

PURCHASING TERMS

1. SCOPE

1. These purchasing terms shall apply to any of our orders, including future ones, in the business transactions of Vollert Heavy Duty Solutions GmbH with entrepreneurs and legal entities under public law (contractors). We do not accept the contractor's terms and conditions except if we have explicitly agreed to their application in writing. Our purchasing terms shall apply even if we accept any deliveries, or pay for them, without reservation and in the knowledge that the contractor's terms and conditions are in conflict with or deviating from our purchasing terms.
2. By accepting our order, the contractor explicitly agrees to the application of our purchasing terms, waiving assertion of its own, deviating, terms and conditions or delivery and payment terms. If the contractor does not agree to this, it shall inform us of this in writing immediately.
3. Individual agreements made with the seller from case to case (including collateral agreements, supplements, and amendments) shall take precedence over these general purchasing terms in any case. Subject to evidence to the contrary, an agreement or confirmation from us in text form shall be relevant for the content of such agreements.

2. CONCLUSION OF THE AGREEMENT

1. Our orders shall only be binding if we have placed them in writing, by email, or by fax. Orders placed verbally or on the phone as well as any supplements to or amendments of an order shall only be effective if we confirm them in writing, by email, or by fax. We shall be bound to any orders that do not contain a commitment period for two weeks from the date of the order.
2. Except if otherwise agreed, we expect order confirmations without undue delay, fully in accordance with the content of the order and in particular stating the order number as well as the order date and, if applicable, the customs tariff number.
3. Any order confirmation by the contractor that deviates from our order shall be deemed a rejection of our order and a new contractual offer by the contractor. Such a deviating contractual offer by the contractor shall only become the basis of the contract upon our written acceptance of the offer deviating from our order. If the order/delivery is executed nevertheless – even before we have accepted the new contractual offer in writing – the delivery shall be subject to the original terms of our order, including our purchasing terms, exclusively. Any subsequent unilateral changes made by the contractor and any subsequently declared terms of the contractor shall not apply in this case (without our written confirmation); this shall apply accordingly if we have not objected to the change made by the contractor and/or have already accepted and/or paid for the goods.

3. PRICES

1. The prices stated in the order shall be fixed prices including any ancillary costs such as freight, packaging, transport insurance, etc.; if there is any doubt, the price shall include value added tax.
2. Deviating agreements - such as price escalation clauses or price reservations – shall apply by way of exception and only if we have explicitly agreed to them in writing in advance.

4. EXECUTION OF THE AGREEMENT, CONTRACTOR'S OBLIGATIONS, SUBCONTRACTORS

1. Our order shall be solely decisive for the content, type, and scope of the delivery.
2. However, we may demand changes to the design and execution, provided that the ordered goods have not yet been manufactured. If such changes lead to any additional or reduced costs, the parties shall agree on an adjustment of the contractor's remuneration. If the parties cannot agree on adjustment of the remuneration, an expert shall determine the adjusted remuneration as a third party (within the meaning of § 317 of the German Civil Code (Bürgerliches Gesetzbuch; BGB)). If the parties cannot agree on the person of the expert, the president of the IHK Region Stuttgart shall appoint the expert. The costs of the expert shall be borne by the parties at equal shares.
3. The contractor commits to complying with the Code of Conduct of the Business Social Compliance Initiative (BSCI) (<http://www.bsci-eu.org>). In particular, it shall ensure that children and adolescents are only employed in compliance with the regulations of the International Labor Organization (ILO), the United Nations (UN), and national law. It shall also pass this obligation on to its own suppliers.
4. The contractor must only charge any subcontractors with our explicit written consent

5. PASSING OF RISK, TERMS OF DELIVERY, DELIVERY PERIODS, DEFAULT

1. Deliveries within Germany and passing of risk for these shall be subject to the Incoterms clause "Delivered at Place" (DAP Incoterms 2020). Deliveries from abroad shall be subject to "Delivered Duty Paid" (DDP Incoterms 2020). Except where stated otherwise in the order, the destination of the delivery shall be our registered office in Weinsberg.
2. Except where explicitly agreed otherwise, the risk of accidental loss or accidental deterioration shall not pass to us before the goods are handed over to us at the place of performance. If acceptance has been agreed, this shall be decisive for the passing of risk.
3. If it has been explicitly agreed in writing in an exception and in deviation from item 5.1 that we are to pay for the freight charges, the contractor shall always choose the least expensive freight route; delivery by "forwarding agent groupage" shall not be permitted.
4. Partial deliveries or/and deliveries made before the agreed date shall require our explicit advance written consent. We may return any excess deliveries beyond the order without prior notification and at the contractor's expense, subject to reduction of the invoice.
5. The delivery dates stated in the order shall be binding. The delivery deadlines shall commence on the date of our order. Deviating agreements shall only apply if we have explicitly agreed to them in writing.
6. If the contractor exceeds any agreed delivery periods or delivery dates and if it is responsible for this, we shall have the right to demand compensation in the amount of 0.1% of the total price calculated from the order per working day of the delay, up to a total of 5% of the value of the delivery, without any proof of damage on our side being required. Our right to claim higher damages in excess of this shall not be affected by this. The contractor's right to prove that no damage or substantially lower damage has been incurred shall also remain unaffected.
7. If the contractor cannot meet its contractual obligations in time or if it is unable to deliver in the agreed quality, it must inform us of this in writing without undue delay, stating the reasons, and specify the expected delivery date and the quality that can be delivered. The contractor shall compensate for any damage resulting from a breach of this obligation.

6. PACKAGING, SHIPPING DOCUMENTS

1. The goods shall be packed at the contractor's expense. If we have agreed to bear the packaging costs in writing in an exception, we shall bear these only to the amount of the cost price of the material (see also item 3.1).
2. The wood packaging material used by the contractor must comply with the import regulations of the ISPM 15 standard on the treatment of wood packaging material developed by the IPPC (International Plant Protection Convention).
3. Pallets to be exchanged by us must be Euro exchange pallets sized in accordance with UIC quality standard 435/2.
4. We shall have the right to refuse acceptance of deliveries if the contractor has used any wooden packaging material that does not comply with the provisions set out in item 6.2 or that is defective. The contractor shall bear any additional costs incurred as a result of this. Return of packaging material shall require a separate written agreement.
5. Every delivery shall be accompanied by a delivery note stating the order details specified below. Single copies of the dispatch advice must be submitted immediately upon departure of each shipment. The contractor shall be obligated to indicate our order number, the order date, the delivery quantity, the (gross) weight, the customs tariff number, and the material number precisely on all shipping documents and delivery notes, and any agreed package content lists shall be enclosed. A delivery note in a sealed envelope must be enclosed with the goods in case of expedited and urgent shipments and postal parcels.
6. We shall have the right to refuse acceptance of shipments if we are not in possession of proper shipping documents (item 7.6.) on the day of delivery, in particular if our order designations and numbers are not listed or not listed in full, without entering default of acceptance or delivery by this.

7. INVOICING, PAYMENT TERMS

1. An invoice for each delivery shall be submitted to us without undue delay as a single copy and separately from shipment of the goods.
2. The invoice wording must correspond with our order designations. It must contain the date of the order, our order number, and our project number.
3. Invoices must be issued correctly, with the correct company name and in accordance with the currently applicable VAT requirements. As a result, they must contain, among other things, the contractor's tax number or VAT identification number.
4. We shall settle invoices at our discretion within 14 days less 3 percent discount or within 30 days net.
5. The payment and discount periods specified in item 7.4 shall commence upon the later of receipt of proper shipping documents (item 6.6), a proper auditable invoice (item 7.2), or upon delivery of proper goods.
6. Improper shipping documents or invoices as well as defective deliveries shall suspend the payment term and may be returned by us at any time. In such cases, the payment term shall not commence before we have completed our audit of the invoice, or before we have received the proper shipping documents or invoices, or before the contract has been properly executed.
7. We shall make payments within the course of our payment cycle following the due date. We shall make payments no less than once per week, at our discretion, in cash, by check, bank transfer, or offsetting.
8. Our payments shall be deemed made when a check is dispatched, or when the amount is debited from one of our bank accounts.

9. If we make the payment in spite of incorrect invoices, the contractor shall be responsible for any damage incurred by us due to incorrect invoices.
10. If the contract is void, dissolved, or reversed – no matter the reason –, any payments made by us shall bear interest at three percentage points above the respective base rate, without prejudice to any further claims. Irrespective of any changes in the exchange rate that may have occurred in the meantime, foreign contractors shall repay the amount paid in euros by us plus the above interest in euros.

8. RETENTION, OFFSETTING, ASSIGNMENT

1. The assertion of a right of retention against our claim and offsetting against any counterclaims shall only be permitted if the counterclaims underlying the right of retention or if the counterclaims to be offset are undisputed or have been established as final and absolute.
2. We hereby agree to advance assignments within the scope of a reservation of title by the contractor's own suppliers.
3. Otherwise, the rights and obligations arising from this agreement must not be transferred wholly or in part to any third parties without the explicit written consent of the respective other contracting party; this shall not apply to monetary claims arising from a mutual commercial transaction or if the debtor is a legal entity under public law or a public-law special fund (§ 354a of the German Commercial Code (Handelsgesetzbuch; HGB)). However, we shall not require this consent for assignment to a company that is affiliated with Vollert Heavy Duty Solutions GmbH within the meaning of §§ 15 et seq. of the German Stock Corporation Act (Aktiengesetz; AktG).

9. INVESTIGATION OF DEFECTS, NOTICE OF DEFECT

1. The contractor agrees that the outgoing inspection to be performed by it shall serve the same purpose as the inbound inspection we are theoretically required to perform by law (§ 377 HGB).
2. We shall check whether the products correspond to the ordered quantity and type and whether there is any externally visible transport damage or whether there are any externally visible defects without undue delay upon receipt of the products.
3. If the contractor delivers specific products directly to production, the inspection for identity, externally visible defects, and externally visible transport damage to the products in question shall only be performed when they are used by the production staff within the scope of assembly work.
4. If we find any damage or defects during the inspections in accordance with items 9.2 and 9.3, we shall inform the contractor of this without undue delay. If we discover any damage or defects at a later time, we shall report this without undue delay as well.
5. We shall not be subject to any further obligations to inspect and notify towards the contractor than those specified in items 9.2 and 9.3.

10. WARRANTY, LIABILITY, PRODUCT LIABILITY

1. Our rights in the event of defects of material or title in the goods (including incorrect and short delivery as well as improper assembly, defective assembly, operating or usage instructions) and any other breaches of obligations by the seller shall be subject to the statutory provisions except if otherwise stipulated below.
2. The delivery object must render the agreed services and correspond to the latest state of science and technology, the applicable accident prevention regulations, our order documents, and the agreed condition in design and material. Apart from this, the delivery object must be suitable for use as assumed in the order or order confirmation, and otherwise for the common use, and must be of a quality that is usual for items of the same type and which we can expect according to the type of delivery object.
3. The contractor shall be liable for ensuring that no third-party rights (in particular patents, utility models, design patents, copyrights, or other rights) are infringed in connection with its delivery; this shall not apply if the contractor is not responsible for the infringement of a third party's rights. This liability shall apply to all member states of the European Union, the other contracting states of the Agreement on the European Economic Area, Switzerland, and the USA. We shall not be obligated to investigate whether there are any third-party property rights. If we are sued by any third party due to the infringement of such rights for which the contractor is responsible, the contractor shall be obligated to indemnify us against any claims of third parties upon first request; this shall also include the defense against threatened claims and

measures taken by third parties. The contractor's liability shall also include any damage, in particular consequential damage due to delivery bottlenecks and disruptions of production and the reasonable costs of any necessary legal defense.

4. If the delivery object is defective, we may, at our discretion, demand removal of the defect or delivery of a defect-free item. Subject to the statutory prerequisites, we shall be entitled to withdraw from the agreement, to reduce the purchase price, and to claim damages or reimbursement of futile expenses.
5. We shall be entitled to remedy defects on our own or have them remedied at the contractor's expense without prior information of the contractor (i) if the seller fails to meet its obligation to remedy the defect – at BSW's option by remedying the defect (rectification) or by delivering a defect-free item (replacement) – within a reasonable period of time set by us, or (ii) if this is necessary in order to avert acute dangers or to avoid considerable damage due to interruptions of our business operation. This shall only apply if such circumstances render it impossible to inform the contractor and to set it a deadline for performing the remedy. If we are entitled to remedy the defect directly, the seller shall be obligated to reimburse us for the expenses incurred by this or shall be obligated to make a corresponding advance payment upon request.
6. As far as the contractor is at fault for any damage, in particular in consideration of any quality assurance agreement entered into, it shall indemnify us against any claims for damages by third parties upon first request and otherwise compensate us for the entire damage, as far as the cause is found within its sphere of control and organization and the contractor is liable in the external relationship. In this context, the contractor shall also be obligated to reimburse any expenses arising from or in connection with any recall campaign performed by us (§§ 683, 670 BGB). We shall inform the contractor of the content and scope of any recall measures to be performed – as far as this is possible and reasonable – and give it the opportunity to comment. The contractor commits to maintaining a product liability insurance with an insured total of at least EUR 5 M per injury/property damage and to providing us with evidence of this upon written request. Any further claims for damages that we are due shall remain unaffected. The claim to indemnification shall only expire when the claims asserted against us expire.
7. Acceptance of and/or payment for the delivered goods by us shall not constitute any waiver of warranty rights even if we are aware of the defect at the time of acceptance of the goods and/or payment.
8. The limitation period for any warranty claims and the period for withdrawal and the right to reduce the purchasing price shall be 36 months, commencing upon delivery. Any longer statutory deadlines shall remain unaffected.
9. The limitation period for our claims in accordance with item 10.3 shall be ten years. The limitation period shall commence upon the conclusion of the agreement.

11. DRAWINGS, MODELS, TOOLS

1. Production equipment, such as drawings, models, tools, samples, working documents and similar that we make available to the contractor shall remain our property.
2. The contractor must not make the objects referred to in item 11.1 available to any third parties for inspection or otherwise make them accessible to any third parties or reproduce them without our explicit written consent. This shall also apply to any documents that we provide for print orders. The objects manufactured based on the documents must not be provided to any third parties without our explicit written consent.
3. The contractor shall be obligated to insure the production equipment belonging to us against fire, water damage, and theft at replacement value at its own expense. At the same time, the contractor hereby assigns all claims for compensation arising from this insurance to us; we hereby accept the assignment.
4. The contractor shall be obligated to perform any required maintenance and inspection work on our production equipment as well as any maintenance and repair work at its own expense and in due time. It must inform us immediately of any faults; any claims for damages shall remain unaffected if it culpably neglects to do so.
5. Following completion of the order, the objects shall be returned to us free of charge without prompting.
6. The contractor shall not have any right to retention regarding the objects referred to in item 11.1.

12. RESERVATION OF TITLE, PROVISION

1. We retain title in any material provided by us for execution of our orders. It must be explicitly marked as our property by the contractor immediately upon acceptance and stored separately from same or similar material. It must only be used within the context of the intended production; beyond that, the material must not be disposed of in any other manner.

2. The contractor commits to inspecting the provided goods for quality or quantity deviations upon receipt and to not processing any defective goods provided. If there is any quality assurance agreement between us and the contractor, this agreement must be observed. We must be informed without undue delay of any deviations in quality or quantity. The contractor shall be liable for any damage incurred by us due to any breach of these obligations. The contractor's right to prove that deviations in the quality or quantity of the goods provided were not recognizable to it or that we did not suffer any damage shall not be affected.
3. The contractor shall transfer title in a new object created by processing our material to us. If our material is processed, combined, or mixed with any other items, the contractor shall transfer joint ownership in the new object to us at the ratio of the value of our material to the value of the other material. The transfer of possession shall be replaced by the contractor keeping the object for us free of charge with the due care of a prudent businessman.
4. The contractor shall inform us without undue delay of any impending or executed seizure and of any other impairment of our rights.
5. The contractor shall be obligated to insure the material provided by us against all usual risks at its own expense.

13. PERFORMANCE OF WORK IN OUR PLANTS

Any persons who perform work within one of our plants to perform the contract must observe the relevant statutory provisions as well as our respective work rules; we shall not accept any liability for accidents occurring within our area of control in case of any violations, except if we are at fault for the accident. The applicable regulations for entering and leaving our plants must be observed.

14. SECRECY

1. The contractor commits to keeping any facts and information that become known to it in the course of the cooperation with us and that concern the operation and our business secret, provided that we designate the respective fact or information as secret or have an obvious interest in their secrecy (hereinafter collectively the "Confidential Information").
2. The obligation to maintain secrecy shall also include careful handling of the documents, data, papers, tools, files, etc. provided, together with all copies.
3. This obligation of secrecy shall not apply to any facts and information if these are proven
 - a. to be generally known or become generally known without any fault on the contractor's side;
 - b. to be already known to the contractor before they were provided to it by us;
 - c. to have come to the contractor's knowledge through a third party, without any breach of the contractor's obligation of confidentiality towards us.
4. In the case of item 14.3.b., the contractor shall be obligated to inform us of its knowledge in writing within a preclusive period of two weeks of the disclosure of the confidential information by us. If the contractor does not give such notice, it shall be irrefutably assumed that the information is confidential and must be kept secret.
5. The contractor must only use confidential information received from us to a limited extent; such use shall only be permitted
 - a. as far as use serves the purpose of the execution of our order, or
 - b. as far as we have explicitly consented to such use in writing in advance; there shall be no entitlement to consent.
6. If we provide any confidential information to the contractor, we reserve all rights in the event of granting of a patent for the confidential information provided to the contractor (§ 12 (1) sentence 4 of the Patent Act (Patentgesetz)).
7. The contractor commits to also committing its employees to maintaining secrecy of the confidential information within the meaning of items 14.1 and 14.2.
8. Upon termination of the agreement, the contractor shall return any files and other documents as well as any copies of these to us, as far as they contain any confidential information.
9. The contractor must only refer to its business relationship with us in its advertising if we have explicitly agreed to this in writing.
10. The above confidentiality obligations shall apply for the duration of the term of the agreement and for a further 5 years following termination of the agreement.

15. PLACE OF PERFORMANCE, VENUE, CHOICE OF LAW

1. The place of performance shall be the place where the goods are to be delivered or the service is to be rendered based on our specifications. The place of payment shall be Weinsberg (postal code: 74189).
2. Any differences of opinion arising from or in connection with the contract shall be settled amicably as far as possible. If this cannot be done, exclusive jurisdiction of the courts in Heilbronn is agreed for any disputes arising from this contract – provided that the contractor is a merchant. However, we shall have the right to sue at the contractor's place of business or before any other legally competent courts from case to case.
3. Any legal relationships between us and the contractor shall be subject to German law exclusively. Application of UN Sales Law shall be excluded.