

# Terms and Conditions of Purchase



## I. General provisions

1. These Terms and Conditions of Purchase shall govern all present and future contracts between Selux AG (hereinafter also: "Selux") and the supplier.
2. Differing business terms on the part of suppliers shall only become binding where consent has been granted by Selux in writing in each individual case. The Terms and Conditions of Purchase shall apply also where Selux has accepted the delivery without any reservations yet is aware of contrary or differing conditions on the part of the supplier.

## II. Order and order confirmation

1. Orders shall be placed in writing and shall specify the price and date of delivery (hereinafter also: "delivery deadline"). Furthermore, Selux shall indicate the point of receipt (hereinafter also: "delivery location"). Orders or other agreements and supplements made by word of mouth must be confirmed by Selux in writing.
2. Upon receipt, orders shall be confirmed by the supplier in writing without undue delay. Where the supplier has not granted Selux a written order confirmation within 14 days of receipt of the order, the order shall no longer be considered binding. If the order does not include the price and/or date of delivery, these details must be stated by the supplier in the confirmation. In this case, the price and/or date of delivery shall only be deemed binding if confirmed by Selux in writing.
3. In the event that the supplier's confirmation differs from Selux' order in terms of content, these differences shall only be deemed binding where Selux confirms these without undue delay in writing.
4. Selux shall provide each order with an order number. The supplier must reference this order number in all relevant records, such as confirmations, invoices, delivery notes, shipping documents, packing slips, etc.
5. Technical specifications/technical equipment for products that are sent by Selux are a component part of the order.

## III. Prices and terms of payment

1. Prices quoted in orders shall be net prices. The agreed price includes delivery to the specified delivery location, including packaging, transportation and transportation insurance, which shall be arranged for by the supplier.
2. In the event that a price is agreed "excluding packaging", packaging shall be billed separately and at cost price. If packaging material has been used before, the price shall be based on its mere asset value, however, not exceeding its written-down asset value. If packaging material is sent back, the quoted price shall be credited again or refunded at a minimum rate of two-thirds.
3. If the parties agree on a delivery "ex works" or "ex stock" as an exception, the delivery shall be forwarded at the lowest possible cost, unless Selux explicitly determines a specific type of transportation or there is a risk that the merchandise might be damaged. Extra costs incurred due to an inappropriate form of transportation shall be borne by the supplier. This shall also apply where dispatches must be expedited in order to meet the agreed delivery deadline.
4. The invoices must conform to legal minimum requirements and must state the Selux order number and be submitted in duplicate. Statutory VAT shall be reported separately. The second copy must be marked as a duplicate. An invoice shall only be deemed to be issued by the supplier if the invoice meets these requirements.
5. Payments shall be made within 14 (fourteen) days at a 3 (three) percent trade discount or 30 (thir-

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ty) days net. Payment periods shall not commence until full receipt of all merchandise free from defects and receipt of the invoice too.

### IV. Delivery period

1. The supplier is obliged to inform Selux in writing without undue delay if circumstances occur that jeopardise shipment of goods on the agreed delivery deadline.
2. If the supplier defaults on delivery or a part thereof, the supplier shall pay a contract penalty for each full week of default at a minimum of 1 (one) percent of the agreed purchase price for the products not delivered on time; a maximum penalty is set at 5 (five) percent of the agreed purchase price.
3. The right to assert additional claims for damages caused by the delay shall be expressly reserved. The amount of the contract penalty shall be credited against the damage claim caused by the delay.
4. The supplier shall not be entitled to perform prior to the agreed delivery deadline.

### V. Delivery

1. The merchandise shall be delivered to the delivery location indicated by Selux; an advice note shall be sent in duplicate. Delivery notes, packing slips, etc., shall be attached to the merchandise.
2. If the necessary shipping documents are missing in any delivery or if the order numbers are not indicated on the shipping documents, the delivery shall be deemed not to have been effected in accordance with the contract. Selux shall report this omission without undue delay to the supplier. The delivery shall only be deemed to be effected after the shipping documents have been received or this information is duly complete. Until such date, Selux shall store the merchandise delivered at the supplier's own risk and expense.
3. Partial deliveries are essentially not permitted unless this has been agreed beforehand in writing. Excess deliveries shall be stored at the supplier's expense and at the supplier's risk or shall be returned.
4. The actual quantities and weights determined by the incoming goods inspectors shall be decisive. Deviations from the agreed quantities or weights shall be reported by Selux without undue delay.

### VI. Transfer of ownership and risks

Ownership rights to the delivered products and the risk of destruction and deterioration shall pass to Selux upon handover at the delivery location. This shall not apply if the necessary shipping documents are missing or if the order numbers are not indicated. In this case, the risk and ownership rights shall not pass to Selux until receipt of the shipping documents or when all details are complete. shall pass to The Customer after this point in time.

### VII. Warranty/supplementary performance

1. Selux does not confirm that the delivery is accepted as being in accordance with the contract solely by the act of accepting the merchandise. This also applies to partial deliveries.
2. Section 377 Handelsgesetzbuch (German Commercial Code) shall apply with the proviso that the products delivered do not need to be inspected and any visible defect thereof does not need to be reported without undue delay, but rather within a period of 14 (fourteen) days after the products were duly delivered. Hidden defects must be reported within a period of 14 (fourteen) days after their detection.
3. If there is a quality assurance agreement between the supplier and Selux, the obligations to inspect

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and to report shall be primarily governed by the provisions of the said quality assurance agreement. The quality requirements of the quality assurance agreement for deliveries by the supplier shall be regarded as a feature of the warranty.

4. The parties shall inform each other about the occurrence of recurring errors without undue delay. Recurring errors are errors which occur in an identical manner, in at least 10 (ten) percent of the products and within a delivery period of 3 (three) years. After receiving knowledge of the recurrences, the supplier shall take suitable technical measures to remedy the situation without undue delay.
5. The supplementary performance period for material and legal defects shall be 36 (thirty-six) months from delivery, unless the law provides for longer periods.

### VIII. Intellectual property rights and other third-party rights

1. The supplier shall grant Selux a simple, irrevocable worldwide licence based on its own copyright and any other rights to ownership, sale and distribution and usage of the goods delivered as well as any products arising herefrom.
2. The supplier shall deliver the goods without claims to copyright or any other rights of third parties.
3. In the event that third parties assert a claim against Selux due to copyright infringements, the supplier shall indemnify and hold Selux free from all claims upon Selux' initial request, provided that the supplier is at fault.
4. The supplier's obligation to indemnify shall also apply to the benefit of buyers and other Selux customers where Selux would otherwise be required to indemnify these.

### IX. Product liability

1. The supplier shall indemnify and hold Selux exempt of any personal injury liabilities and/or claims for damages attributed to the defect of a product delivered in cases where the supplier is also responsible to the injured party for such defects.
2. In the event that Selux is required to recall products from third parties due to a defect and if the supplier is responsible for the defect, the supplier shall bear all costs associated with the recall.
3. The supplier undertakes to arrange for adequate product liability insurance. The relevant insurance policy shall be presented to Selux upon request.

### X. Documents, tools, fixtures and other items produced

1. Any documents provided to the supplier by Selux, such as drawings, models, samples, calculations and production records as well as tools and fixtures, shall remain the sole property of Selux.
2. Documents and the items produced based thereon, shall not be passed on to third parties or used for purposes other than those contractually agreed upon without Selux' written consent. The documents must be protected from unauthorised access or use.
3. Selux reserves the right to demand the return of all documents, tools and fixtures as well as the items produced herefrom. Right of retention on the part of the supplier is precluded.
4. Where the supplier has sole or joint proprietary rights to documents, tools and fixtures, including items produced therefrom, the supplier shall transfer its rights to Selux against payment of the residual book value or market value, whichever is lower.

### XI. Confidentiality

1. Suppliers shall treat all information and knowledge of products, manufacturing procedures and any corporate secrets disclosed to them as part of the business relationship as confidential. In addition,

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suppliers shall ensure their employees, vicarious agents, legal representatives and all other staff, including subcontractors, maintain the same confidentiality.

2. The duty to maintain confidentiality shall not apply to information or knowledge publicly known or which becomes known publicly (without any breach of duty on the part of the supplier or its employees, agents, legal representatives or other staff).

### XII. Tools and fixtures

1. Tools and fixtures provided to the supplier by Selux for the execution of the orders shall remain the sole property of Selux. The supplier shall treat the tools and fixtures provided by Selux with due care and shall service, insure and maintain them. Any costs incurred for such service, insurance and maintenance shall be borne by the supplier.
2. If the supply arrangement is terminated or if the duties referred to in paragraph 1 are breached, Selux may request the return of the tools and fixtures.
3. The supplier will furthermore be required to return the tools and fixtures in those cases where costs for tools and fixtures were invoiced to Selux merely in part.
4. Selux will only be obligated to pay for a tool or a part thereof upon presentation of flawless samples produced from the said tool.

### XIII. Special rights of withdrawal

1. In the event that the supplier breaches its duties under sections "Documents, tools, fixtures and items produced", "Confidentiality" or "Tools and Fixtures", Selux will be entitled to withdraw from contracts not yet executed.
2. If recurring errors occur, Selux may withdraw from all contracts relating to the products affected by the recurring errors if Selux has specified, without result, an additional period of reasonable duration for supplementary performance.

### XIV. Spare parts

The supplier undertakes to provide Selux with spare parts on reasonable conditions and to assist Selux in reparation, if required, even after the supply arrangement has been terminated. This undertaking shall also apply for 5 (five) years from the last delivery.

### XV. Assignment/set-off

1. The assignment of accounts receivable to Selux from deliveries and services by suppliers shall be contingent upon Selux' prior written permission.
2. Set-off by the supplier shall only be possible if such claims are uncontested or have been finally and non appealably established.

### XVI. Data protection

Selux shall inform the supplier about storage of the required supplier data for the purpose of executing the commercial transaction.

### XVII. Other provisions

1. The place of performance shall be the delivery location specified by Selux.

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2. The place of jurisdiction shall be Berlin for cases where the supplier is a merchant, a corporate body under public law or a body governed by public law.
3. The relations between the parties shall be exclusively governed by German law, to the exclusion of international private law and the UN Sales Convention.
4. Should individual provisions in the conditions prove to be or become ineffective, the validity of the remaining provisions of these General Terms and Conditions of Purchase shall not be affected. The parties shall undertake to replace the ineffective provision by an effective one which comes closest to the purpose originally pursued by the ineffective provision.

Selux Aktiengesellschaft  
Berlin, March 2018