

General Conditions of Purchase Roehm GmbH

§ 1 Scope of Application

1. These Conditions of Purchase shall apply to all orders of Roehm GmbH in Sontheim/Brenz and Dillingen/Donau (hereinafter referred to as "Roehm") exclusively; Roehm does not accept any general terms and conditions of the Contractor conflicting with or deviating from these Conditions of Purchase unless Roehm has accepted such conditions in the individual case.
2. These regulations shall apply to work performances and services accordingly. In place of the acceptance of supplied products, acceptance of the work shall apply to work performance and acceptance of the service to services. Any further rights to which Roehm is entitled in accordance with the legal provisions or other agreements shall remain unaffected.

§ 2 Order placement and technical documents

1. Orders must be made in writing. The Contractor is obliged to confirm or reject orders of Roehm within days (goal is 3 working days) in writing.
2. If drawings and electronic models are made available, in case of doubt the data on the drawing shall always prevail.
3. If the Contractor subcontracts core processes to subcontractors, Roehm must be informed by the Contractor in writing.
4. In the context of ongoing business, the contractor must inform Roehm unasked and in writing about any product changes. In cases of an ongoing supply or a supply after a product approval, the contractor is required to inform Roehm in writing about each change of production conditions and / or deviations from contractual requirements in terms of production, used raw materials, labeling and other product-related properties.

§ 3 Delivery dates, transfer of risk and frame agreements

1. The delivery or performance date specified in the purchase order represents the date the goods are to be delivered to the destination. A different delivery date is allowed with written consent of Roehm only.
2. The Contractor is obliged to inform Roehm immediately in writing, stating the reasons and the anticipated delay, if circumstances arise or become apparent to him that indicate that the agreed delivery or performance date cannot be met.
3. In case of a delay in delivery Roehm shall be entitled, without prejudice to the right to claim further damages, to demand a contractual penalty of 0.5% of the delivery value per complete week of delay, but not more than 5% of the total delivery value. Roehm undertakes to explain the reservation of the contractual penalty to the Contractor at the latest within ten (10) working days counting from the receipt of the delayed delivery. Further claims and rights are reserved.
4. The place of performance is the domicile of the ordering Roehm subsidiary. Unless otherwise agreed, CPT "domicile Roehm" in accordance with the ICC – INCOTERMS® 2010 shall apply. The Contractor shall comply with the specifications of Roehm for the dispatch of the products, in particular the transportation, packaging and delivery regulations in their currently applicable versions.

§ 4 Payment and payment conditions

1. The price specified in the order is binding. It includes all services and ancillary services, unless they are paid for separately, which are necessary for completion of the service to be provided, such as costs of tools, freight, customs, packaging material and its collection, transport to the place of use specified by Roehm as well as all expenses for performing the erection and assembly work on a turnkey basis. Any deviations such as particular difficulties or delivery/provision of services on Sundays and public holidays which entail a higher payment must be agreed separately before order acceptance.
2. Invoices must contain the order number and order item and has to be send to Roehm electronically as a pdf-file. Only complete invoices can be accepted.
3. Payments shall be made by Roehm within 14 days with 3% discount or 60 days net. The payment period starts on receipt of the invoice at the earliest, but not before receipt of the goods or before assembly or erection.

§ 5 Material defects

1. Incoming goods are inspected by Roehm for obvious defects, transport damage, integrity and identity of the goods only. Roehm will give notice of such defects within a reasonable period. Roehm reserves the right to carry out a more detailed incoming goods inspection. Furthermore, Roehm will give notice of defects as soon as they are detected under the conditions of the ordinary course of business. To this extent, the Contractor waives the objection of late notification of defects.
2. The Contractor is obliged to carry out quality inspections during production and to perform an outgoing goods inspection, and accordingly has to check all deliveries comprehensively for their quality.
3. The Contractor shall assume the statutory warranty for defects that occur within 24 months after delivery of the goods, unless a different warranty period is agreed by individual agreements or other mandatory statutory deadlines apply. Roehm shall be entitled to the statutory claims for defects without restrictions. In any case, Roehm shall be entitled to demand removal of defects or delivery of a new item from the Contractor at the discretion of Roehm. The right to claim damages, in particular to demand compensation in place of performance is expressly reserved.
4. If a defect occurs within the warranty period, Roehm may also demand all costs by rework and subsequent delivery as well as cancellation of the contract costs, in particular the costs of any resulting removal and installation as well as transportation costs, regardless of whether the delivered item was spent to a place different to the place of delivery.
5. To avert an imminent risk of serious damage, Roehm may, at the expense of the Contractor and without any notice or setting a deadline for the Contractor remedy the defect itself, have the defect remedied or obtain replacement, if due to the special urgency it is no longer possible to inform the Contractor of the defect and the imminent damage and to give the Contractor the opportunity to remedy the defect.
6. If Roehm remedies the defect itself these costs shall be charged to the Contractor. In addition to a lump sum, the current hourly rates and, if applicable, necessary material will be charged without overhead surcharges.

§ 6 Liability, product liability, property rights

1. If a claim is asserted against Roehm by a third party due to a damage of the contractual products, the Contractor is obliged to indemnify Roehm against these claims for compensation, insofar as Roehm bears legal liability for these damages in relation to third parties. Within the framework of his liability for damages in the sense of the previous sentence, the Contractor shall also be obliged to reimburse any expenses arising from or in connection with a product recall carried out by Roehm. The Contractor shall be advised of the content and scope of the recall measures to be carried out and he shall be given the opportunity to comment. Other statutory rights shall remain unaffected. The Contractor undertakes, at least for the duration of the limitation period for any claims from product liability as well as any warranty claims, to maintain a product liability insurance with an adequate lump sum coverage amount of at least € 5 million for each case of personal injury/property damage, and to provide evidence of this to Roehm on request; any further claims for damages of Roehm shall remain unaffected.
2. The Contractor shall indemnify Roehm against any claims of third parties for infringement of property rights such as patents, copyrights or trademarks rights, unless the damage was caused through the fault of the Contractor or his assistants or vicarious agents.
3. If Roehm is asserted a claim by a third party because of such breach, the Contractor is obliged to indemnify Roehm upon the first written request from these claims. All expenses from or in connection with the claim are to be reimbursed by the third party. The assertion of further rights is reserved.
4. The period of limitation for these claims is 10 years, beginning with the conclusion of the relevant contract.

§ 7 Industrial safety/environmental protection / Audits

1. Within the framework of concluded contracts, the contractor must observe all laws and regulations of the respective relevant legal system of the production as well as of the delivery location, even if they are not mentioned explicitly in these conditions.
2. Roehm reserves the right to access all Contractor's test and manufacturing facilities with a Roehm customer and, if needed, a third-party inspector, for audit and final inspection reasons ("Audit"). Such Audit will be announced by Roehm at least 48 hours in advance.

§ 8 Hazardous and declarable substances

1. Should the delivery contain goods which – according to international regulations – are classified as dangerous goods, the Contractor will inform Roehm hereof in a form agreed upon between the Contractor and Roehm, but in no case later than the date of order confirmation. All shipments have to carry material safety data sheets.
2. If the contractor delivers products within the scope of article 3 of the EC Regulation No.1907 / 2006 concerning the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), the contractor is responsible for ensuring to disclose the required information according article 33 REACH. If the Contractor delivers products whose product components contain declarable substances, the contractor must fulfil the relevant laws and regulations of the production location and the delivery location. If declaration requirements exist, these must be declared no later than the first delivery to Roehm, provided no further legal obligations and requirements exist.

§ 9 Confidentiality

1. The Contractor shall not disclose business or trade secrets and confidential information to third parties that was made available in any form by Rohm. This applies in particular for the content of the agreement itself.
2. This does not include the following information:
 - Which were known to the contractor before the start of contract negotiations or reported to them by third parties as non-confidential, unless they already violated confidentiality obligations.
 - Which was developed by the contractor regardless of Roehm and / or which are publicly known without fault of the contractor.
 - Which are to be disclosed due to governmental or judicial authorities.
3. In the latter case, the contractor has to inform Roehm immediately prior to the disclosure. Further legal obligations of confidentiality remain unaffected.
4. The Contractor may only refer to his business connection with Roehm in his advertising if Roehm has previously agreed to this in writing.

§ 10 Manufacturing equipment (models, tools, etc.)

1. As far as Roehm paid for manufacturing equipment in whole or in part, the Contractor shall transfer the ownership thereof to Roehm. The transfer shall be replaced by a loan arrangement which is hereby agreed and which entitles the Contractor to possession the manufacturing equipment until revoked.
2. The costs of maintenance, repair and partial renewal of the manufacturing equipment shall be borne by the Contractor within the agreed output quantity.
3. This manufacturing equipment may only be modified after prior written consent of Roehm: It must be kept separately and the ownership of Roehm must be clearly marked on the production equipment itself and in the Contractor's business records. It may not be used for personal purposes or be made accessible to third parties. The Contractor shall insure the manufacturing equipment at his own expense at the original price against fire, mains water, storm, hail, theft and vandalism.
4. Unless otherwise agreed and unless the Contractor still has current orders to complete, Roehm may reclaim the manufacturing equipment any time. The Contractor has no right of retention.

§11 Integrity clause

1. Roehm and the Contractor agree to take all necessary measures to prevent corruption. The Contractor shall ensure in particular through organisational measures and instruction of his staff, that in the business relationship with Roehm he or his employees and subcontractors
 - a. do not commit any offences
 - b. do not demand or accept any personal gifts or other benefits that are intended to influence the decision of the employee
 - c. do not offer Roehm employees any gifts or other benefits that are intended to influence the decision of the employee, and
 - d. do not incite third parties to commit the above-mentioned acts or to assist them in doing so.
2. In the above-mentioned cases, Roehm shall be entitled to extraordinary termination of the Agreement without notice and to exclude the Contractor from the future award of contracts.
3. The Contractor is obliged to work under the Code of Conduct for Business Partners, accessible under the Röhm website <https://www.roehm.biz/navigationsseiten/lieferanten/>.

§ 12 Export Control and Foreign Trade Regulations

1. The Contractor shall comply with all applicable export control, customs and foreign trade regulations (“Foreign Trade Regulations”). The Contractor shall advise Roehm in writing within two weeks of receipt of the order - and in case of any changes without undue delay - of any information and data required by Roehm to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including without limitation:
 - all applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
 - the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
 - the country of origin (non-preferential origin); and - upon request of Roehm - the Contractor’s declaration of preferential origin (in case of European Contractor) or preferential certificates (in case of non-European Contractors).
2. The Contractor shall be liable for any expenses and/or damages incurred by Roehm due to any breach of the obligations according to the previous section, unless the Contractor is not responsible for such breach.
3. The Contractor is further committed to constantly check and to inform Roehm in writing without delay of changes regarding all import and export control restrictions, in particular the requirements for so-called Dual Use goods (EC Regulation no. 428/2009) and the rules of foreign trade regulations in respect of the contract products.

§ 13 Place of performance, place of jurisdiction, applicable law, partial invalidity

1. The contractor is informed and agrees that all data relating to him, even personal, collected on the basis of electronic data processing by Roehm, are saved and used where this is necessary in the context of the business relationship. The respective ordering subsidiary of Roehm will comply with applicable data protection regulations for them.
2. The place of performance for all obligations and rights under this contractual relationship, unless specified otherwise in the order, shall be the business location of the ordering Roehm subsidiary.
3. All legal relationships between the Parties shall be ruled exclusively by the law of the country in which the ordering subsidiary of Roehm has its domicile. The application of the United Nations Law on the Sale of Goods (CISG) is excluded.
4. If any part of these Conditions of Purchase is legally invalid, the continued validity of the Agreement and these provisions shall remain unaffected.