shall remain unaffected.

2. Delivery/default/rescission

The supplier guarantees that agreed delivery dates will be adhered to. The supplier shall be regarded as having defaulted on its deliveries or other services should it exceed the agreed date by more than 2 weeks without a reminder needing to be issued in advance. This stipulated period shall also be the statutory period of grace with the corresponding legal effects without an additional declaration/reminder needing to be made by us.

In the event of force majeure, necessary reductions in business operations and closures, we shall be entitled to extend the delivery date or to rescind the contract. Default in acceptance shall not occur as a result. The contractor expressly waives claims for damages except in the event of gross negligence or intent on the part of our legal representatives and senior managers. In the event of force majeure eight weeks before the agreed delivery date we shall be entitled to modify the order either by increasing or decreasing quantities or by procuring other parts of a similar type and of similar value subject to otherwise unchanged terms and conditions. Notwithstanding the above we shall in other respects also be entitled to extend the originally planned delivery or acceptance date by 4 weeks without the statutory effects of default in acceptance occurring as a result. Should the supplier be unable to fulfill its undertaking to adhere to binding delivery dates as a result of force majeure, industrial disputes or other operational reasons for which the supplier is not responsible, the supplier shall inform us without delay as soon as the supplier becomes aware of the impediment to such performance. In this event we shall be entitled either to extend the deadline for acceptance or, after a reasonable period of time has passed, to withdraw entirely or partially from the contract should our interest in the delivery be substantially impaired; in particular the supplier shall not, in the event of force majeure or similar, be entitled to withdraw from the contract or increase prices at its own discretion.

Ordered products shall conform with the rules of origin of EU preferential agreements; relevant certificates of origin shall be provided to us with the delivery by the supplier unsolicited, unless expressly waived by Us.

Delivery shall be free of charge (DDP in accordance with INCOTERMS 2010) against invoice and at the risk of the Supplier. Services shall only be provided at the place of performance agreed. The Supplier is obliged to ensure compliance with all the legal, customs and technical regulations that apply for the particular shipment.

The consignment to us shall be marked so that the contractual products can be unequivocally identified and are traceable.

3. Dispatch/prices/assumption of risk/documentation

Quantities, dimensions and weights determined by us during receiving inspections shall be authoritative for deliveries. Over- or under-delivery are admissible within the over- and under-delivery-tolerances specified in the order. Defects in deliveries shall be notified to the supplier in writing without delay as soon as such defects are noticed/detected during the course of ordinary business operations and also if only discovered in the process of further use. To this extent the supplier shall waive the defense of failure to issue a notification of defects in good time. Payments made shall not be construed as acknowledgement of correct delivery. Warranty agreements shall not be affected by the foregoing.

Finally agreed prices are maximum prices and apply to deliveries inclusive of all costs of shipment and packaging free to the point of delivery (DDP Incoterms 2010).
The risk shall only pass to us once the goods have been received at their point of destination.

We may select one of the following payment methods at our own discretion: 14 days following receipt of the invoice with 3 % sales discount or 30 days net but in no case before receipt of all goods.

Product or service documentation has to be provided completely to the extent agreed or at least as merchantable needed.

4. Warranty/liability

Unless otherwise stipulated under this point, the statutory provisions apply regarding redhibitory defects and defects of title.

The supplier guarantees the use of the best material that is suitable for the purpose and correct and appropriate workmanship in keeping with the current status of science and technology. The supplier expressly guarantees that the goods sold conform with specimens, samples and descriptions provided by the supplier. The information given by the supplier in connection with sales discussions and in particular in catalogues, advertising documentation, public statements, data sheets and/or other product descriptions shall be regarded as the contractually agreed characteristics of products. In this context, the supplier also guarantees that the goods delivered possess the characteristics warranted or required by the contract and irrespective of this shall be accessible for the use preconditioned or possess the characteristics usual or expected for goods of the same type and quality.

In the event of a defective delivery, we shall be entitled to demand rectification of defects and/or replacement supplies at no charge. Any expenditures that may arise from these, such as costs for transport, travelling, labour, material or costs for any goods inwards inspection exceeding usual scope of inspection shall be borne by the supplier. Should the supplier fail to comply with our written request to rectify defects within a reasonable period specified by us, we shall be entitled, at the cost of the supplier, to perform the required action ourselves or to arrange for such action to be taken by a third party. We shall be entitled to arrange for minor defects to be rectified immediately at the cost of the supplier. Should we exercise our right to rescind the contract, the goods shall be returned to the place of dispatch at the cost and risk of the supplier. We shall also be entitled to claim damages for non-performance as well as damages other than those to the delivery item itself to the extent that this is permissible by law.

The period of limitation for claims for damages is 24 months commencing in the case of deliveries of goods with their transfer, in the case of contracts of work and services with acceptance, in each case at the time of the passage of risk.

The supplier shall in all circumstances be liable to us for faults of whatever nature, in particular negligence of any type on the part of the supplier's employees, staff or other parties obliged to perform services for the supplier.

The supplier shall be responsible for any negligence of his sub-suppliers and subcontractors and shall be liable for.

The supplier shall indemnify us against claims, regardless of their legal basis, to our contractual parties or other third parties which arise as a result of any negligent or intentional infringement of contractual or subsidiary obligations or of the supplier's non-contractual duties to exercise due care. This shall apply in particular to product liability claims resulting from defects in the product delivered by the supplier

regardless of who is regarded as the manufacturer under liability law. In this context it shall be incumbent on the supplier to demonstrate that the goods delivered to us were not defective.

The supplier shall bear all costs and expenditure resulting therefrom (including but not limited to all costs of a possible lawsuit or necessary repair/recall actions). The Supplier engages to take out a suitable insurance policy for liability and product liability and to provide us with a copy of a valid confirmation of insurance coverage.

5. Prohibited substances

The supplier guarantees that the products supplied to us do not contain any substances included in the Festo norm of prohibited substances (see Festo Supplier Information System under sis.festo.com). This norm is part of our Purchase Terms.

6. Transfer of title

It is agreed with the supplier that title to the goods ordered shall pass to us upon payment has been made, The supplier affirms that the goods delivered are not subject to the rights of third parties. We do not recognize an extended or more extensive reservation of title due to the supplier.

7. Quality

The Supplier shall manufacture and inspect the contractual products to be delivered allowing for the relevant environmental, technical-safety and legal regulations applicable to the corresponding contractual products, the relevant ISO-, EN-, DIN- standards, VDE regulations, the German Equipment and Product Safety Act (GPSG) and taking into account the quality provisions usually in the market. The Supplier maintains a Quality Management (QM) system that at least complies with the requirements of the ISO 9000 ff quality standards and will maintain and further develop these in a conforming manner throughout the term of cooperation.

The Supplier is obliged to provide prior notification well in advance to us of any change in the contractual products; this shall also apply for products the supplier deals with third parties. The Supplier also engages to provide immediate written notification to us of a planned alteration to the production or inspection process, respectively any change to the manufacturing location. In either case, we reserve the right to retest the products due to the above-mentioned changes according to our product qualification process and/or to carry out a technical approval process. We reserve the right to reject these changes, if the products don't pass our product qualification process because of any of the above-mentioned changes.

8. Intellectual property rights

Drawings, models, samples and tools provided by us or made according to our specifications are our property and may not be used for third parties or made available to third parties in any other way.

The supplier guarantees that samples, brands, models, drawings, descriptions and documentation provided by the same are not subject to the rights of third parties and in particular that intellectual property rights are not infringed. The goods delivered must conform to statutory regulations and official requirements. The supplier shall in all instances indemnify us against claims for damages asserted by third parties arising from infringements of such rights and regulations.

9. Applicable law

The contractual relationship between us and the supplier shall be subject to the law of the Federal Republic of Germany excluding all bilateral and/or multilateral agreements relating to the purchase of movable property and in particular excluding the UN Convention on Contracts for the International Sale of Goods of 11 April 1989 (CISG).

10. Place of performance/legal venue

The place of performance for the delivery is the respective delivery destination.

If the supplier is a registered trader, a legal person under public law or a public special fund or if the supplier's residence or principal place of business is outside the Federal Republic of Germany, the legal

venue shall be at our principal place of business in 73770 Esslingen. We are however entitled to bring an action at the principal place of business of the supplier.

11. Software

Unless otherwise agreed in individual contracts, the supplier shall grant us as a minimum a non-exclusive, non-transferable and time unlimited license to use software and hardware products and the associated documentation.

We are entitled to create copies for data backup purposes. We are also entitled to pass on the same to our customers in connection with the performance of contracts including a reference to possible copyright notice issued by the originator.

The supplier guarantees that the software is free of errors and that the data structure of the same is such that correct copies can be made.

12. Compliance/Supply Chain Due Diligence/Minimum Wage

The supplier must comply with Festo's "Code of Conduct for Business Partners".

Supplier shall support and respect the protection of international human rights within its sphere of influence and ensure that it is not complicit in human rights violations. In this context, the supplier is in particular obliged to comply with any legal regulations for the protection of human rights in the supply chain (in Germany, currently especially the Supply Chain Due Diligence Act - LkSG). Therefore, Supplier will also enter into suitable agreements with its sub-suppliers and agree on these obligations with its sub-suppliers wherever possible.

Supplier shall support a precautionary approach in dealing with environmental problems and take initiatives to generate a greater sense of responsibility for the environment and promote the development and dissemination of environmentally friendly technologies. In this context, the supplier is in particular obliged to comply with any legal regulations for the protection of the environment in the supply chain (in Germany currently especially the Supply Chain Due Diligence Act - LkSG). Therefore, Supplier will also enter into suitable agreements with its sub-suppliers and agree on these obligations with its sub-suppliers wherever possible.

In this context, the supplier guarantees to set up a risk assessment system that enables him to immediately identify corresponding risks and violations and to generate meaningful reports on the existing risks with regard to human rights and environmental protection upon request. It shall also set up a whistleblower portal in accordance with current legal requirements and ensure access to appropriate complaints procedures.

If there are indications of a not only insignificant violation of the obligations set forth in this Section 12 or of the regulatory requirements resulting from the contractual relationship, in particular violations of the Code of Conduct for Business Partners and of legal obligations with regard to human rights and environmental protection by the supplier, we shall be entitled to demand from the supplier written information and reports on compliance with the aforementioned regulations and any violations or to conduct on-site audits after timely advance notification. This shall also apply to the extent that indications are found among organs, employees or other persons employed by the supplier within the framework of the contractual relationship. The request for information must be made in writing. The request for information as well as the on-site audits shall take place under protection of the supplier's interests worthy of protection.

Supplier shall be obliged to meet any stipulation of the German Minimum Wage Law (MindestlohnG) in full, so that means among other things, that the actual minimum hourly wage is paid to any employee of the Supplier. Insofar subcontracting is permitted and Supplier uses subcontractor(s) for execution of the contractual services Supplier has to secure that any of its subcontractors also meet any stipulation of the German Minimum Wage Law (MindestlohnG) in full. In any breach, Supplier shall indemnify us against any compensation claims, especially against any third party compensation claims arising out of or connection with the infringement of the rights and requirements of the German Minimum Wage Law (MindestlohnG) by him or his subcontractors insofar he is responsible for or in connection with the German Minimum Wage Law (MindestlohnG) a (statutory mandatory) liability is stipulated.

13. Declarations of origin/ export controls

The contractual goods must fulfil the conditions of origin as follows:

- a) In the case of goods that have a preferential EU origin and fulfil the preferential characteristics specified in origin protocols of the EU and signatory states, the supplier shall, on request, submit long-term supplier declarations with the country of origin specified for each part number.
- b) In the case of goods that have a non-preferential EU origin, the supplier will, upon request, prepare so-called Chamber of Commerce and Industry long-term declarations or order/delivery-related Chamber of Commerce and Industry individual declarations for the non-preferential origin, without Chamber of Commerce and Industry certification.
- c) In the case of goods with a third-country origin (non-EU goods), the supplier will, upon request, prepare free of charge Chamber of Commerce and Industry long-term declarations or order/delivery-related Chamber of Commerce and Industry individual declarations for the non-preferential origin with Chamber of Commerce and Industry certification, or a certificate of origin.

If the goods' place of origin changes in any way (due to relocation of production, for example), the supplier shall undertake to send notification of this and the new country of origin to noreply@ueb.festo.com without delay, making reference to the Festo part number and, where indication of origin is attached to the goods, the point in time at which the products with the modified origin labelling will be delivered for the first time.

The supplier must comply with all applicable export control- and export laws and regulations, in particular the laws, regulations and instructions of the Federal Republic of Germany, the EU and the United States of America.

It is prohibited to import, purchase or transport iron and steel products according to Annex XVII of Regulation (EU) No. 833/2014 at the time of introduction into the customs territory of the European Union (Art. 3g para. 1 letters a) - c) Regulation (EU) No. 833/2014). Furthermore, in accordance with Art. 3g para. 1 letter d) of Regulation (EU) No. 833/2014, it is prohibited to directly or indirectly import or purchase iron and steel products listed in Annex XVII of Regulation (EU) No. 833/2014 into the Union at the time of introduction into the customs territory of the European Union if they have been processed in a third country using iron and steel products listed in Annex XVII of Regulation (EU) No. 833/2014 originating in Russia. In addition, it is prohibited to import, purchase or transport products that originate in Russia or are exported from Russia in accordance with Art. 3i Regulation (EU) No. 833/2014 and the associated Annex XXI. The supplier undertakes not to use and/or supply such products to Festo directly or indirectly and shall provide appropriate evidence such as certificates of origin, manufacturer's declarations, MTC certificates, etc. within 30 days of Festo's request, insofar as the authorities request these from Festo. If the supplier fails to do so within 30 days, Festo shall be entitled to return the goods at the supplier's expense. Any breach of this paragraph by the supplier shall constitute a material breach of contract and Festo shall be entitled to take appropriate action.

14. Final provisions

Should any constituent part or parts of these terms be null and void, this shall not affect the remaining terms or the validity of the contract as a whole.

Should a provision contained in these terms or the contract be null and void with regard to mandatory foreign law, the supplier shall, on request, agree to contractual additions with us and make declarations to third parties or official authorities which will ensure the validity of the relevant provisions and, if this is not possible, which ensure that the business intent and content remains valid even under foreign law.