

BRAND GMBH + CO KG (BRAND) Terms and Conditions of Purchase (GTCP)v

1 General

- 1.1 These Terms and Conditions of Purchase (GTCP) of BRAND GMBH + CO KG ("BRAND") are intended only for use in business transactions with companies.
- 1.2 These GTCP shall apply to all – including future – contracts with the Supplier. Other terms or conditions shall not become part of the contract even if they are not expressly rejected by BRAND. Amendments to and changes of the contract must be in written form. The written form requirement itself may be waived only in writing. This does not apply to individual contractual agreements. The contractual language shall be German and/or English. In the event of a discrepancy between the German language version of these GTCP and a version in any other language, the German version shall prevail.
- 1.3 Offsetting by the Supplier is not permitted unless offsetting involves undisputed counter-claims or claims established in a court of law or counter-claims for payment resulting from the right to refuse service according to Section 320 German Civil Code (Bürgerliches Gesetzbuch, BGB). The assignment of claims against BRAND to third parties shall require the approval of BRAND in text form.
- 1.4 BRAND will electronically save and process the data necessary to carry out the contract.
- 1.5 The place of jurisdiction for transactions with suppliers that do not have a general place of jurisdiction within Germany, merchants, legal persons under public law, or public law special funds shall be Frankfurt am Main. BRAND shall also be entitled to appeal to the court responsible for the headquarters of the supplier. Furthermore, BRAND, as plaintiff, has the right to appeal to the arbitration court at the Chamber of Industry and Commerce (IHK) Frankfurt am Main. In this case, the arbitration court shall make a final decision on the dispute according to the rules of arbitration of the IHK Frankfurt am Main, excluding ordinary legal proceedings.
- 1.6 The law of the Federal Republic of Germany shall apply without restriction, excluding the conflict-of-law principles of private international law as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG).

2 Orders, placing of orders

- 2.1 Offers shall contain information on prices, applicable discounts, delivery terms and deadlines. The Supplier must provide detailed information on deviations between the inquiry and the offer. If not otherwise agreed, offers and samples are free of charge.
- 2.2 In the event of force majeure as well as strikes, lockouts, or other events beyond BRAND's control and which considerably impede the sales of BRAND, BRAND may withdraw from the delivery contract in whole or in part or demand performance at a later time.
- 2.3 Orders, contracts, and delivery schedules as well as amendments and supplements to these must be in text form (e.g., fax, remote data transmission, or e-mail).
- 2.4 If the Supplier does not accept the order or the contract within the typically expected period – but no later than within 10 working days after receipt – BRAND shall be entitled to revoke the order or the contract.
- 2.5 The passing on of orders or the placing of subcontracts is permitted only with the written consent of BRAND.
- 2.6 BRAND may request changes to the goods ordered, even after conclusion of the contract if such changes entail reduced expenditure for the Supplier and otherwise to the extent that such changes are reasonable for the Supplier. Increased or reduced expenses shall be settled accordingly.
- 2.7 At the request of BRAND, the Supplier shall prepare a supplier's declaration for the delivered goods, thereby stating the customs tariff number (single or long-term declaration) or a certificate of origin. If necessary, the Supplier must verify the information on the origin of the goods through an informational sheet confirmed by the customs office. The Supplier shall reimburse BRAND for all damages resulting from incomplete or incorrect delivery documents.

3 Transfer of risk, delivery, delay

- 3.1 The place of performance is the company facilities of BRAND in Wertheim, Germany. The risk shall transfer to BRAND upon handover of the purchased goods/ acceptance of performance. The same applies for any other agreed place of performance.
- 3.2 The Supplier shall comply with agreed delivery periods and dates and shall notify BRAND in writing without undue delay if it is likely to fail to comply with agreed delivery periods or dates. The Supplier shall make every effort to deliver the contractual products as soon as possible in the case of failure to meet the deadline/date. In particular, the fastest possible shipping method must be selected.
- 3.3 In the event of a delay in delivery for which BRAND is responsible, BRAND may claim liquidated damages for delay in the amount of 1% of the order value per week of delay (up to a maximum of 5% of the order value in total) without any special proof and without prejudice to any further claims for damages.
- 3.4 The Supplier may only invoke defects in raw materials, auxiliary materials, and operating materials or the failure to deliver or defective delivery by its upstream suppliers if these defects do not fall within supplier's sphere of risk.

4 Prices

- 4.1 The prices quoted by the Supplier include packaging as well as any freight, customs and insurance costs, and other expenses.
- 4.2 BRAND may pay invoices of the Supplier within 10 days from the due date and receipt of the invoice by BRAND with a 3% discount or within 30 days at net price. The Supplier shall always carry out SEPA debit notes deducting a 3% discount.

5 Defect rights, statute of limitations

- 5.1 Unless otherwise stipulated below, the statutory provisions on material defects and defects of title shall apply.
- 5.2 BRAND shall have the right to choose the type of subsequent performance. In urgent cases, in particular to prevent acute hazards or avoid major damages, BRAND may repair defects in the delivered goods or resulting damages itself or have these repaired by third parties at the cost of the Supplier. Furthermore, in the event of a defect in quality or a defect in title, BRAND shall be entitled to a reduction of the purchase price or withdrawal from the contract in accordance with the statutory provisions. In accordance with the statutory provisions, BRAND shall have an unrestricted right to compensation for damages and expenses.
- 5.3 The Supplier shall, in particular, be liable for ensuring that BRAND can acquire, process, combine, use, and sell the delivered goods in Germany and/or abroad without infringing third-party property rights (e.g., patent rights, utility models, trademark rights, and copyrights) and/or statutory and official provisions. Supplier shall also be liable for ensuring use of the delivered goods complies with national and/or international provisions of foreign trade law. Supplier must obtain any permits and/or releases from sanctions necessary for contractual delivery of goods promptly.
- 5.4 The Supplier shall immediately inform BRAND in text form if supplier becomes aware that third-party property rights and/or statutory and official provisions (in Germany and/or abroad) are infringed in connection with its suppliers. If BRAND faces any claims by third parties because of legal defects in the delivered goods, the Supplier shall, in the event of fault, indemnify BRAND.
- 5.5 Subject to longer statutory limitation periods, claims for defects shall become time-barred 3 years after the transfer of risk (para. 3.1) to BRAND.

6 Product safety, product liability

- 6.1 In the event that claims are asserted against BRAND by customers or third parties on the basis of product liability, the Supplier shall be obligated to indemnify BRAND against such claims if and to the extent that the damage was caused by a defect in the goods delivered by the Supplier and the Supplier itself is liable in the external relationship.
- 6.2 Within the scope of the indemnification obligation according to clause 6.1, the Supplier shall bear all costs and expenses incurred, in particular also the costs for the necessary measures undertaken by BRAND to avert damage (e.g., product recalls).
- 6.3 In all other respects, the statutory provisions shall apply.
- 6.4 The Supplier shall insure its production and product liability risks to an appropriate extent and with sufficient coverage and shall provide BRAND with evidence thereof upon request.

7 Spare parts

If there are spare parts for the contractual delivered goods, the Supplier undertakes to maintain spare parts for the average service life of the goods delivered by the Supplier.

8 Industrial property rights, ownership, molds, and tools

- 8.1 BRAND shall retain ownership as well as all industrial property rights and copyrights to designs, molds, and tools as well as other devices, samples, illustrations, and other commercial or technical documents provided by BRAND. The Supplier may use these documents only in the contractually agreed manner and must return them upon request.

- 8.2 Molds, tools, or other works created by the Supplier on behalf of BRAND may be acquired by BRAND against payment of a reasonable remuneration. If BRAND has made an advance payment, works shall become property of BRAND upon (partial) creation. The handover shall be replaced by the Supplier keeping the items in safe custody for BRAND free of charge and with due care until termination of the delivery relationship.

9 Compliance, environmental liability

- 9.1 The Supplier shall observe all statutory and official regulations (in particular the regulations on hazardous substances, hazardous goods, and accident prevention) in the performance of its services as well as the occupational health and safety regulations. In particular, the Supplier undertakes to observe the statutory provisions to fight corruption, money laundering, and undeclared work as well as the Minimum Wage Act (Mindestlohngesetz).
- 9.2 The Supplier undertakes to take into account and comply with all relevant requirements and provisions regarding environmental protection and waste disposal in the manufacture and delivery of the contractual products. In particular, the Supplier shall be responsible to BRAND for ensuring that the contractual products can be disposed of in a sorted manner. Supplier shall ensure this through appropriate material labeling. BRAND may request that the Supplier takes back transportation, sales, and secondary packaging in accordance with the Packaging Ordinance free of charge at the place of delivery and disposes of these packaging materials properly.

10 CE marking

If a product is required to bear a CE marking under the laws and directives applicable to the product, the product shall bear an appropriate marking, and the product shall be accompanied by all documents required for such marking, including the EU declaration of conformity. By affixing the CE marking, the Supplier assumes responsibility for the conformity of the product with the relevant directives and laws.

11 Due diligence in the supply chain

- The Supplier undertakes to comply with the following international standards and shall endeavor to work towards compliance with these obligations by its suppliers, sub-contractors, and sub-suppliers:
- United Nations Universal Declaration of Human Rights. Further information and the text of the declaration can be found on the website of the United Nations <https://www.ohchr.org/en/human-rights/universal-declaration/translations/english>;
 - Core Labor Standards of the International Labor Organization (ILO) to fulfill the fundamental principles on freedom of association, elimination of forced labor, abolition of child labor, prohibition of discrimination in respect of employment and occupation, and occupational health and safety. Further information as well as a list of the exact legal basis, can be found on the website of the International Labor Organization: <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>;
 - Compliance with the guiding principles for sustainable corporate action, based on the 10 principles of the UN Global Compact (<https://unglobalcompact.org/what-is-gc/mission/principles>);
 - Minamata Convention of the United Nations. Further information can be found on the United Nations website on the Minamata Convention: <https://mercuryconvention.org/en>
 - Stockholm Convention on Persistent Organic Pollutants (POPs). Further information can be found on the United Nations website on the Stockholm Convention: <http://www.pops.int/>;
 - Basel Convention on the Control of Transboundary Movements of Hazardous Wastes. Further information can be found on the United Nations website on the Basel Convention: <https://www.basel.int/default.aspx>.

BRAND shall have the right, upon prior written notice, to conduct audits (in presence, virtually or in writing) to verify compliance with the foregoing international standards either itself or through an appointed third party. The Supplier shall provide all data, documents, and information reasonably necessary to conduct the audit. Insofar as the audit should reveal that the Supplier or one of its sub-contractors, suppliers, or sub-suppliers has violated the aforementioned international standards, the Supplier undertakes, at the request of BRAND, to immediately develop a catalog of measures including a time schedule (remedial concept) in order to remedy the violations. The obligations under this clause 11 are material obligations of the Supplier to cooperate. In the event of a breach of these obligations, BRAND shall be entitled to terminate the business relationship without observing any statutory or contractual notice periods if (i) the breach of the obligation is deemed to be very serious, (ii) the implementation of the remedial concept has not remedied the breach within the specified time schedule, or (iii) BRAND has no other mitigating means at its disposal to work towards compliance with the aforementioned international standards.

12 RoHS conformity

BRAND accepts only products that comply with the applicable laws and regulations for restricting hazardous substances ("RoHS") such as the German regulation on the restriction of hazardous substances in electrical and electronic devices from April 19, 2013, EU Directive 2011/65/EU from June 8, 2011, including Annex II of Delegated Directive (EU) 2015/863 from March 31, 2015 in the respective current version, and the administrative measures of the Ministry for Industry and Information Technology of the People's Republic of China from January 21, 2016 ("China RoHS2"). In accordance with the above regulations, the Supplier shall ensure to a reasonable degree that the permissible levels of hazardous substances per homogeneous material are not exceeded in the products it delivers to BRAND. Should this not be possible, the Supplier is obligated to inform BRAND on its own accord of the hazardous substance levels in the product specifications and/or technical data sheets. This applies also if previously not listed hazardous substances are added to the aforementioned regulations during an ongoing order.

13 REACH conformity

The Supplier is obligated to package, label, and ship the hazardous products according to the applicable national and international provisions. The Supplier shall fulfill the obligations under Regulation (EC) No. 1907/2006 from December 18, 2006 ("REACH" Regulation) in its respective valid version, including amendments, in particular the obligations to register substances and provide safety data sheets. The Supplier ensures to avoid, to a reasonable extent, the use of substances of very high concern in accordance with the current list of substances of the ECHA ("SVHC List") in proportions exceeding 0.1% by mass in its products delivered to BRAND. Should this not be possible, the Supplier is obligated to inform BRAND of this on its own accord by specifying the SCIP number in the product specifications and/or technical data sheets. This applies also if substances previously not listed are added to the SVHC list during an ongoing order. This also includes the obligations relating to Appendix XIV (List of substances subject to authorization) and Appendix XVII (Restriction on the manufacture, placing on the market, and use of certain dangerous substances, mixtures, and products) of Regulation (EC) No 1907/2006.

14 California Proposition 65

The Supplier ensures to avoid, to the extent reasonably practicable, the use of any substance or substances in the products it supplies to BRAND that are classified by the Safe Water and Toxic Enforcement Act of 1986 of the State of California (California Proposition 65) as causing cancer or birth defects or other reproductive harm. If products contain such substances, the Supplier is obligated to inform BRAND of this on its own accord in the product specifications and/or technical data sheets. This applies also if substances previously not listed are added to the California Proposition 65 List (available at <https://oehha.ca.gov/proposition-65/proposition-65-list>).

15 Conflict minerals

The Supplier is obligated to inform BRAND of products containing materials listed in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of the USA (Dodd Frank Act) and/or in Regulation (EU) 2017/821 of May 17, 2017 and to provide complete and transparent documentation of the supply chain up to the smelting operations.

16 Confidentiality

The Supplier must keep all confidential information obtained in conjunction with the business relationship with BRAND – in particular technical knowledge that was not deemed to be public knowledge – secret from third parties. The Supplier shall also impose this obligation on its employees. Confidential information may not be reproduced or used commercially without the prior written consent of BRAND – except to fulfill the purpose of the contract.

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