

# C. & E. FEIN – Purchase Conditions

Valid from 1 December 2016



## I. Area of Validity

1. Our orders for goods and orders of all kinds to suppliers, who are not consumers as defined by § 13 BGB are exclusively carried out under these purchase conditions, which the supplier expressly agrees upon – for future orders as well. In any case the recognition shall be seen in the delivery of the goods respectively in rendering of performance. Different conditions of the supplier – regardless on which date we receive them – are not binding and are expressly rejected and inconsistent with these conditions.
2. Different conditions or other agreements are only binding if they are made in writing or acknowledged by us in writing.

## II. Order for goods / Orders

1. Orders and their acknowledgements as well as their alterations and supplements must be made in writing or text form (e.g. fax or e-mail). The supplier is bound to his price offers. For each order an immediate order acknowledgement is requested by us.
2. Alterations of our orders for goods/orders and the presented documents or modifications of nature, quality or performance of the goods to be delivered, or of performance towards the prior delivered and agreed versions require our prior consent in writing.
3. We can modify technical details up to four weeks before reaching the delivery date. If samples are placed at our disposal, the series production respectively delivery shall only start after explicit release in writing.
4. Subcontracting the order or part of the order to third parties (subcontractors) requires our prior consent, insofar as it does not concern little extra jobs. The supplier is also liable for third parties authorised by him, even if our consent for subcontracting is on hand.
5. We can withdraw from the order for goods/order up to four weeks before reaching the delivery date, if the economic and operational circumstances of the supplier alter in an unreasonable way for us, unless the supplier furnishes the convincing proof of the contrary.

## III. Order documents / Means of production

1. Order for goods/orders and all connected details shall be handled as trade secrets. The contractual cooperation with us shall not be used for advertising purposes.
2. Means of production, especially sketches, drawings, samples, moulds and tools, devices, templates and other information as well as all intellectual and industrial property, which is placed at the supplier's disposal by us or is produced by the supplier according to our specifications, shall only be used for our orders with our express consent and – insofar as not generally known – shall be subject to secrecy and not be made available towards third parties. This is valid regardless of fixing protection marks on each means of production. All documents made available by us have to be returned immediately on request.
3. Insofar as our order includes to pay the whole or partial costs for means of production, regardless if these are separately named or included in the purchase price of the goods, these will pass into our ownership. On our behalf the supplier shall take into custody the means of production at his expenses. Regarding these objects herewith a relation of loan for use free of charge is agreed, which replaces the transfer. Older means of production can only be scraped upon our consent in writing – regardless of the ownership. The supplier is obliged to offer us adequate conditions for subsequent orders concerning parts of subcontractors, which were produced with special means of production.
4. We hold the title to raw materials, parts or means of production made available by us. Processing, mixing and connecting is only carried out on our behalf. We acquire co-ownership in goods produced under use of our materials and parts, whereby the shares are measured by the proportion of the value, which the used materials have to one another.

## IV. Delivery and Risk Taking

1. The delivery/performance dates and deadlines indicated in our orders for goods/orders are binding and shall be observed. Delays in performance shall be immediately communicated by the supplier. However, such communication does not exempt the supplier from potential justified claims to be due to us.
2. In case of non-fulfilment we have the right to claim 20 % of the total gross order value, in case of delayed performance we have the right to claim 0,5 % of the total gross order value per initiated calendar week, however a maximum of 20 % as claim for damages. The proof of a further indemnification for the violation of a duty to be paid by the supplier is not excluded from above. The supplier can also furnish the proof that none or an essentially minor damage than the generally claimed one has occurred.
3. We only take the risk of accidental perishing and loss, if the place of incoming goods indicated in the order will have obtained the effective risk of the delivered goods.

4. Partial and excess deliveries are only permissible with our consent in writing.
5. The supplier will constantly make available spare parts for the duration of the normal use of supplied goods, and will deliver them on request at conditions usual on the market.

All deliveries are always carried out franco domicile including packaging to the place of incoming goods indicated by us. To each delivery shall be enclosed a delivery slip with detailed and complete indications of our order specifications..

## V. Payment

1. The supplier is obliged to send his invoice in duplicate immediately after dispatch of the goods, indicating in detail our order specifications.
  2. Payment is effected according to our choice as follows, insofar as no explicit agreements have been made in writing or text form:
    - a) Deducting 3 % cash discount, on the 25<sup>th</sup> of each month for all invoices received until 15<sup>th</sup> of each month; on 10<sup>th</sup> of the following month for all invoices received during 16<sup>th</sup> and 30<sup>th</sup>/31<sup>th</sup> of each month.
    - b) Within 30 days strictly net after receipt of invoice until each 10<sup>th</sup> and 25<sup>th</sup> of a month.
- If we receive the goods after the invoice was made out, for invoicing of the above payment terms the date of receipt of goods instead of the date of receipt of invoice shall prevail. Our payments are generally effected, provided that the delivery and invoice is correct.
3. The supplier can only assign a claim arising from the business relation to third parties with our consent in writing.
  4. Setting off a claim by the supplier is inadmissible, unless the claim is established indisputable or has become res judicata.

## VI. Guarantee

1. The supplier guarantees that the goods delivered comply with the legally and officially valid provisions for their distribution and use (including those of professional and trade associations) as well as with the latest technical standards and do not infringe the rights of third parties. Furthermore the supplier guarantees that the delivered items are free from Substances of Very High Concern in terms of the EU Chemicals Regulation REACH no. 1907/2006. Otherwise he shall keep FEIN informed before delivery about type and quantity of the SVHC-containing items. Conformity certificate and CE marking are enclosed to the delivery. Furthermore the supplier is obliged to inform us about potential own patents and patent applications for the goods to be delivered.
2. If performance/delivery is faulty or in case of breach of duty from the contractual obligations we are unrestrictedly entitled to all legal claims and entitlements. Insofar as in single cases no longer period is agreed upon, the statutory guarantee period according to Section 438 of the German Civil Code ("BGB") is valid.
3. In case of partly defective deliveries, the warranty can be also claimed concerning the whole delivery according to the above regulations.
4. In case the occupational safety is impaired and/or in order to prevent damages which may incur to us or third parties we have the right to remedy defects or repair the damage or cover the demand at the expense of the supplier without prior notice.
5. The supplier holds us harmless from claims of third parties – especially of those concerning product liability – which are based on faultiness in quality and state concerning the part performance provided on our product (especially delivery of basic goods) supplied by him, on the violation of the rights of third parties or other breaches of duty from the contractual obligations he is responsible for.

## VII. Compliance

1. The supplier obligates himself concerning labor rights, job safety and environment to observe all statutory rules and to obey all international standards, especially the ten principles of United Nations Global Compact concerning human rights, labor, environment and anti-corruption ([www.unglobalcompact.org](http://www.unglobalcompact.org)).
2. Upon our request the supplier will give us all informations concerning his measures to observe the compliance-standards mentioned above. If the supplier is in breach of statutory rules or in case of complaints concerning international compliance-standards he will give evidence about the measures taken. If repeated breaches of statutory rules or repeated complaints occur, we reserve the right, to terminate all existing contracts after warning.

## VIII. Final Clause

1. The place of the whole delivery and performance is the receiving place stipulated by us or – insofar as not stipulated – our Headquarter.
2. Jurisdiction is Schwäbisch Gmünd (Germany), insofar as the supplier is merchant, legal person under public law and fund and has no general jurisdiction in the Federal Republic of Germany. We are entitled to also bring an action against the supplier at the competent court of the headquarter of the supplier.
3. All legal relations between FEIN and the supplier are subject to the law of the Federal Republic of Germany, excluding the uniform UN purchase right (CISG).
4. If any of the provisions of these purchase conditions becomes invalidated or impracticable, this shall not affect the other provision thereof.