

Terms and Conditions of Purchase of FRITZ FINKERNAGEL DRAHTWERK GmbH & Co. KG

The supplier acknowledges by accepting the order the following terms and conditions.

1. Application of the Terms and Conditions

1.1 Subject to differing agreements made in the individual case, these terms and conditions apply exclusively. We do not acknowledge terms and conditions of the supplier which are contrary or which vary from our terms and conditions of purchase, unless we have expressly agreed in writing to their application. Our terms and conditions of purchase apply even when we accept without reservation the delivery of the supplier while being aware of terms and conditions of the supplier which are contrary or which vary from our terms and conditions of purchase. Our terms and conditions of purchase also apply to all future transactions with the supplier.

1.2 All agreements which are made between us and the supplier for the purpose of fulfilling this contract are to be specified in writing in this agreement.

1.3 Our terms and conditions of purchase apply only for companies in accordance with § 310 para. 4 German Civil Code (Bürgerliches Gesetzbuch, BGB).

2. Offers

2.1 The supplier is obliged to accept our order within a period of two weeks.

2.2 We reserve rights of ownership and copyright to all materials specifications, drawings, models and other documents. It is not permitted to make these accessible to third parties without our express approval in writing. They are to be used exclusively for production on the basis of our order. After completion of our order they are to be returned to us without prompting. They are to be kept confidential from third parties. The provisions of section 10.2 apply additionally.

3. Delivery and transfer of risk

3.1 Deliveries are to be made free of charge inclusive of packaging to the shipping address nominated in our order.

3.2 Auditable delivery notes are to be provided with each delivery. In addition, for third party deliveries, a dispatch notice or a copy of the delivery note must be delivered in good time. Delivery notes and dispatch notices may not contain pricing information. Invoices are to be submitted separately for each delivery, in duplicate.

3.3 Truck deliveries Mondays to Thursdays 6.00 to 14.00 and Fridays 6.00 to 12.00. Delivery in external truck-trailers etc. only with weighing ticket and by express agreement in advance. We are not obliged to accept un-notified goods shipments.

4. Delivery dates

4.1 The delivery dates and periods nominated by us are binding insofar as nothing different is expressly agreed in writing.

4.2 We are to be notified without delay as soon as a danger arises that the delivery schedule will not be maintained.

4.3 In case of delayed delivery, we are entitled to the legally specified claims. In addition, we are entitled to require overall compensation for delay in the amount of 1% of the value of the delivery for each complete week, but not more than 10%. Further legal entitlements are reserved. The supplier is entitled to demonstrate to us that no damage or a significantly lesser damage resulted from the delay.

5. Inspection for defects and liability

5.1 Our goods receipt inspection is restricted to externally recognisable defects, without us being obliged to unroll wire coils. Insofar as further defects are not discovered within the framework of the goods receipt inspection, the supplier waives the right to the objection of § 377 German Commercial Code (Handelsgesetzbuch, HGB). Our complaint is always in good time when it is received by the supplier within five business days from the date of receipt of the goods, or for concealed defects from the date of discovery.

5.2 We are entitled to the legal rights for defects without reduction. In any event we are entitled to require from the supplier, at our discretion, rectification of the defect or replacement delivery. We expressly reserve the right to compensation for damages, particularly to compensation for damages instead of delivery.

5.3 We are entitled to undertake the rectification of the defect ourselves, at the cost of the supplier, if there is danger in delay or if there is a particular need for haste.

5.4 The limitation period is 36 months from the transfer of risk.

6. Prices

We understand prices submitted to us as inclusive of normal packaging and delivery to the delivery location specified by us. The price stated in the order is binding. VAT is to be itemised separately (VAT rate and amount).

7. Payment terms

7.1 Within 30 days from receipt of invoice.

7.2 Within 3 weeks from receipt of invoice with 3% rapid payment discount.

Invoices can only be processed when these – in accordance with the specifications in our order – quote the order number stated therein. The supplier is responsible for all non-observance of this obligation insofar as he does not prove that this is not his fault.

7.4 We are entitled to rights of retention and offsetting to the legally prescribed extent.

8. Product liability

8.1 Insofar as the supplier is responsible for product damage, he is obliged to indemnify us against claims of third parties for compensation for damages immediately he is required to do so insofar as the source of the damage is located within the domain of his responsibility and organisation and he is himself liable in external relations.

8.2 Within the framework of his liability for cases of damage in the sense of section 8.1, the supplier is also obliged to reimburse any expenses in accordance with §§ 830, 840, 426 BGB which arise from or in connection with a recall action carried out by us. We will advise the supplier of the content and scope of the recall measures to be carried out – insofar as reasonable and possible – and give him the opportunity to respond. Our other legal entitlements remain unaffected.

8.3 The supplier undertakes to maintain product liability insurance cover of €10M - overall - per personal injury/damage to property. Where we are entitled to further claims for compensation for damages, these are unaffected.

9. Property rights

9.1 The supplier is responsible for ensuring that no third party rights are infringed in connection with his deliveries.

9.2 If claims are made against us in this connection by a third party, the supplier is obliged to indemnify us against these claims immediately he is requested in writing to do so. We are not entitled – without the agreement of the supplier – to make any agreements with the third party, and particularly not to conclude a settlement.

9.3 The obligation of the supplier to indemnify extends to all expenses that necessarily arise for us from or in connection with the assertion of claims by third parties.

9.4 The limitation period is ten years from the conclusion of the contract.

10. Retention of ownership and confidentiality

10.1 The ownership of the subjects of supply transfers unrestrictedly and unencumbered to us on handover. A simple retention of ownership in the GTCs of the supplier is, however, accepted.

10.2 The supplier is obliged to keep strictly confidential all provided items, diagrams, drawings, calculations and other documents and information received. They may only be disclosed to or reproduced for third parties with our express approval. The obligation to confidentiality continues to apply after completion of this contract. It expires when and insofar as the manufacturing knowledge contained in the diagrams, drawings, calculations and other documents provided becomes generally known.

10.3 Insofar as the security interests to which we are entitled in accordance with section 10.2 and/or section 10.3 do not exceed the purchase value of all retained goods for which we have not yet paid by more than 10 %, we are obliged, on the request of the supplier, to release the security interests at our discretion.

11. Place of fulfilment and place of jurisdiction

11.1 Insofar as the supplier is a merchant, place of jurisdiction is our headquarters in Altena (Westph.). However, we are entitled additionally to bring suit against the customer at the court of his place of residence.

11.2 The law of the Federal Republic of Germany applies. The application of UN sales law is excluded.

11.3 Insofar as nothing different arises from the order, our headquarters in Altena (Westph.) is the place of fulfilment.

12. Final provisions

12.1 Should any of the above provisions be or become ineffective, this does not affect the effectiveness of the remaining provisions. The ineffective provision shall be replaced by such regulations as come as close as possible to the economic intent of the agreement while preserving the interests of both sides.

12.2 All our earlier terms and conditions of purchase are hereby overridden.

Statement in accordance with § 33 German Data Protection Act

(Bundesdatenschutzgesetz, BDSG): data of the supplier will be electronically processed.

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