

General Terms and Conditions of Purchase of Sesotec GmbH



I. General terms / scope of application

1. All deliveries and services that you as a contractor (hereinafter referred to as "supplier") provide to Sesotec GmbH are exclusively governed by these terms and conditions of purchase which are an integral part of all contracts that are concluded with suppliers for offered deliveries and services. They also apply to all future offers, deliveries and services, even if not separately agreed again.
2. If framework contracts or individual legal agreements have been concluded between the parties, such contracts or agreements take precedence.
3. General terms and conditions of suppliers or of third parties shall not apply even if their application is not specifically contradicted in each individual case. We only recognise any opposing terms or terms differing from these general terms and conditions of purchase if we expressly and in written form agree to the application of such terms.
4. The confirmation or execution of our inquiries or orders is regarded as recognition of these terms and conditions of purchase. In all other respects the contractual relationship is governed by legal provisions.

II. Inquiries and offers

1. Inquiries and offers as well as modifications and amendments thereof must be made in writing.
2. Inquiries to a supplier for deliveries and services in no event are binding for us.
3. Offers of the supplier must be submitted free of charge and must be sent to our purchasing department. In his offer the supplier especially with regard to quantity, quality and execution of the delivery or service must adhere to our inquiry or to the tender, and in case of any deviation therefrom must expressly point out such deviation.
4. Submitted offers are binding in all parts.
5. If not specified differently in the offer, the supplier's offer is binding for a period of three months starting from the date of the offer.

III. Orders

1. Orders and conclusions as well as modifications and amendments thereof must be made in writing.
2. If the supplier does not accept our order with a written order confirmation within a period of 3 workdays after receipt of the order, a later acceptance is considered as a counteroffer that we may optionally accept or reject.
3. We have the right to demand modifications of the delivery items also after conclusion of a contract as far as this is reasonable for the supplier. Effects resulting from this concerning increased or reduced costs and delivery date must be adequately considered.

IV. Prices, payment and delivery terms, invoicing

1. The price that is stated in the supplier's offer or in the order is binding. Unless otherwise agreed in writing the price includes delivery "free domicile" according to DDP (Incoterms 2010), including packing, insurance, unloading, incurred taxes, as well as customs formalities and customs duties. Any price increases only shall be valid if they have been confirmed by us in writing.
2. After completed delivery and service provision, invoices must be submitted to us separately in proper form (see paragraph VII, section 4). Invoices with incorrect or missing data will not be accepted by us and will be returned to the supplier for correction or completion. The period for claiming cash discount deductions only starts with the receipt of a complete and correct invoice.
3. Unless otherwise agreed in writing the purchase price shall be paid in Euro by the 15th of the following month with 3% cash discount, or by the 15th of the month after next net, after delivery/service provision and receipt of invoice, by bank transfer. For the timeliness of payments we have to make the receipt of our transfer order at our bank shall be sufficient.
4. The payment period at the earliest starts with the receipt of the invoice, but not before the receipt of goods or provision of service. Payment will be made subject to the reservation of invoice verification.
5. Advance payments, interim payments and/or instalment payments only shall be paid if such have been agreed in writing.

General Terms and Conditions of Purchase of Sesotec GmbH



6. Any changes of prices and conditions only may be made in consultation with the purchasing department and must always be made in writing.
7. The supplier does not have the right to assign claims he holds against us to third parties without our written approval. Setting off with counterclaims only is permissible as far as these are uncontested or have been legally established.
8. We are entitled to rights of set-off and retention to the extent provided by law.
9. Payments do not mean that the delivery/service is recognised as being compliant with the contract.

V. Delivery times and dates

1. The delivery times and dates that are stated in the supplier's offer and in our order are binding. The proper receipt of the goods at the place of destination or the proper provision of the service and the handover of the documentation at the place of receipt or place of use stated by us, or the timeliness of successful acceptance, are decisive for the observance of the delivery time and delivery date.
2. The supplier is obliged to immediately inform us in writing if any circumstances should occur or should become recognisable for him which would have the result that agreed delivery times and dates cannot be observed. In such written information the supplier must state the reason and estimated duration of the delivery delay.
3. If the day on which delivery must be performed at the latest can be determined based on the contract, the supplier will be in default starting from the end of this day without the necessity of a reminder from us.
4. If the supplier should be in default with delivery because he exceeds the contractually agreed delivery date, we have the right, without prejudice to our other rights, to demand from the supplier a flat compensation for delay for additionally incurred costs (e.g. for transport, insurance, storing) up to a maximum of 10% of the contract value that is in default. We reserve the right of asserting any verified higher damage.
5. If a delivery should be made earlier than agreed we reserve the right to return the delivery at the expense of the supplier. If an early delivery is not returned, the goods will be stored until the agreed delivery date at the expense and risk of the supplier. In case of an early delivery we reserve the right to make payment only on the agreed due date.

VI. Transfer of risk

1. Unless otherwise agreed, deliveries must be delivered to the receiving department, Regener Str. 130, 94513 Schönberg.
2. The moment of delivery and of transfer of risk, unless otherwise agreed, is defined by the terms of DDP (Incoterms 2010). Correspondingly the risk only passes to us when unloading by the supplier at the specified place of destination has been performed.

VII. Business documents

1. If in our order we have stated an order, inventory, or material number, the supplier is obliged to state such numbers in all correspondence (order confirmation, delivery notes, shipping documents, invoices, etc.). Any processing expenses arising for us due to incorrectly stated or missing numbers and the consequences of delays that are caused by this must be borne by the supplier.
2. Order confirmations furthermore must contain at least quantity and price, payment and delivery terms, and a binding delivery date.
3. Every delivery must include a delivery note which, in addition to the data specified in section 1, also contains a description of the contents with type and quantity.
4. The invoice preferably should be sent in electronic form to billing@sesotec.com. As an alternative the invoice also can be sent as hardcopy to Sesotec GmbH, Regener Str. 130, 94513 Schönberg. Invoice documents at least must contain the mandatory data specified by the German Federal Ministry of Finance (Bundesministerium für Finanzen, abbreviated BMF). The invoice furthermore must contain the data specified in section 1, and must state the delivery and payment terms.

VIII. Quality and documentation

1. Unless otherwise contractually agreed, the supplier as minimum obligation for his deliveries must observe product law provisions as applicable in the Federal Republic of Germany, acknowledged rules of technology, safety regulations, and the agreed technical specifications, and must at his expenses for this purpose establish, document, and verify a quality management system complying with acknowledged rules (e.g. DIN EN ISO 9001).
2. We reserve the right to convince ourselves of the effectiveness of the quality management system at the supplier's place.
3. Any modifications of specified product characteristics or of the influencing production process must be reported to us or must be agreed with us. If the supplier fails to provide such information, we have the right to reject delivery and make covering purchases at the expense of the supplier. Possible additional costs shall be borne by the supplier.
4. The supplier is not authorised to pass on parts of the order to third parties or to subcontractors. Such passing on always requires our prior written approval.
5. The supplier must constantly inspect the quality of the delivery items. The contractual partners will inform each other about possibilities of quality improvement.
6. If type and scope of inspection as well as inspection equipment and methods are not firmly agreed between the supplier and us, we, upon request of the supplier, are prepared to discuss the inspections with him within the scope of our knowledge, experience, and possibilities.
7. For the characteristics that are specifically marked in the technical documents the supplier furthermore must record in separate reports when, in which way, and by whom the delivery items were inspected for these characteristics, and what were the results of such inspection. Traceability with respect to the material that was used and to the production process for the specifically marked characteristics must be ensured by suitable identification marking.
8. Inspection documents must be kept for a period of five years and must be made available to us when required. Within the scope of legal possibilities the supplier must demand the same from upstream suppliers.

IX. Liability for defects, warranty

1. The supplier guarantees that his delivery or service has the agreed quality, meets the intended purpose, and is without defects.
2. We perform incoming goods inspection only with regard to identity, completeness, and externally visible defects. We will provide a notice of such defects within 5 workdays from the receipt of goods. We furthermore will provide notices of defects, especially of hidden defects, as soon as such are detected under the conditions of a proper course of business. The supplier insofar waives the right to claim late notice of defects acc. to § 377 HGB (German Commercial Code).
3. We are fully entitled to all legal claims for defects; in any case we have the right to demand that the supplier remedies the defects or delivers new goods, or to demand service without defects. After the second unsuccessful attempt supplementary performance is considered as having failed. The right to claim damages, especially to claim damages instead of performance, is expressly reserved. Within the scope of his liability for damages the supplier also shall reimburse disassembly, conversion, and installation costs we incur in connection with defects.
4. The supplier shall immediately remedy any notified defects. We have the right to perform defect remedying ourselves or to have it performed by third parties at the expense of the supplier, if the supplier despite setting of an appropriate deadline should default with defect remedying, in case of coordination between the parties, or if there should be particular circumstances that make it unacceptable for us to wait for the supplier's defect remedying. Costs incurred by this shall be borne by the supplier.
5. The limitation period for defect claims is 24 months starting from the transfer of risks, unless the law should provide longer limitation periods or the mandatory regulations of §§ 478, 479 BGB (German Civil Code) should apply.
6. The limitation period of warranty claims is suspended with the receipt of our written notice of defect by the supplier, until the supplier rejects our claims or declares the defect as remedied, or otherwise refuses to continue to negotiate our claims. In case of replacement delivery and defect remedying the warranty period for replaced and remedied parts shall start anew.

General Terms and Conditions of Purchase of Sesotec GmbH



7. If the supplier should use third parties for the provision of services, he shall be liable for such third parties in the same way as for vicarious agents.

X. Packing

1. If the nature of the goods requires packing for transportation, the goods must be delivered in packed condition to prevent transport damage. The packing must be safe for transportation and must comply with the transport regulations applicable for the chosen type of transportation and with any packing regulations specified by us.
2. Packaging materials only shall be used to the extent necessary for this purpose in accordance with EC directive 94/62/EC on packaging and packaging waste.
3. Reusable packaging (returnable containers) shall be taken back by the supplier free of transport charges.
4. The supplier shall be liable for the environmental compatibility of the supplied packaging materials and for any consequential damage resulting from contract infringements of this type.
5. If pallets are used for deliveries, care must be taken to ensure that only flawless, exchangeable euro-pallets (EPAL) are used. Damaged pallets shall be charged to the supplier at replacement cost.

XI. Reservation of title, provision of material and tools

1. A reservation of title of the supplier only is effective if we are authorised to perform reselling and processing in the proper course of business and the reservation of title expires with the payment of the purchase price.
2. If we order material from the supplier we reserve title therein. Processing or alteration by the supplier shall be performed for us. If our reserved goods are processed with other items that do not belong to us, we shall acquire proportional co-ownership of the new item in the ratio of the value of the provided parts (purchase price plus VAT) to the other processed items at the time of processing.
3. If the item provided by us is inseparably mixed with other objects that do not belong to us, we shall acquire proportional co-ownership of the new item in the ratio of the value of the reserved item (purchase price plus VAT) to the other mixed objects at the time of mixing. If mixing is performed in such a way that the item of the supplier is to be regarded as the main item, it is agreed that the supplier shall transfer proportional co-ownership to us; the supplier shall keep safe for us the sole ownership or co-ownership.
4. The supplier shall keep safe our sole ownership or co-ownership free of charge.
5. We reserve title in any provided tools; the supplier is obliged to use such tools exclusively for the production of goods ordered by us. The supplier is obliged to at his own expense insure the tools belonging to us against fire, water, and theft at replacement value. At the same time the supplier already now assigns to us any compensation claims from such insurance; we hereby accept this assignment. The supplier is obliged to perform necessary service and inspection work at our tools as well as any maintenance and repair work at his own expense in due time. He shall immediately inform us about any malfunctions; if he culpably fails to do so, damage claims shall remain unaffected.

XII. Import and export regulations, customs

1. The supplier must meet all the requirements of national and international customs and foreign trade laws that are relevant for the delivery or service, and he shall, before conclusion of a contract and in case of modifications, immediately provide us with all records, documents, data and information in writing that are required for the observance of the foreign trade law in case of export, import, and re-export, especially official licences that must be obtained by him or by us, and existing reporting obligations.
2. For customs purposes the supplier must add to the accompanying documents a commercial invoice in English and in duplicate which in case of dutiable deliveries or services separately shows the dutiable and non-dutiable price components, unless otherwise agreed. In case of free deliveries and services a declaration of value with reference of "For Customs Purposes Only" is required. The reason for the free delivery or service must be stated on the invoice or on the delivery note (e.g. free sample consignment). If for imports or exports additional official documents are required for the intended use of the delivery or service items, the supplier is obliged to immediately procure for us these documents at his own expense and make them available to us, and to contact us if there should be any questions and instructions in connection with customs duties and declarations of origin. Furthermore the supplier shall support us with

all permissible means that are required for optimal and lawful customs clearance.

3. The supplier shall guarantee supply chain security and observe corresponding legal requirements. The supplier undertakes to upon our request provide corresponding verification by way of certificates or declarations (e.g. security declaration as authorised economic operator AEO, declaration of compliance relating to the CTPAT initiative).
4. If the supplier should violate his above-mentioned obligations he shall refund to us all expenses and any damage we incur from this, except if the supplier is not responsible for the violation of obligations.

XIII. Safety, environmental protection, compliance, code of conduct

1. All the deliveries and services of the supplier must comply with legal regulations, especially with safety and environmental protection regulations, including the ordinance on hazardous substances, the electrical and electronic equipment act, and the safety recommendations of relevant German expert committees or professional associations (e.g. VDE, VDI, DIN, etc.). Corresponding certificates, test certificates, and other certificates must be supplied free of charge.
2. The supplier is obliged to determine and observe the current status of directives and laws with respect to substance restrictions applying to delivered components. The supplier undertakes to not use any prohibited substances. Substances to be avoided and hazardous substances according to applicable laws and directives must be stated in the specifications. If applicable, the safety data sheets must be provided already with the offers and in the respective first deliveries with the delivery note (at least in German and English). Any information concerning the exceeding of substance restrictions and deliveries of prohibited substances must be immediately reported to us.
3. With the conclusion of the contract the supplier undertakes to observe the Sesotec "Code of Conduct" for suppliers, which is available for viewing and downloading in German and in English on Sesotec's website at www.sesotec.com/lieferanten-coc. The above-mentioned code of conduct at the same time is an annex to and thus an integral part of these general terms and conditions of purchase.

XIV. Secrecy

1. The supplier shall treat all commercial and technical details that are not public knowledge of which he learns in the business relationship with us as business secrets.
2. The supplier is obliged to strictly keep secret all the information he receives such as drawings, samples, models, pictures, documents, findings, calculations, and other documents. Such information may not be made accessible to third parties without our written approval. Any use for other purposes than defined by us is not permitted. This correspondingly applies to copies.
3. The obligation of secrecy also shall apply after the winding-up of a contract; it expires when and insofar as the know-how contained in the provided information has become public knowledge.
4. Corresponding obligations also must be applied to sub-suppliers.
5. The supplier only may use the existing business relationship with us for advertising purposes with our prior written approval.

XV. Product liability, indemnity, liability insurance

1. The supplier shall be liable for any claims raised by third parties for personal and property damage that are caused by a defective product he supplied, and he shall be obliged to indemnify us from any liability resulting herefrom.
2. If we should be obliged to perform a recall campaign with third parties due to a defect of a product delivered by the supplier, the supplier shall bear all the costs involved in the recall campaign. We shall – as far as possible and reasonable – inform the supplier about the contents and scope of recall measures to be performed and give him the opportunity to comment this.
3. The supplier is obliged to at his own expense hold a product liability insurance with a sum insured of at least Euro 5 million per personal/property damage. Possible other damage claims shall remain unaffected.
4. Upon request the supplier shall provide us with a copy of the valid insurance contract.

XVI. Legal deficiencies

1. The supplier assures that the delivery will not cause any infringement with respect to the observance of laws, provisions, or other regulations of any official bodies.
2. The supplier guarantees that all delivery items are in his absolute ownership and that there are no opposing other rights of third parties (such as industrial property rights, copyrights, liens, etc.).
3. The supplier is obliged to indemnify us from all claims raised against us by third parties for the infringement of property rights, and to reimburse to us all necessary expenses in connection with such a claim. This claim shall not exist if the supplier proves that he is neither responsible for the infringement of property rights, nor should have known about it at the time of delivery using a businessman's due diligence.
4. If any licence fees must be paid in connection with the delivery, such fees shall be fully borne by the supplier.
5. The supplier undertakes to immediately inform us should he detect any risk of infringement or determine any infringement of property rights, and to coordinate further proceedings with us.

XVII. Place of performance, place of jurisdiction

1. The place of performance for deliveries and services shall be the place of destination stated by us.
2. The place of jurisdiction for any claims and legal disputes arising from the contractual relationship shall be Passau.
3. The contractual relationship shall be governed by German law, with the exception of the conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XVIII. Other provisions

1. All the agreements made between the parties for the purpose of executing this contract are contained in this contract. There are no verbal collateral agreements.
2. Any modifications and amendments, as well as a change of the written form requirement, must be made in written form. Text form including e-mail also shall be considered as written form.
3. If individual or several provisions of these general terms and conditions of purchase should be fully or partially ineffective, or if this contract should contain any gaps, this shall not affect the effectiveness of the other terms and provisions. In this case the contracting parties are obliged to replace the ineffective provision with a provision that is as close as possible with respect to economic success.

Annex to the general terms and conditions of purchase:

Code of Conduct for Suppliers