

General purchase conditions and special conditions for contracts relating to work, supply of materials and services

I. General Purchase Conditions

1. General information

1.1. The purchase conditions are subject of all orders placed by STRACK NORMA GmbH & Co.KG (hereinafter referred to as STRACK) and shall apply exclusively unless any special arrangements are individually negotiated by a supplier contract between STRACK and its contractual partners (hereinafter called CP).

1.2. The general conditions of the CP do not apply even if they are not expressly contradicted.

1.3. They only apply if STRACK agrees in writing and expressly with them or with parts of them.

1.4. The "General shipping and packing instructions" as well as "the quality assurance agreement and the guidelines of purchased parts" are part of these general purchase conditions and thus have to be considered at each delivery to STRACK. Both complementary forms in their respectively valid version at the time of the contract can be seen under www.strack.de/Supplier.portal.

2. Conclusion of the contract

2.1. The CP receives a written order from STRACK. The written form is maintained even by means of electronic data transfer. Verbal sub-agreements are only binding when they are confirmed in writing. This also applies to subsequent amendments and additions.

2.2. The order is considered accepted according to the indicated order data of STRACK, if the CP does not contradict within 2 working days. In this case the desired delivery date indicated by STRACK on the order is considered accepted respectively confirmed.

2.3. Deviations from the order are to be marked by the CP correspondingly. In addition the CP is obliged to indicate STRACK the modifications to previous contractual conditions or specifications in writing.

2.4. If additional costs/ancillary expenses should be listed in the order confirmation these are regarded as refused, even if STRACK does not contradict them in written or oral form.

3. Prices

3.1. All confirmed net prices by the CP include all (additional-) costs, such as transport-/shipping-, handling-, or packaging costs as well as costs for the issuing of a measurement record or similar documents.

3.2. These additional costs are not considered by STRACK in the payment of the invoices of the CP, although these were listed in the order confirmation.

3.3. After fulfilment of the contract the invoices are to be sent in duplicate to the invoice address indicated in the order.

3.4. Invoices for partial deliveries are to be signed with the notation "partial performance invoice" and final invoices with "final invoice".

4. Deliveries

4.1. The deliveries to STRACK are effected free of charge, including packaging, to the delivery location indicated by STRACK.

4.2. The desired dates indicated in the order are the date of reception at STRACK.

4.3. Deliveries in the company STRACK are accepted on working days Monday to Thursday during the normal business hours from 07.30–16.00 and on Friday from 07.30–14.00. Exceptions require the prior written agreement of both parties.

4.4. Each delivery has to be accompanied by a delivery note. This has to be provided with the order- and article number, article name, quantity delivered and performance date.

4.5. Quality documents or test reports have to be added to each delivery to STRACK.

4.6. STRACK receives annually from all suppliers a long-term supplier's declaration - for a maximal period of 24 months - for all goods which have been delivered from the CP to STRACK since the beginning of the cooperation, if they are preferential and have their origin in the EU.

4.6.1. On each long-term supplier's declaration the preferential origin as well as the commercial origin has to be indicated.

4.6.2. Should the CP deliver in the course of the year articles which are not listed on the long-term supplier's declaration, the long-term supplier's declaration either has to be updated or complemented by these articles or the CP provides without further request a single declaration for the corresponding goods, which has to be added to the consignment to STRACK.

4.6.3. On any single declaration the order number of STRACK and the invoice number of the CP have obligatorily be indicated to ensure a clear reference to the business transaction.

4.6.4. (Long-term) supplier's declarations have to be sent to STRACK in original.

4.6.5. If origins or the preferential status should change, STRACK has to be informed about this directly by the CP.

4.6.6. In issuing this document always the currently valid wording has to be considered which can be seen under "[preference documents](#)".

4.6.7. If the CP send goods, which haven't their origin in the EU, the CP will add an original declaration of origin to the consignment accordingly.

In accordance with STRACK, the CP can also send the original declaration of origin subsequently by mail within one working week after shipping of the goods to SN.

4.7.1. An oversupply up to 10 %, but maximally 2 pieces per order item is allowed. In these cases an additional-remuneration is effected. An underdelivery won't be accepted. The aforementioned applies exclusively for stock goods.

4.7.2. If the delivered goods are not stock goods but special articles (articles or dimensions that are not listed in the current STRACK catalogue), STRACK will neither accept underdeliveries, nor oversupply.

4.7.3. Concerning all other exceeding differences in quantity the CP has the right to decide whether to leave them at the company STRACK free of charge or to arrange the return of the goods at his own expense.

4.7.4. Should the CP has induced an underdelivery, the provisions under point "[6. Delay](#)" apply for the insufficiently delivered number of pieces.

4.8. STRACK is not obliged to accept not contractually agreed parts. The same applies for deliveries which take place before the agreed delivery date or which do not meet the "General shipping and packaging instructions". In this case STRACK reserves the right to return the goods at the expense of the CP.

4.9 The CP is obligated to observe the rules regarding the "Conformity with Dodd-Frank Wall Street Reform" and the "Consumer Protection Act, H. R. 4173, Section 1502 on Conflict Minerals" and to undertake his sub-suppliers accordingly as well.

The CP has to meet these rules for each single delivery to STRACK.

5. Delivery time

5.1. The CP indicates STRACK the delivery times valid for disposition and obliges to deliver accordingly.

5.2. Should the procurement times change, STRACK has to be informed immediately.

5.3. Basing on the procurement time mentioned by the CP, the delivery times

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indicated in the order are binding as long as the CP does not contradict them.

5.4. Moreover the CP obliges to inform STRACK immediately if circumstances arise that prevent an on-time delivery. In this case the CP has to take all necessary steps to minimize the delay.

6. Delay

6.1. If the contractually agreed delivery time is exceeded, STRACK sets the CP a reasonable extended deadline for service performance.

6.2. If the CP has not delivered the goods till the set extended deadline, the CP will immediately be in default of delivery and will compensate STRACK the damage incurred herewith.

6.3. If, as a result of the non-compliance with the delivery date of the CP, ordered stock goods cannot be delivered from the stock of STRACK to its customers, STRACK is entitled to withdraw from the contract and to make covering purchases from alternative suppliers, as well as to burden the differential costs fully to the CP.

6.4. Cover purchases and the involved burden of differential costs to the CP may immediately be made at occurring or announced delivery delay – also before compliance of the set extended deadline – exclusively under the before mentioned condition concerning absence of stock availability.

6.5. Any incurring additional costs resulting from a delay in delivery are fully born by the CP.

7. Passing of risk

7.1. The risk of transportation lies at the CP until the written acceptance of goods. With the written acceptance of the goods by STRACK, the risk passes to STRACK.

7.2. This also applies if STRACK has taken over the costs of shipment in the individual case due to a separately contractual agreement or if the performance takes place ex works contrary to the agreement.

8. Notice of defect, warranty

8.1. The CP ensures that all deliveries and performances comply with the agreed specifications.

8.2. At STRACK an incoming goods inspection only takes place with regard to obvious defects, transport damages, completeness and identity of the goods. STRACK will immediately rebuke such defects. A further inspection- and complaint obligation according to § 377 HGB is renounced with.

8.3. STRACK is entitled to demand from the CP either an elimination of defects or a delivery of a new item. In addition the legal warranty claims are valid.

8.4. Should the CP in case of bad performance not follow the performance of elimination of a defect or make a replacement within a period specified by STRACK, STRACK is entitled to arrange this oneself or to instruct a third company at the expense of the CP, as far as, due to the insufficient stock, the delivery of placed customer orders cannot be carried out on time.

8.5. If the defect is caused by gross negligence of the CP, STRACK has the right to make claims. The same applies for all subsequent damage, claims of third parties and/or possible prosecution, which has to be fully born by the CP.

8.6. Warranty- and damage claims by STRACK from this point "8. Notice of defect, warranty" expire within twenty-four months after delivery to the end customer, however at least after thirty six months.

9. Liability

9.1. The statutory liability provisions of product liability apply.

9.2. The CP will hold STRACK harmless from claims by third parties as far as the damage was caused by an error of one of the products delivered by the CP. If the cause of the damage lies within the responsibility of the CP, he bears the burden of proof in this respect. In these cases the CP assumes all costs and expenses, including the costs of a possible legal prosecution (see point 8.5).

10. Terms of payment

10.1. Payments are only due after receipt of goods and invoice and entry of the agreed payment period. If the goods are delivered before the agreed delivery date, the payment period only starts after the agreed delivery date and not from the date of invoice.

10.2. Unless otherwise agreed, the payments are made within 14 days less 3% discount or within 30 days net to the CP.

10.3. The right of allowing discount persists if STRACK offsets or retains the payment due to defects.

10.4. STRACK will only be in default if it has not been paid after a reminder of the CP, which was issued after the due date of performance.

10.5. At contractually agreed advanced payments, these are only paid if STRACK is in possession of a free enforceable bank guarantee of a major German bank, cooperative bank or public savings bank of the CP in the amount of the advance payment.

10.6. STRACK is entitled to offset claims against the CP or companies which are socially/commercially connected to the CP.

11. Property rights

11.1. STRACK may use the subject of the contract, including the underlying patent- and property rights without limitation. The right of utilization entitles to modifications at the subject of the contract and includes in particular illustrations, drawings, calculations, methods of analysis and other works, which were produced or developed by the CP at the conclusion of the contract.

11.2. All documents passed by STRACK remain the property of STRACK. They may not be made accessible to third parties unless STRACK has approved this previously in writing.

11.3. As a third party are not regarded subcontractors, if they committed themselves to confidentiality towards the CP. The CP is liable for possible damages that may arise for STRACK from this obligation, even if these have been caused by its subcontractors.

11.4. All documents have to be returned to STRACK after termination of the contract.

12. Confidentiality

12.1. The CP obliges to handle and to use information obtained by STRACK strictly confidentially in the sense of operational- and business secrets.

12.2. "Confidential information" are all technical and commercial information, in particular drawings, plans, specifications, methods, formulas, samples, documentation, calculations, market- and customer data and materials and other items STRACK makes accessible directly or indirectly in the course of the cooperation with the CP or an affiliated company whether in oral, visual, written form, via data carrier or in any other manner.

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12.3. Confidential information are also all results and know-how, which will be achieved in the course of the cooperation.

12.4. The CP ensures in particular not to make available confidential information to third parties and to disclose it only to those employees which need to acquire knowledge by the objective of the cooperation, provided that this person was obliged correspondingly by the CP to maintain confidentiality.

12.5. The CP is obliged to consider the legal provisions concerning data protection including the written commitment of employees according to § 5BDSG.

12.6. In the event of culpable violation of this confidentiality agreement the CP is liable for arising damages to STRACK.

12.7. A culpable violation of this confidentiality agreement by the CP is assumed, if STRACK can prove that confidential information from the sphere of the CP has reached third parties. The CP is entitled to adduce counterevidence.

12.8. The CP is also liable for the conduct of the employees and auxiliary persons and its subcontractors without being entitled to provide the proof of exoneration according to § 831, paragraph 1, sentence BGB.

13. Final provisions

13.1. Verbal supplementary agreements must be done in writing.

13.2. The transfer of rights and obligations of the CP from the contract concluded with STRACK require the written form in order to be effective.

13.3. If one of the provisions is or becomes invalid, the remaining provisions are unaffected.

13.4. The place of performance is the destination indicated by STRACK, for payments it is Lüdenschied.

13.5. If the CP is merchant in the sense of the German Commercial Code, a legal entity under public law or a separate property under public law, the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is exclusively Lüdenschied.

II. Special conditions for contracts relating to work, supply of materials and service

1. Scope of application

1.1. The following terms apply in addition to the General Condition of Purchase under I. "General Conditions of Purchase" in the case of the existence of a contract relating to work, supply of materials and services.

1.2. The receipt of goods described in the General Conditions of Purchase is replaced by the acceptance of the goods and in case of a service contract by the service provision.

2. Changes in performance

2.1. Changes respectively extensions of the scope of the contract which requirement becomes only evident when executing the contract have to be indicated to STRACK by the CP in writing. They will only become valid with the written consent by STRACK.

2.2. Request for changes by STRACK have to be checked within 10 working days for possible consequences and have to be indicated to STRACK in writing.

2.3. The effects of the changes/extensions on costs as well as on time schedule have to be indicated immediately in writing. With the implementation, the contracting parties will adjust the contract in writing.

3. Use of subcontractors

3.1. The involvement of subcontractors requires the written consent of STRACK.

3.2. If the CP uses a subcontractor without prior consent, STRACK has the right to claim damages.

4. Change of personnel

4.1. STRACK is entitled to demand a replacement of staff for an important reason. This applies if doubts about the necessary qualifications exist respectively repeatedly important provisions are not observed.

4.2. A desired change of personnel by the CP requires the consent of STRACK.

4.3. The CP has to bear the costs for all change of personnel.

4.4. The training period connected with the change of personnel is at the expense of the CP.

5. Entering of the company premises

5.1. The entering of the company premises has to be announced in time.

5.2. The instructions of the trained staff in the company STRACK have to be followed.

6. Approval/Acceptance

6.1. In case of a contract relating to work, supply of materials, STRACK will approve the goods within a reasonable period of time.

6.2. The acceptance can be denied due to insubstantial defects.

6.3. The legal provisions apply.

07/2017