

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

I. General

1. The following terms and conditions shall be the content of all contracts signed with us, the D O G Deutsche Oelfabrik • Gesellschaft für chemische Erzeugnisse mbH & Co KG (hereinafter referred to as "DOG"), in the context of business transactions concerning the purchasing or ordering of products and the provision of services.
2. The terms and conditions of the supplier/principal (hereinafter "supplier") are hereby expressly declared invalid, unless, in individual cases, the DOG provides formal written consent.
3. These terms and conditions of purchase are also valid when DOG accepts a delivery and/or service from the supplier without objection, knowing that the supplier's terms and conditions may contradict or deviate from those of DOG. Furthermore, DOG's terms and conditions are valid for future transactions with the supplier, in the current version at the time of the formation of the contract.
4. Legally relevant declarations and notifications are only valid if provided in written form. The written form may be replaced by a telefax transmission. Only in the context of daily business and previously existing business relationships can the written form also be provided in electronic format, in accordance with § 126a BGB (German Civil Code), or in text form according to § 126b BGB (German Civil Code).

II. Contract Formation

1. The written correspondence regarding contract formation and the content of an order must be conducted exclusively with the purchasing department that is placing the order. Agreements with other departments explicitly require written confirmation from the purchasing department in order to be considered binding.
2. An order placed by DOG must be confirmed in writing by the supplier immediately.
3. For this purpose, a copy of the order must be duly signed by the supplier and sent back to DOG. Placed orders shall be regarded as accepted if the supplier does not object within 7 working days of receiving the order.
4. If the order confirmation deviates from the order, the deviations must be clearly indicated (e.g. specially marked) and the supplier must immediately contact DOG about these deviations.
5. Changes made to the order by the supplier are only valid if they are confirmed in writing by DOG. Furthermore, any additional agreements or changes shall only be valid after written confirmation from DOG. This also pertains to the act of waiving this provision.

III. Prices and Payment

1. The price designated in the order is binding. Unless otherwise agreed upon, the price includes free delivery and the appropriate packaging. The return of the packaging requires a special agreement and shall only be done at the expense of the supplier.
2. The supplier – unless otherwise agreed upon – bears the burden of all applicable customs duties, taxes, excise taxes, and other import costs related to the order.
3. Prices are subject to the addition of sales tax (VAT) at the respective legal rate.
4. Invoices must only be processed by DOG before a given deadline when the invoices bear the order number that appears in the order; the supplier shall be liable for any consequences that occur due to the failure to fulfill this duty, unless the supplier proves that it is not attributable to him.
5. DOG is permitted to pay with promissory notes without further consent from the supplier.
6. The right of setoff and lien are available to DOG to the extent permitted by law. In particular, in the case of flawed or incomplete deliveries or services, aside from other rights, DOG has the right to withhold payments from amounts receivable within a reasonable scope until the order is properly fulfilled.
7. The supplier is not authorized to relinquish outstanding bills that are due to DOG, or to have them collected by third parties.

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

8. The supplier is authorized to offset claims against DOG or to exercise a right to withhold payment only if and to the extent that his claims are uncontested or his counterclaim has been legally established.
9. Payments made by DOG must be processed with due regard to the payment reference provided by DOG.
10. Payment for a delivery without any reservations does not indicate that the delivery is accepted as being contractually adequate or free of defects.

IV. Delivery, Transfer of Risk, Acceptance

1. The dates and/or deadlines provided in the order are binding.
2. The supplier is required to inform DOG in writing immediately if circumstances arise or become known to him that result in an inability to maintain the stipulated dates and/or deadlines. The dates and/or deadlines that have been agreed upon shall not be extended due to the information provided.
3. In the case of supplier delays, DOG is entitled to its legal rights. In particular, after a reasonable deadline has passed without delivery, DOG has the right to demand compensation for damages instead of the product, and to rescind the contract. If DOG demands compensation for damages, the supplier is entitled to prove that he is not responsible for this neglect of duty.
4. Deliveries or services ahead of schedule (also partial deliveries) may only be conducted with prior written consent from DOG.
5. The delivery is to be conducted according to DAP (Incoterms 2010) to the destination named in the order, unless otherwise agreed upon by DOG and the supplier. For services, the risk is only transferred to DOG after their acceptance.
6. DOG may refuse to accept delivered products and/or services if they are defective or if the amount deviates from the amount ordered.
7. The supplier is required to indicate the order number from the DOG on all shipping documents and delivery notes; if the supplier fails to do so, DOG is not responsible for the resulting delays in the processing and payment of the invoice.
8. If the delivery includes machines and/or machine parts, then the technical documents and a complete user manual must also be included in the delivery free of charge. The technical documents must correspond to the requirements in the European directive on machinery (2006/42/EC). DOG attains a complimentary right to use the technical documents. For software, the supplier's duties are only fulfilled once the complete documentation has been handed over.

V. Receiving Inspection

1. If, according to § 377 par. 1 HGB (German Commercial Code), DOG is obligated to inspect the goods delivered and/or services provided and to inspect the notice of defects, then directly after the goods are received, DOG will check whether they correspond with the amount and type ordered and whether there are externally recognizable deficiencies or shipping damages. DOG will notify the supplier of any deficiencies noticed in this inspection.
2. The notification of deficiencies will take place within one month of delivery, or, if the deficiencies are first noticed during their treatment, processing, or usage, they will be reported after they are ascertained. In this case, the supplier will forgo an objection to the delayed complaint about the deficiency.
3. DOG is not obligated to provide any additional testing or notifications to the supplier.

VI. Quality and Quality Assurance System

1. The supplier guarantees that the delivered products and/or services correspond with the latest technical standards, the stipulated characteristics/specifications, and other requirements explicitly stated. The supplier guarantees that there are no defects or deficiencies in his delivered products

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

and/or services (especially in their construction, assembly, and materials) as well as their suitability for the special purposes for which DOG ordered them.

2. Before the supplier changes the assembly process, production equipment, materials, or parts for the delivered products and/or services, or the quality assurance measures, in a way that could have an effect on the products and/or services ordered, or relocates the production site, DOG must be notified soon enough that DOG can examine whether the effects thereof have any potential disadvantages. Depending on the type of changes and their scope, DOG reserves the right to release DOG from its contractual obligations, unless, after thorough inspection, the supplier can rule out the possibility of any adverse effects for DOG.
3. Unless otherwise agreed upon, the supplier is required to provide the goods and/or services in a manner that complies with all legal and official regulations, provisions, guidelines, ordinances, and other legal norms that are applicable, both at the place of production and the place of usage named by DOG, in particular concerning the quality, environmental protection, occupational safety, transport safety, product safety, throughout the entire supply chain and/or performance chain, especially during the development, construction, production, packaging, transportation, installation, operation, cleaning, maintenance, repair, and disposal. The supplier is obliged to ascertain and to adhere to the current status of these regulations. The supplier must inform DOG immediately about any changes to these regulations that have either a direct or an indirect effect on the goods or services provided.
4. The supplier must maintain a suitable, documented quality assurance system in the context of a certified quality management system (e.g. according to ISO 9001). The supplier must organize his quality assurance system in a way that corresponds with the latest technical standards at all times. The supplier must keep records on his quality inspections and must make these available upon request to DOG immediately and free of charge. The supplier hereby consents to audits conducted by DOG or an agent of DOG in order to assess the efficacy of the supplier's quality management system. Justified concerns of the supplier, in particular confidentiality concerns, must be respected during the audits. Audits must be announced to the supplier in a timely manner, at least 2 weeks in advance.
5. The supplier must demand and promote the compliance with the aforementioned requirements among his subcontractors in the best possible way.

VII. Defects / Liability for Defects / Other Liability

1. The supplier is liable for his representatives or subcontractors to the same extent as for his own culpability.
2. If defects are detected, DOG has the right to return the entire shipment.
3. DOG possesses its complete legal rights, without any reductions, including the following stipulations:
 - DOG has the right to demand that the supplier rectify the defect or deliver a new item.
 - If the defect is not rectified by the supplier within a reasonably defined time period, DOG has the option of either withdrawing from the contract or to demand a reduction in the price and/or payment, and to demand compensation for losses in either case.
 - After previously notifying the supplier if possible and after the expiration of a time period adapted to the situation, DOG has the right to carry out the repair of defects at the cost of the supplier, either in case of special urgency (especially if there is an operational safety risk or to prevent extraordinary damages) or when the supplier has delayed repairing the defect.
 - The statute of limitations for defect claims is 36 months, calculated starting at the transfer of risks. This does not apply when the law provides longer time limits.
 - DOG's approval of the supplier's technical documents and/or calculations does not in any way affect the supplier's liability for defects.

VIII. Liability for Products

1. In the case that a claim of product or manufacturer's liability is made against DOG, the supplier must absolve DOG from such claims insofar as he is responsible for the mistake that resulted in the liability.

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

If, due to a faulty product delivered by the supplier, DOG is obligated by their own manufacturer's liability to issue a product recall or service action, the supplier shall bear the full costs thereof. Further legal rights remain unaffected.

2. In the context of his obligation to absolve DOG, according to §§ 683, 670 BGB (German Civil Code) the supplier must compensate DOG for expenditures that occur due to or associated with claims made by third parties, including the issuance of a product recall or service action by DOG. Further legal rights remain unaffected.
3. In the case of claims made by third parties, the supplier ensures his comprehensive and immediate cooperation in clarifying the circumstances as well as in processing the case.
4. The supplier is obligated to maintain an adequate liability insurance and an extended product liability insurance with coverage of at least € 10 million per personal injury or material losses or damage – across the board – throughout the duration of the contract, although the DOG's claims are not limited to the coverage amount.
5. If there is reason to suppose that a delivered product and/or service does not conform with the applicable safety requirements, or that a significant danger will arise from using the delivered product and/or service, even in its intended manner, DOG can demand proof that supplier has observed the legal regulations pertaining to device and product safety. If the supplier does not provide this proof within a reasonable time period, DOG has the right to withdraw from the contract.

IX. Retention of Title – DOG Materials

1. Substances and parts made available by DOG remain in their possession and are to be stored, labeled, and managed separately, free of charge. Substances and parts made available by DOG may only be utilized and processed for DOG and for their designated purpose. It is understood that DOG is the co-proprietor of the products manufactured using substances and/or parts provided by DOG, proportional to the ratio between the value provided by DOG to the value of the total product, which in this respect is only stored by the supplier for DOG.
2. In the same manner, DOG retains ownership of all tools and/or models and/or software made available by DOG, as well as all further documents and information loaned to the supplier. The supplier is obligated to utilize the tools and/or models as well as further documents, information, or software loaned by DOG exclusively for the production of the goods and/or services ordered by DOG.

X. Non-Disclosure

The supplier is required to maintain strict confidentiality regarding all illustrations, technical drawings, calculations, software, as well as other documents and information provided by DOG. These may only be disclosed to third parties with the prior written consent of DOG. The commitment to confidentiality shall also continue after the execution of this contract; it expires if and insofar as the knowledge contained in the illustrations, technical drawings, calculations, software, and further documents becomes public knowledge.

XI. Risk of Contractual Nonfulfillment

If the supplier's financial situation deteriorates in a way that poses a serious threat to his ability to fulfill the contract, or if he discontinues payments (even temporarily), or if he files for insolvency or a comparable extrajudicial process, DOG has the right to withdraw from the part of the contract that has not been fulfilled and/or from the entire contract, insofar as the partial fulfillment of the contract is not of interest to DOG.

XII. Foreign Trade Legislation – Restrictions on Substances – Supplier Declarations

1. The supplier must provide the following declarations in all offers and order confirmations:

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

- a. A declaration of whether or not the delivered goods and/or services require an export authorization and an indication of the corresponding list number according to German export legislation;
 - b. A declaration of the contents of the delivery and/or services according to the U.S. Commercial Control List (U.S. CCL) and the corresponding classification number;
 - c. A declaration of whether or not the delivered goods and/or services require an export authorization according to the EC Dual-Use regulation, and the corresponding list number;
 - d. An indication of the article numbers and the country of origin of the delivered goods and/or services.
2. The supplier must comply with any existing restrictions on substances resulting from legal norms. The supplier must ensure that the deliveries and/or services provided by himself or by a hired third party, including the packaging thereof, does not contain or release any substances posing environmental or health risks that are not legally permitted for the designated purpose, DOG's intended purpose, and the purpose communicated to the supplier, as well as for the foreseeable misuse at the production site, at the site of use communicated to the supplier, or en route. The use cases permitted by exception provisions, as well as all CMR substances (carcinogenic, mutagenic, or toxic for reproduction), are to be avoided.
 3. By the time the order confirmation is sent, the supplier must provide DOG with proof of legal compliance as well as the legally required information (e.g. safety data sheets, EC-type examination certificate, test certificates, technical certificates, additional certificates, proof of competence) for each product and/or service delivered. The supplier must enclose these supporting documents, as well as all necessary documentation for placing the product on the market (e.g. declaration of incorporation, declaration of conformity) with every delivery, and must label the deliveries according to the legal requirements.
 4. The supplier is obligated to declare the substances contained within his deliveries and/or services by indicating the corresponding CAS registry numbers ("Chemical Abstracts Service"), the proportion by weight in the homogenous material, and the safety data sheets, insofar as these substances are listed in the following standards:
 - REACH (Regulation EC No 1907/2006), in particular the "REACH Candidate List of Substances of Very High Concern for Authorisation;"
 - Chemical restriction regulations (the implementation of the Council Directive 76/769/EEC and the corresponding changes);
 - The German chemical-ozone layer regulation (orig. "*Chemikalien-Verbotsverordnung*");
 - Waste Electrical and Electronic Equipment Directive (the implementation of Council Directive 2002/95/EC and 2002/96/EC)
 5. The supplier must confirm the origin of the delivery in compliance with the legal requirements (e.g. with a supplier's declaration or declaration of origin or EUR.1) according to the regulations concerning country of origin that are valid in the destination country communicated to the supplier.
 6. DOG's obligation to pay in accordance with "III." is subject to the receipt of the complete aforementioned declarations and documentation.

XIII. Technical Documentation

1. The delivery of technical documentation and all required reports must be conducted as part of the main delivery, unless otherwise agreed upon.
2. The delivery of technical documentation, unless otherwise agreed upon, must be conducted on commercially standard data storage devices in machine-readable form.
3. Each technical document must be created according to the EC Machinery Directive and must correspond to the generally accepted technical standards.
4. The instructions for use must be created in accordance with DIN ISO 62079.

XIV. Usage Rights – Property Rights

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

1. The supplier guarantees DOG the non-exclusive, transferable, unrestricted (in time or location) right to use the products and/or services (and parts thereof) delivered by the supplier, to integrate them into other products, and to distribute them worldwide. The supplier is obliged not to claim property rights against any such usage of the products and/or services delivered.
2. The supplier ensures that DOG and their customers, by obtaining, possessing, offering, using, processing, or reselling the products and/or services delivered, do not infringe upon the intellectual property rights of third parties, in particular the trademark rights, naming rights, patent rights, utility patent rights, design patent rights, facility rights, design rights, or copyrights of their parties, including the corresponding applications for industrial property rights (hereinafter "property rights"), in the supplier's country of origin, in Germany, as well as in the European Community; the same is valid for the country where the delivery should ultimately be brought, insofar as this country was disclosed to the supplier before the formation of the contract was completed.
3. If the supplier culpably infringes upon the duties listed under XIV., he must absolve DOG upon first request from any claims made by third parties concerning such actual infringements of property rights, and the supplier bears the entire costs and efforts that DOG necessarily incurs in this context, in particular the costs of prosecution and legal defense, as well as costs that result from observing a cease and desist order. Statutory limitations concerning claims of this matter expire not before a time period of 10 years after the formation of the contract upon which they are based.
4. If the delivered products and/or services are created by the supplier according to other detailed specifications/instructions from DOG, and the supplier was neither aware nor should have been aware that this would result in an infringement upon the property rights of third parties, XIV. para. 2 does not apply.

XV. Software

1. Software must be delivered to DOG in commercially standard data storage devices in machine-readable code, including the user documentation.
2. If the goods ordered by DOG involve software custom-developed for DOG, DOG is entitled to receive the source code with the manufacturer's documentation. Copies of the source code and manufacturer's documentation are to be transferred to DOG at delivery and must conform with the version of the program at the end of the test phase.
3. In the context of measures successfully carried out in the context of liability for defects, the supplier must immediately incorporate these into the source code and manufacturer's documentation; a copy of the updated versions of each must be made available to DOG without delay.
4. For custom-made software for DOG or parts thereof, as well as all other results of this service, DOG is granted an irrevocable, unrestricted in time or location, comprehensive software license for every known type of usage, including the right to revise, reproduce, alter, expand, and to grant individual licenses to third parties. The individually agreed upon price includes the compensation for granting this software license.
5. If rights of third parties to external programs that went into the service – or other products of external services – conflict with the acquisition of a software license in accordance with the previous paragraph, then the scope of DOG's software license must be stipulated in the contract accordingly.
6. The supplier remains authorized to use related standard programs, program building blocks, tools, and the know-how that was employed, for the further provision of software solutions, also for orders from third parties. The supplier is prohibited from reproducing, editing, or otherwise utilizing the results of the services and solutions provided for DOG, either as a whole or in parts.
7. The supplier is authorized to publish the results of services rendered to DOG – even partially – only after receiving prior written consent from DOG.
8. The supplier guarantees that at the time of delivery no part of the software delivered to DOG contains malware that has been designed for or would be suitable for:
 - a. enabling access to DOG's computer systems for the supplier or a third party that has not been authorized by DOG,
 - b. reading, copying, altering, damaging, or deleting software or data on DOG computer systems without the consent of DOG, or
 - c. causing other processes not authorized by DOG to occur with, on, or in DOG computer systems.

GENERAL TERMS AND CONDITIONS OF PURCHASE for Deliveries and Services

For usage in business transactions only with other companies

- As of March 2016 -

XVI. Spare Parts

1. The supplier is required to have spare parts available for the products delivered to DOG for a time period of at least 15 years after the delivery.
2. If the supplier intends on discontinuing the production of spare parts for the products delivered to DOG, he will inform DOG of this immediately after the decision, at least 3 months before the production is discontinued.

XVII. Data Protection / Occupational Safety

1. Personal data must be handled by the supplier exclusively in compliance with legal requirements.
2. Personal data will be saved by DOG in compliance with the legal requirements.
3. DOG's regulations and guidelines on occupational safety and environmental protection are to be observed in their entirety when services are rendered on DOG premises. The supplier must make himself aware of these regulations and guidelines on his own accord, and in case of doubt, by actively requesting the information from DOG.

XVIII. Brand Names / Printed Material

The use of product names belonging to DOG, especially brand names, without prior written consent, is prohibited. This also applies to printed material and advertising material.

XIV. Place of Performance and Jurisdiction, Validity Clause

1. The place of performance and jurisdiction for both parties for all claims resulting from the business relations, particularly those pertaining to deliveries or the services provided by the supplier, is Hamburg. This place of jurisdiction also applies to disputes about the formation and validity of the contractual relationship.
2. Furthermore, DOG is entitled to file claims at the supplier's place of general jurisdiction.
3. If any individual clause in these terms and conditions of purchase are invalid, entirely or partially, this does not affect the validity of the remaining clauses and/or the remaining parts of such clauses. The parties must replace an invalid provision with another provision that both is valid and corresponds as closely as possible to the economic purpose of the invalid provision.
4. Verbal agreements or agreements over the telephone must be confirmed in writing in order to be legally valid.
5. In case of differences between the German and English version of these terms and conditions, or in other cases of doubt, the German version applies.

D O G Deutsche Oelfabrik • Gesellschaft für chemische Erzeugnisse mbH & Co KG • Postfach 11 19 29
D-20419 Hamburg

Updated: March 2016