

General Sales Conditions of Dynamit Nobel Defence GmbH, as per February 2018

1. Scope of Application

1. These General Terms and Conditions of Purchase are an integral part of all our orders for goods and services. They also apply to future orders, even if no further express reference is made to their applicability. With the acceptance of the order, our General Terms and Conditions of Purchase will become a component of the contractual agreement whilst simultaneously excluding the Supplier's general terms and conditions of sale and delivery. We shall not be bound by obvious mistakes, such as printing, writing or spelling mistakes.
2. Any general terms and conditions of the Supplier opposing or supplementing these General Terms and Conditions of Purchase shall not be recognised, even if they are enclosed with a confirmation of order of the Supplier and even if we do not expressly refuse their application.
3. Deviations, supplements and/or collateral agreements to our General Terms and Conditions of Purchase and/or other contractual agreements which were reached before contractual conclusion shall require the written form in order to be valid, must be expressly designated as such, and must be signed or confirmed by us in writing.

2. Orders

1. Binding orders only come into being if they are issued in writing or signed by our agents or representatives. Exceptions require an individual arrangement.
2. Even without a separate agreement, the Supplier is required to provide the protective equipment necessary pursuant to the relevant accident prevention regulations.
3. If we specify in our order that the Supplier shall comply with quality assurance standards (ISO 9000 et seq. and/or AQAP (Allied Quality Assurance Publications)), this shall be binding for the Supplier.

3. Prices

1. The price specified in the order is binding.
2. The statutory value added tax (VAT) is included in the agreed price, unless VAT is stipulated separately and in writing in the respective offer.
3. The agreed price includes packaging and postage to our business address in Burbach or to another delivery address specified by us, as well as assembly costs and all public duties, unless anything to the contrary is agreed in writing.

4. EU Chemicals Regulation (REACH regulation)

1. The supplier shall comply with all requirements of the valid national and European Union law especially the requirements of the EU regulation

1907/2006/EC (REACH regulation). To the extent that the supply contains an article within the meaning of the REACH regulation, the supplier is obligated to know and observe Article 7 and 33 of the REACH regulation. We may reject the supply of a substance or a mixture, in case it is not accompanied or otherwise made available by a current and REACH-conform safety data sheet to be provided free of charge. In case of a supply of an article containing a substance of very high concern (SVHC) as per the current candidate list, the supplier is obligated to designate its name, if the substance is present in the articles above a concentration of 0,1% weight by weight, according to Article 33 REACH regulation. An infringement of the REACH regulation will justify us to reject the supply.

5. Packaging and Transport

1. The Supplier assumes the transport or shipment of the goods ordered by us to the agreed place of delivery at its own expense, unless anything to the contrary is agreed in writing.
2. Unless anything to the contrary is agreed, the Supplier is required to effect a transport insurance at its own expense.
3. We manufacture and distribute defence technology products and fire extinguishers. We usually store the products delivered by our suppliers for a substantial period of time before use. It is thus of particular importance for us that the goods provided by suppliers can be stored for a time as long as possible. Therefore, the goods shall be packaged in an appropriate and professional manner so that, within the scope of a proper handling and storage of the goods, damage can be avoided. The packaging selected must be such as to enable the goods to be carried and stacked, and, in the event of appropriate storage, to be stored for a period of at least ten years.
4. The Supplier shall undertake to comply with all legal provisions applicable to the delivery of the goods ordered by us to the agreed delivery location. In particular, the Supplier shall comply with the provisions – if applicable in the respective case – of the German War Weapons Control Act (Kriegswaffenkontrollgesetz – KWKG), the German Foreign Trade and Payments Act (Außenwirtschaftsgesetz – AWG) and the German Ordinance on the National and Cross-Border Transport of Hazardous Goods by Road and Rail (Verordnung über die innerstaatliche und grenzüberschreitende Beförderung gefährlicher Güter auf der Straße und mit Eisenbahnen – GGVSE) in their respective latest versions.
5. If the Supplier is required to deliver goods which represent military weapons within the meaning of the KWKG, the Supplier must have the goods transported by a transport person admitted for the specific transport (from dispatch to delivery) by the Federal Ministry for Economic Affairs and Technology (Bundesministerium für Wirtschaft und Technologie – BMWi), unless the

Supplier itself is admitted for the specific transport by the BMWi.

6. Shipment and Order Processing

1. A delivery note is to be included with all deliveries. The Supplier is obliged to specify the corresponding commodity code pursuant to the German commodity index for the foreign trade statistic on the delivery note.
2. After delivery has taken place, a single copy of the invoice is to be sent separately to our current account bookkeeping department in Burbach, i.e. not enclosed with the shipment. It must contain the Supplier's VAT number and be in the form required to claim deduction of input tax from the tax office (Finanzamt).

7. Place of Performance and Bearing of Risk

1. Place of performance is the seat of our company in Burbach, unless anything to the contrary has been agreed.
2. Shipment and transport shall take place at the Supplier's risk. If nothing to the contrary is agreed in writing, the risk shall only be transferred to us once the goods have been handed over, unless we are in default with acceptance.

8. Delivery Dates

1. Agreed delivery dates and periods are binding. Decisive for adherence to such deadlines is the delivery of goods or the rendering of services at the agreed location.
2. Immediately upon realising that it is unlikely to meet a delivery date specified by us, the Supplier is obliged to notify us accordingly in writing, upon specifying the reasons and the probable duration of the default in delivery.
3. In the event of a default in delivery, we are entitled – after setting a reasonable grace period which expires in vain – to assert damages instead of performance and/or to withdraw from the agreement. The statutory exceptions to the requirement to set a grace period remain unaffected.
4. If no agreements are reached concerning the time and/or place of delivery, we have the right of designation pursuant to secs. 315 to 319 German Civil Code (Bürgerliches Gesetzbuch – BGB). When exercising this right, particular regard must be paid to the type and scope of goods to be delivered or services to be rendered, as well as to the size and capacity of the Supplier's enterprise.

9. Reservation of Title

1. In its dealings with us, the Supplier shall not reserve any title to the contractual goods. We do not recognise any agreements between the Supplier and any third party concerning a reservation of title or a prolonged reservation of title.

10. Payments

1. If no separate payment conditions are agreed in writing, payments are rendered with 3% discount if made within 14 days of receiving a proper and auditable invoice and strictly net if made within 30 days of receiving such invoice. If the goods are delivered later than the receipt of the invoice, the discount period

- only begins from the day of receiving the goods.
2. Payment shall be made at our choice in cash, by crossed cheque only or bill of exchange.
 3. We are entitled to set off the Supplier's claims to payment of the purchase price against due and payable counter-claims. We are also entitled to assert rights of retention.
 4. The Supplier is only entitled to set-off and retention rights if its counter-claims are undisputed or have been confirmed with final and unappealable effect.
 5. The Supplier is not entitled to assign its claims against us without our prior written consent.

11. Defect Notifications

1. We are obliged to examine the goods for possible quality and quantity deviations within a reasonable period after receipt of the goods, and to notify deviations in written form within a reasonable period; such notification is deemed to be made in due time if it is received by the Supplier within a period of 5 working days calculated from the delivery of the goods or – in the event of hidden defects – from discovery of the defects.
2. Payments or partial payments which we make on the purchase price or the remuneration shall neither convey acceptance nor a waiver of the right to give notice of defects and/or the right to object to deliveries which are made in undue form.

12. Warranty

1. The Supplier warrants and represents that the supplied goods are free from defects, in particular that they have the agreed quality.
2. In particular, the Supplier assumes a warranty to the effect that the goods supplied will function faultlessly, adhere to the specified data and features, display faultless workmanship and material quality, as well as adhere to the statutory safety provisions and engineering rules.
3. We are entitled to request, at our equitable discretion, that testing reports or a reasonable number of cost-free samples are enclosed with the deliveries or services for the purpose of comparison measures.
4. In the event of defects of quality we are entitled to demand at our choice replacement or repair of the supply and reimbursement of the necessary costs and expenses for it. If the Supplier negligently fails to cure such quality defect within a reasonable grace period for performance, we are entitled to reduce the purchase price, withdraw from the agreement and/or demand damages or compensation for futile expenses. We are not entitled to demand damages or compensation for futile expenses if the Supplier is not responsible for the defect. The statutory exceptions to the requirement to set a grace period shall remain unaffected.
5. If we demand damages instead of performance, we can still demand fulfilment

- instead of damages until the damages have actually been rendered.
6. All warranty costs shall be borne by the Supplier.
 7. The Supplier shall indemnify and hold us harmless from any or all claims for damages and/or warranty claims brought against us by our customers if the claims are based on rendered services or delivered goods which are defective, provided that the claims brought against us by our customers are based on defective services or goods which also represent defective services or goods in our relationship with the Supplier and that we have a claim for damages and a warranty claim, respectively, against the Supplier as a result of these defective services or goods.
 8. We manufacture and distribute defence technology products and fire extinguishers. These products are typically stored for a considerably length of time by our customers before being used. For this reason, defects in the goods delivered by the Supplier and used for the manufacture of defence technology products and fire extinguishers usually only appear far later than 24 months after delivery by the Supplier, and usually only when our customers put the defence technology products and fire extinguishers to use. Therefore, the warranty amounts to 42 months from the date of delivery or acceptance of the goods.
 9. *For the following goods which are used to produce bazookas, which are usually stored by our customers for a very substantial period of time (up to 10 years) before use, the warranty period amounts to 72 months from the date of delivery or acceptance of the goods:*
 - Batteries
 - Explosives
 - Propellants

13. Industrial Property Rights

1. To the extent that the supplies are protected by patent or copyright, the Supplier shall grant us all rights for reproduction, use, operation, provision to third parties, adaption, alteration or translation, which are necessary for the use and utilization of the supply according to the purpose of the Purchase Order. This granting of rights is satisfied with the payment under clause 3.
2. In addition, for all Purchase Orders containing research or development work the supplier shall grant us all Intellectual Property Rights to the results of that research or development work (Foreground Intellectual Property) without additional charge. Where this is not legally possible, the Supplier shall grant us a non-exclusive, transferable, sub-licensable and locally, temporarily and substantially unlimited right for all types of use of the results of the research or development work. Copyright protected supplies shall contain especially the right to alteration, adjustment, translation, publication, processing, reproduction, disclosure and includes all acts as per sec. 69c Urhebergesetz (German

Copyright Act).

3. The Supplier shall undertake to make sure, to a reasonable extent, that no third party rights are infringed in connection with its delivery/service and/or its intended use by us.
4. The Supplier is obliged to compensate us for all damages which we incur as a result of third party rights being infringed in connection with its delivery/service and/or our intended use unless the Supplier is not responsible for the damage incurred by us as a result of such infringement of rights.
5. If a third party raises a legal action against us due to an infringement of rights as a result of deliveries/services of the Supplier and/or our intended use of such deliveries/services, the Supplier is obliged to indemnify and hold us harmless from these claims and all reasonable expenses which we incur as a result of or in connection with defending such claims, provided the Supplier is obliged to pay damages pursuant to clause 13.2.
6. The warranty for deficiencies in title amounts to 42 months from delivery or acceptance of the object.

14. Confidentiality

1. The parties undertake to treat the order and all commercial and technical details which are not obvious and of which they learn within the scope of the business relationship as business secrets, and thus to keep such information strictly confidential, not to make it accessible to third parties in whole or in part, directly or indirectly, and only to use it for the contractually intended purposes. A provision of such information to third parties or any other use is only admissible with the express prior written consent of the other contractual party. Third parties shall be obligated to protect the confidential information by the use of at least the same degree of care required under clause 14.1 and 14.2 hereof.
2. The secrecy obligation pursuant to clause 14.1 particularly applies to know-how, including the delivery specifications which we notify to the Supplier, as well as to models, samples, templates, production facilities, tools, measuring and testing equipment, materials, diagrams, works standard specification sheets and manuscripts. These objects and all other documents which we provide to the Supplier shall remain our property. No transfer of industrial property rights or rights of realisation and use under copyright law is connected with their transfer. Directly after the contract has been carried out, the Supplier is obliged to return the objects and documents to us without undue delay and without having to be specifically requested to do so, at its own expense. The Supplier shall be liable for loss or abuse, unless it is not responsible for such loss or abuse.

15. Provisions

1. To the extent that we provide objects to the Supplier, we reserve title to such objects. The Supplier shall insure all provisions transferred against loss and

deterioration. The Supplier shall have no right of retention at the transferred provisions.

2. In the event of objects which we provided to the Supplier being processed or altered, such work shall be carried out on our behalf, and we are the manufacturers within the meaning of sec. 950 para. 1 BGB. Our right of ownership to the newly created object shall, however, be restricted to the value of the object provided by us at the time at which it is processed or altered, in relation to the value of the newly created object.
3. If an object provided by us is inseparably combined or mixed with other objects which do not belong to us, we acquire co-ownership of the uniform object in the proportion of the value of the object (purchase price plus VAT) in relation to the other combined or mixed objects at the time of the combining or mixing. If the combining or mixing occurs in such way that the object of the Supplier is to be regarded as the main object, the Supplier already now transfers pro rata co-ownership of the uniform object to us.
4. The Supplier shall keep the objects to which we have sole or co-ownership on our behalf.

16. Force Majeure

1. If, after conclusion of the contract, our interest in carrying out the agreement has ceased as a result of presumably ongoing operational disturbances at our enterprise, due to war, epidemics, strikes, lock-outs, currency decline as a result of a serious deterioration of the economic situation, or due to other unforeseeable, unavoidable and serious events, we are entitled to withdraw from the contract. Other rights provided by statute or other provisions of these General Terms and Conditions of Purchase shall remain unaffected.
2. In the event of clause 16.1 we are also entitled to suspend the agreement – for as long as the operational disturbance lasts but not longer than 6 months – by prolonging the delivery times, or by reducing agreed monthly sub-deliveries within this period at our equitable discretion. If the operational disturbance continues beyond 6 months, we are entitled to withdraw from the agreement. Any statutory right of the Supplier to withdraw from the agreement on its part remains unaffected.
3. The Supplier shall not be entitled to damages claims if we exercise the rights pursuant to clause 16.1 and 16.2.
4. Clauses 16.1 to 16.3 also applies if the operational disturbance pursuant to clause 16.1 does not occur at our enterprise but at one of our customers, and as a result our interest in the execution of the agreement has ceased, particularly because the customer is entitled to withdraw from its agreement with us due to the operational disturbance.

17. Information Obligations

1. It is of particular importance for us to comply with the export laws of the United

States of America (U.S.). Therefore, the Supplier shall undertake to ascertain, to a reasonable extent, whether the delivered goods or parts thereof are U.S.-products and, if so, inform us accordingly.

2. The Supplier shall undertake to ascertain, to a reasonable extent, whether the delivered goods or parts thereof were manufactured in the U.S. or by a company which has its place of business in the U.S. or by a company affiliated with such a company, or whether the products or parts thereof were manufactured under licence of a company which has its place of business in the U.S. or under licence of a company affiliated with such a company and, if so, inform us accordingly.

18. Applicable Law and Legal Venue

1. All orders and deliveries are exclusively subject to the law of the Federal Republic of Germany. The application of the United Nations Convention on the International Sale of Goods of 11 April 1980 (CISG) is excluded.
2. If the Supplier is a merchant, a public law entity or a public law special fund, the legal venue for all disputes arising out of the contractual relationship shall be Siegen or, at the plaintiff's choice, the general legal venue of the defendant.
3. If the Supplier is not a merchant, a public law entity or a public law special fund, the legal venue for all disputes arising out of the contractual relationship shall be Siegen if the Supplier does not have a general legal venue in the Federal Republic of Germany, or if the Supplier, being the sued party, relocates its domicile or usual place of stay from the territory of the Federal Republic of Germany after contractual conclusion, or if the domicile or usual place of residence of the Supplier, being the sued party, is unknown at the time the lawsuit is filed.

19. Supplementary Provisions in the event of a Public Customer

1. If the Supplier renders services or delivers goods to us which we use for the purpose of rendering services or delivering goods to public law entities of the Federal Republic of Germany, where this is evident for the Supplier, the price which we pay to the Supplier must be admissible in accordance with the provisions of Ordinance PR 30/53 on Prices for Public Contracts (Verordnung PR Nr. 30/53 über die Preise bei öffentlichen Aufträgen (VO PR 30/53)) in the version valid at the time of the conclusion of the contract with the Supplier. The Supplier agrees that the authority competent for price setting and supervision can also inspect its business documents necessary for examining the admissibility of the price pursuant to VO PR 30/53, prepare copies or excerpts from these documents, and examine the Supplier's enterprise.
2. The Supplier agrees to the Federal Office of Bundeswehr Equipment, Information Technology and In-Service Support (Bundesamt für Ausrüstung, Informationstechnik und Nutzung der Bundeswehr – BAAINBw) being granted the right to access its production facilities for the purpose of quality testing if the

Supplier renders services or delivers goods to us which we use for the purpose of rendering services or delivering goods to public law entities of the Federal Republic of Germany, where this is evident for the Supplier.

20. German Minimum Wage Law (Mindestlohngesetz – MiLoG)

1. The Supplier shall comply with the German Minimum Wage Law (Mindestlohngesetz – MiLoG) insofar and to the extent that he renders works and/or services to us with employees in employment in Germany, irrespective of his registered seat is in Germany or abroad. The supplier shall then guarantee to pay to its employees at least the German statutory minimum wage as per §1 MiLoG, amounting currently EUR 8,84 per working hour, punctually and continuously and shall comply with all further obligations of the MiLoG, especially with the record keeping requirement.
2. If the Supplier uses one or more sub-suppliers for the fulfillment of his works and/or service obligations, who also employ employees in Germany for that, the Supplier shall place them under the obligations to pay at least the German statutory minimum wage and to comply all the other obligations of the MiLoG. Insofar and to the extent the sub-supplier instructs further sub-suppliers in the course of his undertaken works/ or service obligations, who also employ employees in Germany for that, he shall ensure that these further sub-suppliers are likewise bound.
3. In our favor the Supplier shall bear all costs, which may incur us in relation to claims asserted by third parties, especially by employees of the Supplier or sub-suppliers, resulting from violation of the MiLoG by the Supplier or his sub-suppliers.
4. If the Supplier culpably violates the MiLoG and /or the afore-mentioned obligations hereunder, we are allowed to terminate the contractual relationship for cause with immediate effect.