

General Purchasing Conditions (AEB) of Hiller GmbH

I. Scope

1. The general purchasing conditions of Hiller GmbH (orderer) apply for all - including future - deliveries and/or services of the supplier/contractor (CR) to/for the orderer. Services in terms of these conditions are also works and services of all types.
2. The purchasing conditions of the orderer apply exclusively; conflicting general terms and conditions of the supplier deviating from these purchasing conditions are not accepted by the orderer unless the orderer has expressly accepted such conditions in writing in an individual case.
3. The purchasing conditions of the orderer are considered accepted in their totality by the supplier if the supplier accepts an order or begins to provide deliveries or services. The purchasing conditions of the orderer also apply if the orderer, with knowledge of general terms and conditions of the supplier which conflict or deviate from its purchasing conditions, accepts the delivery or service of the supplier without reservation.

II. Conclusion of the contract

1. Statements, such as orders, quotes or order confirmations as well as contract changes or later agreements about additional services concerning the conclusion of the contract must be made in writing. Electronic communication is sufficient for compliance with written form.
2. Order confirmations must be made with complete substantive compliance with the order and specify the order number and order date, provided no other agreements have been made.
3. If the supplier/contractor does not accept the order within a week of receipt, the orderer is no longer bound to the order.
4. Orders, agreements and changes are only binding if they have been issued or confirmed in writing by the orderer. Correspondence must be exchanged exclusively with the ordering purchasing department. Agreements with other departments require express written confirmation by the purchasing department in the form of a supplement to the contract.

III. Prices, conditions of payment

1. The agreed-upon prices are fixed prices. Sliding-price clauses or price adjustments

are effective only with the express written confirmation of the orderer.

2. The price includes delivery “carriage free” to the place of fulfilment named in the order, including packing, transport latches and other additional delivery costs.
3. The packing, freight and other additional delivery costs, such as transport latches, are borne by the orderer only if expressly arranged. In this case, the supplier/CR must always choose the least expensive freight route; the orderer reserves the right to select the carrier. Packing material can be returned by the orderer free of cost.
4. In the event of the provision of services in terms of § 1, paragraph 1 of these general purchasing conditions, all expenditures made by the supplier/CR for the provision of services (e.g. travel expenses) are to be compensated with the arranged remuneration.
5. Invoices must be created so that are correct, auditable and in line with the valid tax law regulations. In particular, invoices must contain the correct company name, the tax number or VAT ID number of the supplier/CR as well as the order number disclosed in the order. VAT must be shown separately. Invoices must be issued separately to the orderer immediately after delivery, i.e. not included with the shipment.
6. Invoices, packing lists, delivery notes and test certificates must contain the order number, item number and material number of the orderer. If the invoice does not comply with these requirements, the orderer is not obligated to pay. If the orderer pays nonetheless, the supplier is responsible for any damage the orderer suffers due to the incorrect invoice.
7. Missing or deviating prices in the order must be submitted to the orderer for approval in the order confirmation and must be expressly accepted in writing by the orderer.
8. As part of the delivery, provided these are machines in terms of the EU Machinery Directive (89/392/EEC), the respective conformity or manufacturer declaration must be provided with the delivery without being requested. This also applies for the delivery of products for which other EU guidelines will apply in the future.
9. Provided nothing to the contrary is arranged, the payment of invoices is completed by the orderer with the payment method it selects either within 14 days minus 2% early payment discount, or within 30 days without discount.
10. The day of receipt of the invoice is decisive for the calculation of payment and

discount deadlines; if the delivered goods are received later than the invoice, calculation of the deadline begins on the day of receipt of the delivered goods, but at the earliest on the delivery day arranged at the time of the order.

11. The orderer has the rights of offsetting and retention to the extent allowed under the law. In particular, the orderer is entitled to retain payments in whole or in part provided that and as long as it asserts warranty claims.

IV. Certificates of origin

1. Certificates of origin (e.g. supplier declarations) requested by the orderer shall be provided immediately with all required information and in proper signed form by the CR.
2. If third-country good are delivered, the CR is obligated to report this on the delivery documents. If there is no declaration of such, the orderer assumes that the supplier declaration it is issued is valid.

V. Subject and deadl ine of delivery and/or service

1. The order alone is decisive for the contents, type and scope of the delivery or service. If the delivery is made based on delivery call-offs, the contents, type and scope of the delivery made with the call-off are defined in connection with the framework contract or quantity contract.
2. The delivery or service deadlines specified in the order v otherwise arranged in writing are binding.
3. The supplier is required to inform the orderer immediately in writing if circumstances arise or become known to the supplier which result in it becoming impossible to uphold the stipulated delivery or service deadline.
4. Partial deliveries or partial services as well as deliveries or services before the arranged deadline require prior consent of the orderer. The orderer can send back additional deliveries in excess of the order without prior notification at the supplier's expense and with a reduction of the invoice amount.
5. If the arranged delivery and service deadline is not upheld, the orderer has the right to make legal claims. In particular, the orderer is authorized to withdraw and demand compensation instead of the product or service after unsuccessful expiration of an appropriate deadline. If the orderer demands compensation, the supplier has the right to prove that it is not responsible for the breach of duty. In

order to prevent additional damages caused by delay, the orderer can demand the delivery of the contract products by air freight at the expense of the supplier, provided the costs and predicted damage are proportionate.

6. If the supplier defaults due to fault of its own, the orderer is authorized to demand a contractual penalty of 0.3% of the agreed-upon net price per workday. However, the total of the contractual penalty must not exceed 5% of the agreed-upon net price. The orderer can demand the contractual penalty in addition to fulfilment and as a minimum amount of compensation owed by the supplier in accordance with legal stipulations. If the orderer accepts the delayed delivery or service, the orderer can only demand the contractual penalty if it has declared corresponding reservations to the supplier no later than 10 workdays from time of acceptance of the delayed delivery or services.
7. Every delivery must include a packing list. If requested by the orderer, a single copy of the delivery notes must be issued to the orderer immediately when the shipment dispatches. The supplier is required to specify the order number disclosed in the order, the order date, the delivery quantity, the weight (gross) and the part number of the orderer on all packing lists and delivery notes. If arranged, the pack item content lists must be included with the shipment. If the supplier does not fulfil its duties, the orderer does not bear responsibility for processing delays.

VI. Acceptance

1. If acceptance of the delivery or service is required due to contractual agreement or for legal reasons, the supplier cannot demand approval of the complete service is until it has proven the service is ready for acceptance.
2. Partial acceptances are excluded, unless they have been expressly agreed upon. Inspections of intermediate results and partial payments are not considered partial acceptance.

VII. Drawings and other documents

1. If ordering is done in accordance with DIN/EN/ISO or other specifications, the most recent version of DIN/EN/ISO at the time of ordering always applies.
2. The approval of the orderer of drawings, calculations and other technical documents shall not affect the sole responsibility of the CR regarding the delivery. If the CR does not contradict this in writing, this also applies for suggestions and recommendations of the orderer as well as for changes discussed by the CR and the orderer.

3. The drawings or production documents handed over to the CR are entrusted to it as property of the orderer only for the purpose of executing orders; the copyrights remain with the orderer. The documents must be returned after the completion of work. The CR is not authorized to use these directly or indirectly as documents for deliveries to third parties. Handing the original copy of production documents to third parties or reproducing them is only permissible insofar as it is required for fulfilment of the contract. If the production documents are used in an unauthorized manner by the CR or third parties, the CR pays a contractual penalty in the amount of the sales price of the objects produced according to the documents, subject to the assertion of higher compensation claims. The CR must hand on the requirement above in identical wording when issuing orders to sub-suppliers.
4. All execution documents, devices, tools, models, etc. entrusted to the CR remain the property of the orderer and must only be used for the purposes agreed upon in the contract. The CR is liable in the event of damages or loss of the provided tools, dies or devices.
5. The orderer reserves all rights to drawings completed according to its specifications and to processes it has developed.
6. Drawings and parts lists must be sent back to the orderer with the delivery.
7. If the drawings and parts lists are not delivered with the goods, the invoice shall not be paid until these documents are submitted to the orderer.
8. Test reports - If test reports are required in the orders, they are part of the order. The goods shall not be paid for until the delivery is complete, including the reports. The invoices shall be suspended if the reports are missing in line with the period of time until they are supplied. Agreed-upon discounts are not affected by this.
9. Handing over to third parties - The CR is not entitled to pass on the issued order to other contractors, in whole or in part, without the written consent of the orderer. If consent is granted by the orderer, the CR and its sub-contractors are liable as codebtors. Should the CR pass on work to third parties without written consent of the orderer, the orderer can withdraw from this contract without giving special notice.
10. When ordering pumps, equipment, electrical or electronic components, product documentation (operating manual, data sheets and, if applicable, declaration of conformity or declaration of incorporation for incomplete machines, type examination certificate) must be sent to the following e-mail address:

doku@hillerzentri.de as an unprotected PDF file and in all available languages at the latest at the time of delivery. If the documentation must be translated into an unavailable official language, an editable file (word or similar) must be provided.

VIII. Defect inspection, defect liability, warranty

1. For its deliveries and services, the CR must comply with the accepted rules of technology and the relevant legal regulations and official provisions, in particular safety regulations, as well as the agreed-upon specifications. The specifications can in particular be defined in text form and electronic files or with samples and drawings. Modifications to the object of the delivery or service require the express prior consent of the orderer in written form.
2. If the orderer is required to perform an incoming goods inspection, this is done by the orderer only regarding obvious defects and transport damage. An identity check is only done based on the supplied transport documents. Defects identified during the incoming goods inspection or later must be reported immediately after identification. Incidentally, § 377 HGB (German Commercial Code) is excluded.
3. The orderer is entitled to the legal defect claims in unabridged form; in this case, the orderer has the choice to demand defect rectification or delivery of a new good or the production of new works from the CR. The right to compensation, particularly compensation instead of the service, is expressly reserved.
4. The statute of limitations for defect claims is 2 years, beginning at the time of delivery or acceptance by the orderer. For replacement parts delivered in the framework of the warranty or newly produced works in the framework of the warranty as well as repaired delivery objects or services, the statute of limitations for the same defect and for the results of faulty repair begins again with delivery or acceptance. The orderer reserves the right to any further legal warranty claims.
5. If the orderer is obligated to take back goods it has produced or sold due to the defective nature of the contract product or the service provided by the CR, or the purchase price obtained by the orderer is reduced or other claims are made against the orderer for this reason, the orderer reserves the right to recourse against the CR, whereby an otherwise required deadline is not required for its defect-related rights.

IX. Hazardous goods

If the delivery contains hazardous goods, the DIN/EN safety data sheets must be included in the delivery without request.

X. Delivery and shipping regulations

1. The specified delivery and shipping regulations must be observed.
2. If transport insurance is taken out, the orderer must give consent.
3. Every shipment or delivery must include a packing list which specifies the exact order date, dimensions, gross and net weights.
4. If shipments are made to another receiving address on the behalf of the orderer, a delivery note must be sent to the orderer.
5. The CR must observe the current version of the packaging ordinance. Return shipment is done at the expense and risk of the CR.
6. The incoming goods department of the orderer can refuse transport packaging which is not recyclable (see the current version of the packaging ordinance) at the expense of the CR.

XI. Product liability, exemption, third-party liability insurance

1. If claims are made against the orderer by a third party due to product defects, the CR is required to release the orderer at its first request, provided the CR, in external relationships, is subject to statutory liability for such damage.
2. In the framework of its liability for damage cases in terms of the previous section, the CR is also required to reimburse any expenses in accordance with §§ 683, 670 BGB (German Civil Code) as well as with §§ 830, 840, 426 BGB which result from or in connection with a recall performed by the orderer or its buyers. The orderer will inform the CR of the contents and scope of the recall measures to be taken - as far as is possible and appropriate - and give it the chance to make a statement. Other statutory claims remain unaffected.
3. The CR is required to hold third-party liability insurance for personal and property damage as well as financial loss. Provided the parties have not agreed upon any deviating regulations, the amount covered per damage case is 10,000,000.00 EUR for personal and property damage and 250,000.00 EUR for financial loss. In the event of the manufacture and/or delivery of goods or the provision of services from works contracts, the CR must also protect against extended product risk (in particular for sorting costs, fitting and removal costs and other consequential damages due to product defects) with an amount covered of at least 10,000,000.00 EUR per damage case. The insurance cover must exist up to the expiration of the statute of limitations for any defect claims and evidence of this must be provided to the orderer on request. If the orderer has the right to other damage claims, these remain unaffected.

XII. Property rights

1. The CR guarantees that all deliveries and/or services are free of third-party property rights and, in particular, patents, utility patents, copyrights and other property rights of third parties are not violated by the delivery or use of delivery objects and services.
2. If the property rights of third parties are violated, the orderer can choose whether the CR, at its own expense, shall alter or exchange the delivery object or service so that the rights of third parties are no longer violated, but so that the delivery object or service continues to exhibit the properties agreed upon in the contract, or procure the rights of use for the orderer by concluding a licensing contract. If the CR does not manage to do this by a deadline set by the orderer, the orderer is entitled to withdraw from the contract or reduce the price and - provided the legal requirements exist - demand compensation.
3. The CR releases the orderer and its customers from all claims by third parties for property rights violations at the first request and bears all costs and expenses which accrue for the orderer from or in connection with a claim from a third party.
4. The CR and orderer will immediately inform each other of any risks of violations they have become aware of and of any hypothetical violation cases.
5. The statute of limitations is ten years, beginning at the conclusion of the contract.
6. If the orderer makes exclusive specifications verifiable for the CR for the manufacture of delivery objects or the provision of services, the regulations from § 8 sections 1, 2, 3 and 5 are not applicable.

XIII. Rights to work results

1. Provided the parties have not agreed upon any deviating regulations, the orderer obtains an exclusive, irrevocable, transferable right of use which is unlimited in regard to time, space and content for all types of use for all figures, drawings, documentation, drafts, programs, compositions and other works which the CR develops and/or produces for the orderer when executing the order (referred to as “work results” in the following).
2. If already-existing commercial property rights, copyrights or unprotected knowledge (know-how) of the CR are used while executing the order and these are required for use of the work results by the orderer, the orderer obtains a nonexclusive, non-irrevocable, non-transferable right of use which is unlimited in

regard to time and space in the scope required for contractual use of the work results for the commercial property rights, copyrights or unprotected knowledge (know-how).

3. XIV. Retention of title of the orderer, provision, means of production
4. If the orderer provides parts to the CR, the orderer retains rights to the property. Processing or restructuring by the CR is not done for the orderer. If reserved goods of the orderer are processed together with objects not belonging to the orderer, the orderer acquires co-ownership of the new goods in relation to the value of its item (purchase price plus VAT) to the other processed objects at the time of processing.
5. If the item provided by the orderer is mixed together with objects not belonging to the orderer so they can no longer be separated, the orderer acquires co-ownership of the new goods in relation to the value of its reserved good (purchase price plus VAT) to the other mixed objects at the time of mixing. If mixing is done in a way that the item of the CR can be seen as the main item, it is considered agreed that the CR transfers proportional co-ownership to the orderer; the CR keeps the sole or co-ownership for the orderer.
6. The orderer retains ownership to means of production such as models, tools, gauges, drawings, figures, calculations, etc. which were provided to the CR by the orderer or produced by the CR according to the specifications of the orderer.
7. The CR is required to use such means of production exclusively for the production of the delivery objects ordered by the orderer, unless the orderer gives its express written consent for other use of these. Any required maintenance or inspection work as well as upkeep and repair work to the means of production of the orderer is done on-time by the CR at its own expense. Any fault conditions must be reported immediately to the orderer. The CR must store the means of production of the orderer with the utmost care and protect it from theft, loss and other damage. If the means of production of the orderer get lost or damaged, the CR must compensate for the damage, provided it cannot prove that the damage would have occurred even when treated with the utmost care.
8. The CR is required to insure the means of production belonging to the orderer (at its original value) against fire and water damage as well as theft at its own expense. At the same time, the CR transfers all claims for compensation from this insurance to the orderer; the orderer hereby accepts the transfer.
9. After the order is complete, the CR must return the means of production to the orderer at its own expense if requested so by the orderer. Up to this time, the CR

must store them carefully at its own expense.

XIV. Transfer

1. Without the express prior written consent of the orderer, the CR may not transfer its contractual claims to third parties, neither in full nor in part. For advance assignment in the framework of extended retention of title of upstream suppliers of the CR, consent is considered granted.
2. In the event of transfer with consent of the orderer, the orderer also reserves the right to offsetting with counter-claims acquired after notification of the transfer.

XV. Assignment of upstream suppliers and subcontractors

1. Assignment of upstream suppliers or subcontractors by the CR may only be done with written consent of the orderer. If requested, the CR must give the orderer information about its upstream suppliers or subcontractors.
2. Even if the orderer has granted the CR consent for assignment of upstream suppliers or subcontractors, the CR must accept fault for its upstream suppliers or subcontractors in all cases.

XVI. Offsetting, right of retention, seizure

1. The CR is not entitled to set off alleged claims without the express consent of the orderer, unless the claim is undisputed or has been established to be legally valid.
2. Rights of retention of the CR are excluded provided they do not rest on the same contractual relationship. Incidentally, the CR can only claim rights of retention if they are undisputed or have been established to be legally valid.
3. If claims of the CR against the orderer are seized by creditors of the CR, the CR is obligated to reimburse the orderer for expenses hereby accrued.

XVII. Confidentiality

1. The CR is required to handle all information which it comes into contact with on the behalf of the orderer, such as in connection with quote requests or in the framework of an existing business relations or is some other way, with strict confidentiality and not to make it accessible to third parties without a written declaration of consent by the orderer and also not to use this information itself or apply it in some other way. The term “information” includes, among others, the fact of a quote request as well as its receipt and technical information and drawings, in particular 3D models and CAD drawings.

2. All information, documents and know-how provided to the CR remains the exclusive property of the orderer. The right to registering for commercial property rights for the patentable substance contained in the information lies solely with the orderer.
3. The confidentiality requirement does not apply to such information which belongs to the status of technology in the public domain or is demonstrably part of the status of technology of the CR.
4. The CR is completely responsible for upholding the confidentiality requirement for all its employees which have access to the concerned information. The CR is also responsible for confidentiality concerning third parties to which it passes on information it obtains based on a written declaration of consent from the orderer.
5. The confidentiality requirement applies even after the end of business contacts with the CR; it expires if and when the orderer has published the information itself.
6. The CR may only disclose its business relationship with the orderer to third parties if the orderer has granted written consent for it to do so.

XVIII. Data protection

1. The data required for business processing is processed electronically by the orderer under consideration of the relevant laws.
2. The orderer reserves the right to obtain information from credit agencies in the framework of §§ 28 ff BDSG (German Federal Data Protection Act) and to transmit data of the CR to credit agencies without subjective value judgements (e.g. communication and invoice data, contract fulfilment or performance failure data, etc.). So that the credit agencies can give information on the creditworthiness of the CR, the data is saved there and only handed over to connected companies after prior inspection and substantiation of a justified interest.

XIX. Place of fulfilment, place of jurisdiction, applicable law

1. The place of fulfilment for all obligations and rights from the contractual relationship, provided nothing else results from the order, is the place of business of the orderer.
2. The place of jurisdiction for all legal disputes from the contractual relationship as well as its formation and its effectiveness - if the CR is a trader - is defined by the

place of business of the orderer; however, the orderer is also entitled to file suit against the CR at the court responsible for the location of the CR. This also applies for actions on bills and checks.

3. German law applies exclusively for all legal relationships between the orderer and the CR. The conditions of the Vienna UN Convention of 11 April 1980 concerning contracts for the international purchase of goods (UN sales law) are excluded.