

Purchasing, Delivery and Payment Terms and Conditions

For the companies:

Betonbau GmbH & Co. KG, Waghäusel, Betonbau GmbH, Bockenem,
Betonbau GmbH, Ingolstadt, Betonbau GmbH, Schkeuditz



I. General

The Purchasing, Delivery and Payment Terms and Conditions shall exclusively apply. Third party terms and conditions are hereby explicitly contradicted. Silence by the principal regarding deviating terms and conditions of the contractor, particularly if these should exclude the applicability of these Purchasing, Delivery and Payment Terms and Conditions, shall not be regarded as consent.

The acceptance of goods cannot be construed as the applicability of other terms and conditions.

Specific contractual terms and conditions shall only apply to the individual case, but by no means for later, follow-up transactions.

II. Order

1. Only written orders shall be valid, which are legally signed.

Verbal agreements must be confirmed in writing by the Purchasing department of the principal, in order to be legally valid. The contractor must send a written order confirmation for each order to the principal within one week, the attached copy of the order should be used for this purpose.

If the contractor should not accept the principal's order in writing within 5 business days after receipt, he shall be entitled to cancel.

2. The quantity, type, weight, size and quality must be complied with. Deviations from this shall only be acknowledged by the principal, if he has provided his written consent in advance.

III. Delivery and transfer of risk

1. If the agreed delivery date should not be met, due to a circumstance for which the contractor is not responsible, the principal shall be entitled to demand compensation instead of performance. If the contractor should not be responsible for non-compliance with the agreed delivery date, the principal shall be entitled to withdraw from the contract, after the unsuccessful expiry of a grace period to be set by the principal, and to demand compensation for futile costs incurred.

2. If a contractual penalty is agreed for late delivery, the right of the principal to withdraw from the contract and/or assertion of further claims shall remain unaffected.

3. If it should become identifiable that the delivery dates cannot be complied with, the contractor shall immediately establish contact with the principal. The contractor shall only be entitled to call upon the lack of necessary documents to be delivered by the principal, if he sends a reminder requesting the documents in writing and has not received them within an adequate period.

4. Each delivery must include a delivery note, with the specification of quantity, type, weight, size, etc.

If the delivery should deviate from the quality, dimensions or quantities of the order, the principal shall be entitled to withdraw from the contract, return the delivery entirely or partially at the expense of the contractor and demand compensation, if fault exists by the contractor.

In case of non-timely or infeasible delivery, due to force majeure, strike, lock-out, etc., as well as due to the occurrence of other circumstances, for which the principal is not responsible, the principal shall be at liberty to withdraw from the contract, or, if infeasibility should not exist, otherwise specify the delivery time and delivery location; the extra costs incurred shall be borne by the contractor.

The risk of accidental loss or accidental deterioration shall be borne by the contractor until delivery/acceptance.

Acceptance takes place – within the proper course of business – immediately after receipt/commissioning, as long as contractual fulfilment exists.

5. Possible investigation obligations of the contractor shall be limited to immediate inspection of the goods, as to whether they correspond to the ordered quantity and ordered type, as well as whether externally identifiable transport damage or externally identifiable defects exist. If the principal is obligated to immediately notify defects, conceal defects can be notified within 2 weeks, other defects, within 1 week, after discovery.

IV. Protection regulations

The principal shall be obligated to comply with the recognised rules of technology, as well as specific regulations and guidelines issued by the legislator, regulatory authorities, employers' insurance associations and the VDE [German Electrical Engineering Association].

V. Liability defects

The principal shall have the option to demand rectification of a defect or delivery of non-defective goods.

The contractor must bear the necessary costs incurred for supplemental performance, particularly transport, call-out, labour and material costs.

In urgent cases, or if the contractor is in default with supplemental performance, the principal shall be entitled to rectify the defects himself or have them rectified, at the expense of the contractor, or withdraw from the contract and demand compensation. An urgent case exists, if supplemental performance by the contractor is unreasonable for the principal. In case of doubt, the principal shall decide on this, according to duty bound discretion.

The warranty claims of the contractor shall expire after 2 years. The expiry period

shall begin with the deliver of the respective items/its acceptance and with the day of commissioning. If the principal should justifiably refuse acceptance, but commissions the item for urgent reasons, the expiry period shall only begin to run upon acceptance.

Expiry is suspended until the rectification of the defect is carried out or replacement has been obtained. If an operational disruption should occur due to a material defect and if this should continue beyond the time of defect rectification or obtaining of a replacement, the expiry shall be suspended until the end of the operational disruption.

For repaired and replaced parts, the expiry period shall begin to run again, at the relevant points in time for the above.

VI. Product liability

The contractor shall exempt the principal from compensation claims, which could be asserted against the principal due to a fault with a product supplied by the contractor.

VII. Industrial property rights

The contractor shall assume liability for the delivery item being free from third party rights. In case of an infringement of industrial property rights, the contractor shall be obligated to compensate all losses incurred by the principal and any third parties, for the duration of their validity. In this case, the principal shall also be entitled to bring about the necessary approval from the owners of such property rights for delivery, commissioning, use, onward sale, etc. of the delivery item, at the expense of the contractor.

VIII. Prices

The agreed prices shall be regarded as fixed prices for the goods specified in the order. Possible price increases, which occur between the time of the order and delivery shall not be acknowledged by the principal.

IX. Invoices

If nothing different is agreed, all invoices are to be submitted in triplicate, immediately after delivery has taken place to our address. They are to be prepared as clearly as possible, specifying the order number, date, delivery period and the delivery location, such that complete review is possible without further ado.

X. Payments

1. As long as nothing different is agreed, settlement shall take place with funds, at the option of the principal, within 14 days, deducting a 3% cash discount, or after 60 days net, each calculated from invoice receipt and complete receipt of goods. The date of invoice receipt shall be regarded as the date of the receipt stamp of the principal's address specified in the order letter. As long as the principal is entitled to a claim against the contractor, regardless of the reason, the principal shall be entitled to offsetting/retention of collateral.

2. Possible deposit payments and interim payments do not mean acknowledgement of the contractual legality of performance.

3. In case of faulty delivery, the principal shall be entitled to retain the payment proportionately, until proper performance has taken place.

XI. Claim assignment

The full or partial assignment or pledging of claims against us shall only be admissible with the written consent of the principal.

XII. Forwarding of orders

The contractor must generally fulfil the order himself. Forwarding of the order, even if the contractor delivers on his own behalf, is only permissible with the written consent of the principal.

XIII. Secrecy and drawings

The contractor shall be obligated to treat the principal's orders and all associated commercial and technical details confidentially. Details provided by the principal, drawings prepared by him or the contractor on the basis of such details, etc. may only be used otherwise or exploited with the explicit, written consent of the principal.

The sole responsibility of the contractor shall not be affected by the acceptance or approval of drawings and prototypes submitted by the contractor.

XIV. Legal jurisdiction

The legal jurisdiction for all disputes shall be determined according to the registered office of the principal.

XV. Legal agents

The contractor must be responsible for the deliveries and services of his suppliers, as he would for his own deliveries and services; the suppliers of the contractor are therefore regarded as legal agents.

XVI. Binding nature of the terms and conditions, partial invalidity

If a provision of these P-D-P Terms and Conditions should be or become invalid, this shall not affect the validity of all other provisions or agreements.