

Terms of Purchase and Payment Ninkaplast GmbH

The following terms of purchase shall apply for all present and future purchase orders. Divergent supplier terms shall apply only to the extent they do not oppose our own General Terms of Purchase. Silence shall be interpreted as contradiction.

We reserve the right to rescind our contract if the supplier appeals our terms of purchase.

(1.) Closure of Contract

1. All purchase orders shall be placed using our purchase order forms.

Verbal agreements or amendments of current orders shall be binding only if confirmed in writing.

2. The agreement with our supplier becomes legally binding if it is not appealed in writing within one week of transmission of order.
3. We reserve the right to rescind or terminate our agreement if we do not receive the written order confirmation within 8 days of our transmission of purchase order.

(2.) Quality Regulations, Property Rights, Confidentiality

1. All deliveries shall be executed implementing the current state of the art technology, the currently valid regulations for product safety, applicable DIN standards as well as special quality regulations we may specify from case to case at the time of order submission. The supplier shall adhere to all accident prevention regulations and shall ensure that the products are in compliance with such regulations.
2. If we make tools, jigs or moulds available to the supplier, we shall remain entitled to all property rights. These shall remain our property.

We shall at all times be entitled to demand the release of our tools. The supplier shall store the tools separately, mark them as our property and insure them against fire and water damage and

theft. The claims towards the underwriter shall be deemed as assigned to us.

If, upon our written request, the supplier cannot prove commensurate insurance, we shall be entitled to insure our property at the supplier's cost.

3. If we make available drawings, prototypes, print templates or other models, we shall be entitled to all commercial rights and copyrights. The models shall remain our property and shall be released to us at any time on demand.

The supplier shall not be entitled to use the models for other customers. If the supplier breaches this agreement, we shall be entitled to rescind all contracts and/or demand damages for non-fulfilment.

Deviations shall also constitute a breach against this agreement even if the deviations from our model are unsubstantial.

4. The supplier shall hold all details of our order confidential such as technical design, terms and conditions, customer addresses etc. The supplier shall be liable for all damages that arise from the breach of this confidentiality agreement.
5. For every breach of agreement against the provisions of paragraph 3 and paragraph 4, the supplier shall be subject to damages amounting to 25,000.00 Euro.
We reserve the right to further damage claims. The contractual damages shall be applied towards the damage claims.

(3.) Prices

1. The negotiated prices include packaging and freight delivery paid, plus applicable VAT.
2. If the supplier's domicile is outside the Federal Republic of Germany, we shall be entitled to nominate the price stated in the order in either Euro or in the customer's currency. Currency exchange rate fluctuations shall be at the supplier's risk.

(4.) Delivery, Passage of Risk

1. If we require special packaging of the goods hereto, we shall specify and communicate this to the supplier at the time of order.

The delivery shall include a delivery note with our order data. The freight piece containing the delivery note shall be clearly marked.

The delivery date shall be deemed punctual only if these format specifications are adhered to.

2. If we have specified the transportation mode and route, the additional cost of non-conformity shall be borne by the supplier.
3. Upon our demand, the supplier shall be obliged to collect transportation packaging from our business site at his own cost. We shall not be obliged to sort or clean the transportation packaging.
4. The risk of coincidental destruction and coincidental deterioration of the goods passes to us at the time of unloading in our plant. If formal acceptance has been agreed, then this shall constitute the passage of risk in lieu of unloading.
5. We shall be entitled to reject partial deliveries and deliveries effected before the agreed upon due date.
6. Delivery dates and due dates specified in our orders shall be deemed as being agreed upon by supplier and binding.

We – or our assignees – shall be entitled to verify at any time the supplier's or sub-supplier's execution of our order or the production status. This shall also apply to material inspections.

7. In the case of late delivery, we shall be entitled to apply general liquidated delay damages of 1%, but not more than 10% of the net value of the late delivery for every late week or fraction thereof. The supplier shall be entitled to prove that no damage or less damage was incurred. In this case, the liquidated delay damage compensation shall be reduced commensurately.

We reserve the right to claim higher delay damages.

9. The supplier is aware of the fact that delivery delays may lead to production losses at our facilities.

Our supplier is also aware that we supply our customers just in time, which means that delivery delays have the potential of leading to substantial damages and contractual penalty claims by our customers.

Our damages may also consist of commission pay claims filed by sales agents or field representatives.

(5.) Retention of Title

We shall recognise only the basic retention of title of ownership by the supplier. Independent of payment, the retention of title of ownership ceases to exist upon processing, installation or resale of the goods.

(6.) Invoicing, Payments

1. Invoices shall be sent to us by separate mail on the day of shipment.
2. The goods become our property as soon as they have been paid for by us. If there are still goods at the supplier's premises, the transfer of goods shall be substituted by a custody relationship which the buyer and the supplier, herewith, agree to. These goods must be stored apart from other inventory and marked as our property.

Parts, for which a partial payment has been effected, shall also become our property during completion to the extent of the proportion of our payment.

3. Terms of payment begin at the earliest upon our receipt of your invoice. The invoices must specify our order number and other relevant data.

4. The following terms shall apply for our payment:

2% cash discount for payment on the 20th of the month following delivery, 90 days net.

Due payment shall be deemed fulfilled on the date we expedite the funds.

5. We reserve the right to choose our mode of payment by check, electronic bank transfer or a 3-month bill of exchange free of expenses for the supplier. For all cases we reserve the right to deduct cash discount.
6. Payment shall not be construed as acknowledgement of defect-free supply of goods.
7. Even in cases in which a specific due date has been specified, we shall be deemed overdue only upon receipt of a payment overdue reminder after the actual due date.

Should we be in default of payment, the supplier shall be entitled to claim an interest rate of 5% per annum. We shall be entitled to the proof of lower delay damages, the supplier of higher overdue damages.

(7.) Warranty

1. Within the scope of legal provisions, the supplier shall be unconditionally liable for his delivered goods.

The warranty especially comprises

- first class design and implementation of state of the art technology whilst taking into consideration the documents supplied with the order, specific legal regulations, specific EU guidelines and derivative national laws, DIN standards, product safety regulations, etc.;
- supply of first class raw materials appropriate for our intended use as communicated to the supplier. These must also fulfil all contractual quality requirements;
- supply of new parts only that have been successfully tested beforehand;
- adherence to copyrights, inventor's and license rights as well as similar rights of third parties.

The warranty and responsibility of the supplier shall in no way be diminished by our approval of the supplier's calculations, design blueprints, prototype versions, etc.

2. The properties of the supplier's products relevant to the safety of our own products shall be deemed as assured (§ 276 Abs. 1 sentence 1 BGB) if the scope of meaning for the safety of our products by virtue of our supplier's expertise is obviously apparent or if we have specifically made our supplier aware of the consequences of the properties to the safety of our products prior to or at the time of closure of contract. This awareness may be created by way of drawings, plans, testing regulations, etc. or through abbreviations or acronyms common to the trade or industry.

Further and more detailed agreements regarding the assured properties expressed before, during or after contractual closure remain unimpaired. Such agreements can also be of verbal nature or by reference to drawings, plans, etc..

3. The warranty period is 30 months from the delivery of our products to the customer.

The warranty period expires maximum 36 months after the supplier's delivery of the goods to us.

4. Our written notice of defects shall lead to the delay of the begin of the warranty period of the entire lot from which the defective shipment originated.

The warranty period continues further 2 months only after the post-fulfilment has been successfully completed or has failed or if the supplier refuses to honour the warranty in writing.

5. We shall inspect deliveries upon receipt as far as it is common in the course of business and according to the type of goods and their intended use. We shall be obliged to open packages only for random samples and only if we haven't come to the agreement with our supplier to tranship the packages unaltered.

The period of notification for apparent defects is 10 days since discovery of the defect. This period shall be deemed as being fulfilled if the corresponding notification has been sent within 10 days.

6. Further and more extensive rights according to §§ 478, 479 BGB shall in all cases remain intact.

The rights in accordance with §§ 478, 479 BGB shall remain unharmed even in cases in which our customer is a company. They shall remain unimpaired even if the defect is discovered by a merchant before delivery to an end user.

7. The legal provisions shall govern the supplier's liability.

(8.) Additional Agreements

1. Should the supplier's employees conduct work in or at our facilities, any liability for these employees – regardless of absolute liability or liability for negligence – shall be excluded.

2. If we supply material, the following shall apply:

- 2.1 The material shall remain our property until the product it is made of has been shipped and delivered. The processing of the material is done for us (§ 950 BGB); if the jointly processed material has been supplied by multiple suppliers, we shall co-own the material in accordance with §§ 947 ff. BGB.

- 2.2 The material supplied by us is to be stored separately, marked as our property and insured against fire and water damage and theft at the supplier's cost. The claims against the underwriter shall be deemed as assigned to us.
If, upon our written request, the supplier cannot prove appropriate insurance, we shall be entitled to insure our property at the supplier's cost.

(9.) Data Protection

All data required for business transactions will be stored by us in a central place.

(10.) Final Provisions

1. German law shall govern all orders placed by us. The application of the United Nations Convention for the International Sale of Goods (CISG) shall be excluded. In the case of multiple language contracts, the German version shall prevail.
2. The place of jurisdiction for all disputes arising from this contractual relationship shall be the respective court of law in Bad Salzuflen. We reserve the right to litigate against our supplier at his general place of jurisdiction.
3. These terms of purchase shall apply only to transactions with companies.
4. If one or more provisions should be partially or entirely rendered invalid, this shall in no way affect the validity of the remainder of the provisions or portions of such provisions. In lieu, the legal provisions shall apply.