

# General terms and conditions of purchase – edition 12.2023

## **1. General information**

Our General Terms and Conditions of Purchase apply exclusively to all deliveries and services provided by a supplier (hereinafter referred to as the «Supplier») to R. Nussbaum AG (hereinafter referred to as «we», «us» or «R. Nussbaum AG»). We shall not recognise or accept any conflicting or deviating general terms and conditions or terms and conditions of sale on the part of the Supplier unless we have expressly agreed to their validity in writing. By concluding a contract with R. Nussbaum AG, the Supplier agrees to the General Terms and Conditions of Purchase.

## **2. Offer**

The Supplier's offer must correspond to our enquiry and shall be made free of charge. In the event of deviations, the Supplier must expressly point them out. The Supplier may submit additional, free versions of the offer. The Supplier's offer and its variants are binding for three months from receipt by us.

## **3. Conclusion and amendment of contract**

3.1 Contracts, orders, order call-offs and delivery call-offs (hereinafter referred to as «orders») as well as amendments and supplements thereto must be made in writing; orders may also be made by remote data transmission (e-mail, EDI).

3.2 The Supplier must confirm each order in writing within five working days of receipt of the order. Orders shall become binding if we have not received a written objection from the Supplier within five working days (Olten, Switzerland) of receipt.

## **4. Delivery**

4.1 The Supplier's deliveries and services must correspond to our orders. Deviations from orders, in particular with regard to type, quality and quantity etc., shall only be effective with our prior written consent.

4.2 Agreed dates and deadlines are binding. Receipt of the goods at the place of performance shall be the decisive factor for compliance with the delivery date or delivery period (cf. Section 5.1).

4.3 Delivery dates must be met punctually. If the deadline is not met, the Supplier shall be in default without a reminder. If the Supplier recognises difficulties with regard to production, procurement of materials, adherence to delivery dates or similar circumstances which could prevent the delivery date from being adhered to or the delivery from being made in the agreed quality and quantity, the Supplier must inform our ordering department immediately. In the event of a delay in delivery, we shall be entitled to insist on performance of the contract and additionally demand compensation for the delay or, after the unused expiry of a reasonable grace period, to waive the subsequent delivery or service and to withdraw from the contract without any obligation to pay compensation to the Supplier. The Supplier shall compensate R. Nussbaum AG for any damages arising from the cancellation of the contract.

4.4 Partial deliveries are generally not permitted unless we have given our prior written consent.

## **5. Force majeure**

All events of force majeure which prevent the customer from accepting the delivery shall entitle the customer to postpone the corresponding obligation for the duration of the hindrance. If the fulfilment of the obligation becomes impossible or unreasonable as a result of force majeure, the customer shall be entitled to withdraw from the contract. Force majeure includes in particular strikes, lockouts, natural disasters, war, terrorism, riots/insurrections, government interventions or similar events/incidents, including outages of the Internet or a public telecommunications network, hacking, denial-of-service attacks, viruses, malware, cyber-attacks, power cuts, epidemics, pandemics and other circumstances for which the customer is not responsible and which could not have been foreseen with reasonable care.

## **6. Place of performance, transfer of risk**

6.1 The place of performance is the place that is to be delivered to as specified in the order.

6.2 The Supplier shall bear the risk until acceptance of the delivery or object of the contract by us or our authorised representative at the place of performance or at the place to which the delivery is to be made in accordance with the applicable Incoterms.

## **7. Dispatch note and invoice**

7.1 The dispatch note must meet our specifications in the order.

7.2 Delivery notes and packing slips must be enclosed with each consignment/delivery. The documents must contain: delivery note number; order number; quantity and quantity unit; gross, net and, if applicable, calculated weight; article description with our article number; declaration of origin (invoice declaration or movement certificate) and the remaining quantity in the case of partial deliveries. In the case of freight shipments, a dispatch note must be sent to us separately on the day of dispatch.

7.3 One copy of the invoice shall be sent, stating the invoice and order number and VAT number, to the address stated in our order, including our reference.

7.4 If no special agreement has been made, the prices are «delivered duty paid» (DDP according to the latest Incoterms) including packaging. Value-added tax must be shown separately.

## **8. Terms and conditions of payment**

8.1 Unless otherwise agreed between the parties, the invoice shall be paid by R. Nussbaum AG either within 30 days with a 2 % discount or within 45 days without discount, provided that the goods and services have been delivered in full and free of defects. The payment period shall commence upon receipt of the delivery or the object of the contract by R. Nussbaum AG and receipt of a valid invoice. R. Nussbaum AG has the right to offset its own claims against claims of the Supplier.

## **9. Liability and warranty**

9.1 The Supplier shall provide R. Nussbaum AG with a full legal and material warranty.

9.2 The Supplier guarantees that the goods have the warranted characteristics and quality, are fully functional and have no defects that impair their value or suitability for the intended use. The Supplier further guarantees that all standards and regulations concerning labour, product and operational safety are complied with, that the goods correspond to the current state of science and technology, that the applicable laws and directives are complied with and that the public law regulations at the destination are met.

9.3 The Supplier shall be liable to R. Nussbaum AG for all direct or indirect damages incurred by us or third parties in connection with the order/delivery. The Supplier shall bear the same liability for its suppliers as for its own performance.

9.4 The Supplier shall be liable for ensuring that the delivery and use of the goods does not infringe any third-party property rights (patents, designs, models, etc.). In the event of claims by third parties, the Supplier shall be obliged to indemnify us in full.

## **10. Acceptance, warranty period and notice of defects**

10.1 We reserve the right to accept the object of the contract only after it has been checked for correctness and suitability.

10.2 Irrespective of whether defects are (objectively) immediately recognisable or concealed, we may give notice of defects recognised within the warranty period within 30 days and, at our discretion, demand either rescission (step-by-step reversal), price reduction (abatement), free replacement delivery or free rectification of defects. We reserve the right to assert claims for compensation for consequential damages in any case.

10.3 If the delivery is partially defective, R. Nussbaum AG has the right to reject the entire delivery or to separate out and return the defective parts at the Supplier's expense.

10.4 The warranty period shall be 24 months; it shall commence on the day of delivery at the place of performance.

## **11. Product liability**

11.1 In the event that we are held liable for product liability, the Supplier is obliged to indemnify us against such claims if and to the extent that the damage was caused by a defect in the object of the contract delivered by the Supplier. In cases of fault-based liability, however, this shall only apply if the Supplier is at fault; if the cause of the damage lies within the Supplier's area of responsibility, the Supplier shall bear the burden of proof in this respect.

11.2 In cases of indemnification arising from product liability, the Supplier shall bear all costs and expenses, including the costs of any legal defence or recall action. In all other respects, the statutory provisions apply.

11.3 The Supplier shall maintain product liability insurance that adequately covers any liability risks and the costs of indemnifying the customer. The insurance must apply worldwide and must also cover installation and removal costs. Proof of insurance cover must be provided to the customer on request.

**12. Execution of work**

12.1 Persons commissioned by the Supplier to carry out work on our premises in performing the contract must observe the provisions of our company regulations. Liability for workplace accidents experienced by these persons is excluded, except in cases of gross negligence, which must be proven by the claimant.

**13. Provision**

Materials, parts, containers and special packaging provided by us shall remain our property. These may only be used as intended.

**14. Documents and confidentiality**

14.1 All business or technical information made accessible by us (hereinafter referred to as «confidential information and documents») must be kept secret from third parties as long as and insofar as it is not demonstrably public knowledge and may only be made available in the Supplier's company to those persons who absolutely need it in connection with the performance of the contract and who are also obliged to maintain confidentiality. The confidential information and documents remain our exclusive property. Confidential information and documents may not be reproduced or used commercially without our prior written consent, except for deliveries to us.

14.2 If the Supplier provides contractual services on the basis of documents designed by us, such as drawings, models and the like, or based on our confidential information or with our tools or replicated tools (hereinafter referred to as «documents and models designed by us»), these may neither be used by the Supplier itself nor offered or made accessible to third parties. The same applies mutatis mutandis to our print orders.

14.3 After performance of the contractual services or at the request of R. Nussbaum AG, the Supplier shall be obliged either to return the documents and models designed by us in full to R. Nussbaum AG or to destroy them in full or to delete them irreversibly.

**15. Advertising**

References to business relations with R. Nussbaum AG for advertising purposes require our prior written consent.

**16. Declarations of originating status**

The Supplier undertakes to provide declarations on the originating status of the goods sold as follows:

1. The Supplier undertakes to facilitate the verification of proofs of origin by the customs administration and to provide the necessary information as well as the required confirmations free of charge.
2. The Supplier is obliged to reimburse damages arising as a result of the competent authority not recognising the declared origin due to incorrect certification or a lack of means of verification, unless the Supplier can prove that it is not at fault.
3. If we incur financial damages as a result of a change in the originating status that has not been communicated to us, the Supplier shall be obliged to compensate us for the resulting loss.

**17. Moulds, models, tools**

Moulds, models, tools and similar items that we make available to the Supplier are our property and may only be used to manufacture the parts and products ordered by us.

The objects of the contract may only be handed over to third parties with our written consent. In these cases, the Supplier as the borrower shall label each object of the contract as follows: «Property of: R. NUSSBAUM AG» and the «part or drawing number». The Supplier shall be liable to R. Nussbaum AG in the event of loss or damage.

**18. Environment, human rights and economic sanctions**

18.1 The Supplier undertakes to comply with the environmental regulations under the applicable law at the place of performance. Furthermore, it undertakes to use natural resources sustainably, to minimise its environmental footprint and to dispose of waste in an environmentally friendly manner.

18.2 The Supplier undertakes to comply with human rights, in particular the prohibition of child and forced labour, and to ensure humane working conditions in the performance of its services.

18.3 The Supplier undertakes to comply with all laws and regulations on economic sanctions that apply to the deliveries and services to R. Nussbaum AG.

18.4 Upon request, R. Nussbaum AG must be provided with written evidence of compliance with environmental standards, human rights and sanctions.

**19. Data protection and privacy policy**

Personal data is collected, processed and used by us in accordance with the Federal Act on Data Protection (FADP) for the purpose of establishing contact, setting up and maintaining the mutual business relationship, concluding and performing this contractual relationship and for advertising and marketing purposes. We do not sell any personal data and only disclose personal data to third parties insofar as this is necessary for the provision of services and performance of the contract, by official order or insofar as we are legally authorised or obliged to do so. Further information on how we process data can be found in our privacy policy, available on the R. Nussbaum AG website: [www.nussbaum.ch/de/datenschutz.html](http://www.nussbaum.ch/de/datenschutz.html). On request, we will also be happy to provide you with a data protection declaration in paper form.

**20. Data security**

R. Nussbaum AG takes appropriate technical and organisational measures to protect personal data from unauthorised processing. We endeavour to protect our systems against cyber-attacks and take appropriate technical and organisational measures to this end. However, we cannot guarantee that your data will not fall victim to cyber-attacks, cyber-crime, brute force attacks, hacking or other fraudulent or malicious activities by third parties, including but not limited to viruses, forgeries, malfunctions and disruptions that are beyond our control and responsibility.

**21. Final provisions**

21.1 Should any provision of these Terms and Conditions and any other agreements made be or become invalid and/or unenforceable, this shall not affect the validity and enforceability of the remaining provisions. The contracting parties are obliged to replace the invalid and/or unenforceable provision with a valid and enforceable provision that comes as close as possible to the economic purpose of the invalid and/or unenforceable provision.

21.2 R. Nussbaum AG reserves the right to review the General Terms and Conditions of Purchase from time to time and to amend them if necessary. The Supplier shall be notified of amendments or additions to these General Terms and Conditions of Purchase by publication of the updated version of the General Terms and Conditions of Purchase on the website of R. Nussbaum AG and shall be deemed to have accepted them if the Supplier does not raise an objection with R. Nussbaum AG within 30 days of publication of the amended and supplemented General Terms and Conditions of Purchase. The current version of the General Terms and Conditions of Purchase is available online on the website of R. Nussbaum AG: [www.nussbaum.ch](http://www.nussbaum.ch). The Supplier is responsible for regularly consulting the R. Nussbaum AG website.

**22. Place of jurisdiction, applicable law**

**22.1 The exclusive place of jurisdiction for all legal disputes arising directly or indirectly from contractual relationships to which these Terms and Conditions of Purchase apply is OLTEN (Switzerland).**

22.2 The contractual relationship shall be governed exclusively by Swiss law to the exclusion of the provisions on the conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

December 2023, R. Nussbaum AG