

Terms & Conditions of Purchasing

T & C of Purchasing of:

Likamed GmbH

Likamed Service GmbH & Co. KG

Likamed Pulverbeschichtung GmbH & Co. KG



I. Scope of Application

The General Terms and Conditions of Purchasing shall apply exclusively to contracts with companies, corporate bodies under public law and special funds under public law.

The following conditions shall apply for all contracts concluded between us and the suppliers with regards to the delivery and/or production of goods.

They shall also apply to all future business relationships even if they are not being expressly agreed again. Any deviating conditions of the supplier that we have not expressly agreed to in writing shall be non-binding for us even if we do not expressly object to them. The following purchasing terms and conditions shall also apply if we accept the supplier's delivery unreservedly despite knowing of the supplier's contradictory or deviating conditions.

All agreements that are made between us and the supplier in connection with the respective contracts shall be put into writing within the contracts, these terms and conditions, and our offers.

II. Offer and Conclusion of Contract

1. Offers to conclude a contract (orders) as well as contract amendments shall only be binding when we have made or confirmed them in writing. Verbal additional agreements shall be invalid.

We shall be bound to an order for three days. The supplier can only accept our offer within this three-day period by giving us confirmation in writing (order confirmation).

The supplier can only conclude subcontracts with our written permission.

2. Drawings, plans and any other documents that form part of an order remain our property. We reserve all copyrights to such documentations.

Should the supplier not accept our offers within the above named deadline, the documents must be returned to us immediately.

III. Delivery

1. The delivery deadline stated in our orders or the delivery date stated therein are binding dates for the supplier.
2. Should the supplier delay in performance, we shall be entitled to our statutory rights.

Without prejudice to further statutory rights we shall be entitled, after having giving the supplier an adequate deadline for delivery and the supplier still defaults, to withdraw from

the contract wholly or partially and/or claim damages instead of the performance; the choice is at our discretion.

A deadline is not required for those cases covered under Article 323 II BGB [German Civil Code].

Acceptance of delayed delivery or performance does not constitute waiving the right to claim damages.

In the event of repeated delays in delivery and/or repeated delivery defects or performance we shall without prejudice to our other rights, including those that are not due yet or partial performances/deliveries not brought yet from multiple delivery contracts, be entitled to withdraw from the contract wholly or in parts after having given the supplier prior warning.

Should a delivery be in danger of delay, the supplier must inform us about this immediately in writing.

2. In case of long-term delivery contracts the supplier obligates to deliver defined partial quantities of the total order quantity on demand.

IV. First-time Production

1. When ordering a delivery item to be produced for the first time we shall submit with the order enquiry also drawings and/or documents that show complete dimensioning, quality characteristics and warranted characteristics (stipulated quality). Such drawings and documents remain our property. Should the enquiry not become an order the supplier shall be obligated to return the submitted documents and drawings without delay.
2. The supplier obligates to produce first samples at his/her own cost in good time prior to commencement of the serial production using the final operational means under serial production conditions and obligates to compile a first sample test report about it.
3. The first sample test report must contain measuring data about all dimensioning, quality characteristics and properties submitted by us. It must contain a comparison of nominal and actual qualities with tolerance data. The first sample test report must identify when certain characteristics of the first sample could not be tested at the supplier's factory or when characteristics requested by us could not be realised.
4. Clearance for serial production is given to the supplier depending on our own first sample test results and is made in writing.
5. If the agreed quality cannot be achieved we shall be entitled to give a reasonable deadline for amendment and to withdraw from the contract should this deadline be unsuccessful and/or claim damages.

6. The supplier guarantees that the delivery item produced in serial production will have the properties of the approved first sample. The supplier shall not be entitled to carry out unauthorised alterations that could be detrimental to quality.

V. Tools

1. The tools supplied by us for the purpose of producing the ordered delivery item remain our property. In the event of the supplier having to produce the tools themselves or procure the tools in their own name, we shall attain ownership of such tools including their construction documents as soon as we have paid the cost of the tools in full.
2. The supplier must use the tools delivered by us and the tools owned by us exclusively for the purpose of carrying out our orders. He/she obligates to insure the tools at replacement value at his/her own cost, and assigns all present and future rights to compensation against the insurer to us.

VI. Dispatch/Packaging

1. Delivery and dispatch take place at the supplier's risk ex works to our business address (Raußmühlstr. 7, D-75031 Eppingen) or to a delivery location as specified by us.

The supplier bears the cost for packaging, freight and insurance.

2. Dispatch must be carried out following our instructions. Deliveries from abroad must be performed with duty paid.

The supplier obligates to notify us of the dispatch in writing once it has taken place.

Dispatch must be performed enclosing the shipping documents (stating item description, item number and order number).

The supplier is liable to us against any damages that arise from noncompliance against the above obligations.

3. The packaging must be performed according to our instructions. In the event of the type of packaging not having been agreed in writing prior to the dispatch of the goods, we shall have the right to return the packaging to the supplier at his/her cost.

VII. Invoicing and Payment

1. Invoices must be submitted separately in duplicate stating all order data after delivery of goods.
2. Detailed payment conditions are negotiated, agreed and confirmed in writing with the respective supplier.

3. We are entitled to the unreserved statutory right to set-off and right to retention.

VIII. Materials Defect Liability

1. We are obligated to inspect the goods upon delivery by the supplier within a reasonable period of time for qualitative and quantitative deviations, as far as this is the orderly course of business. In the event of an apparent defect, the supplier must immediately be notified of this defect. For the remainder Article 377 HGB [German Commercial Code] applies.
2. We are entitled to statutory defect claims against the supplier; the supplier is liable to us within the limits of statutory limitations.

The delivery/performance of the supplier is to be effected fit for purpose and fully functional in accordance with the contract, with all relevant official regulations concerning delivery/performance, and with technical rules and regulations.

3. Statute of limitation for claims for compensation is 36 months from date of passing of risk so long as no other deviating agreement has been made in writing.

IX. Product Liability

1. In the event of third parties claiming damages against us based on product defects, the supplier shall exempt us from all claims of third parties including the necessary costs to defend such damage claims, if the supplier is responsible for causing the defect on his/her territory and in his/her organisation.
2. If we are forced to initiate a call-back due to a damage claim in the sense of Clause 1, the supplier shall be obligated to reimburse us all expenses that arise from or arise in connection with the call-back activity carried out by us.

We shall, in as far as it is possible and reasonable with regards to time, inform the supplier about the content and extent of the call-back activity and shall give him/her the opportunity to express their views.

Further statutory claims for compensation remain unaffected by this.

3. In the event of a claim being brought against us because a delivery by the supplier has infringed the trademark rights of a third party, the supplier shall be obligated to release us from such claims, including all necessary expenses that we incur in connection with the assertion of claims by a third party and their defence, unless the supplier is not culpable.

The statute of limitations for these exemptions from third party claims is 36 months, calculated from the date of passing of risk.

X. Non-Disclosure/Retention of Title

All documents and items that we entrust to the supplier for the purpose of making an offer or to perform the order, remain our property and must not be used for any other purposes, must not be copied or made accessible to third parties. After the supplier has completely fulfilled the contract, these documents and items must be returned to us free of charge.

The supplier obligates to use the knowledge and experience that he/she has gained during the execution of our order exclusively for us and not to disclose any information to third parties.

The supplier shall be liable to us for any damages that may arise from noncompliance with the above obligations.

XI. Place of Fulfilment/Place of Jurisdiction

For all deliveries/performances from an order the address of the consignee/recipient of the performance and for all reciprocal payment obligations Eppingen shall be the place of fulfilment.

Place of jurisdiction for all mutual legal disputes is exclusively Heilbronn. This does not apply should an exclusively statutory place of jurisdiction exist.

XII. Assignment

The assignment of accounts receivables against us shall only be effective with our written agreement.

XIII. Choice of Law

For the delivery contract and its execution and all claims connected with it exclusively German law shall apply. The application of uniform law about the international sale of movable goods and the conclusion of international purchase contracts of movable goods is excluded.

XIV. Severability Clause

In the event of individual clauses of the aforementioned clauses being ineffective or becoming ineffective, the effectiveness of the remaining clauses shall remain intact. The contract parties shall be obligated to replace the ineffective clause with a clause that comes closest to the economic intentions of the ineffective clause.