

GENERAL TERMS AND CONDITIONS OF PURCHASE

General information

The following terms and conditions apply to all orders placed by FOOKE GmbH, unless otherwise expressly agreed in writing or in text form. They shall also apply to future business relations, even if they are not expressly agreed again. We only recognise the supplier's general terms and conditions, in particular terms and conditions of delivery and service, if we expressly agree to them in writing.

The delivery must correspond to the intended use and the latest state of the art. All statutory regulations, EU law, in particular the applicable EU directives as well as safety and accident prevention regulations, directives and health and environmental requirements must be complied with. All documents required thereafter are also part of the scope of delivery and must be provided to FOOKE GmbH free of charge.

1. Orders, documents, acceptance of orders

- a. Orders are only valid and binding if they are made in writing or in text form. Documents relating to the order (e.g. drawings, parts lists, calculations, etc.) must be kept secret and returned to FOOKE GmbH without separate request. Any extracts, copies or other reproductions may only be passed on to possible subcontractors with our consent, unless the passing on is indispensable for the fulfilment of the order.
- b. Acceptance of deliveries and services shall be subject to the reservation of inspection for freedom from defects, in particular also for correctness with regard to quantity, identity between order and delivery. Any acceptance and payment of the delivery does not mean that FOOKE GmbH recognises it as free of defects.
- c. FOOKE GmbH reserves the right to cancel orders if we do not receive the order confirmation from the supplier within 2 weeks of the order date.

2. Prices, invoices, payment

- a. The prices agreed with FOOKE GmbH are fixed prices and apply, unless otherwise agreed, free of additional costs including packaging and uninsured place of receipt.
- b. If, by way of exception, a price ex works or ex warehouse of the Supplier is agreed, FOOKE GmbH shall only bear the most favourable and verifiable freight costs.
- c. All invoices must be submitted to FOOKE GmbH in a single copy by email to invoice@fooke.de or by post, unless otherwise agreed in writing or text form.
- d. As long as the supplier is in arrears with its services or asserts claims for subsequent fulfilment, there is no due date
- e. Any agreed and made instalment payments do not constitute acknowledgement of the invoice.

3. Retention of title, assignment, set-off restrictions

- a. We only accept the supplier's simple retention of title. The assignment of claims against FOOKE GmbH requires the consent of FOOKE GmbH.
- b. The supplier is not authorised to offset against our claims unless the supplier's claims are based on the same legal relationship. Offsetting against our claims is only possible with undisputed or legally established claims. Offsetting against our claims from companies related to the supplier is excluded.

4. Delivery time, delivery period

- a. The delivery periods stated in our orders are binding.
- b. An agreed delivery period shall commence on the day the order is placed
- c. If the supplier has reason to believe that he will not be able to deliver on time in whole or in part, he must inform us immediately.
- d. In the event of culpable delivery delays, agreed contractual penalties may be offset against the supplier's payment claim. In this case, the supplier shall pay a contractual penalty of 2% of the net invoice amount for each week or part thereof, up to a maximum of 5% of this amount, unless otherwise agreed in writing.
- e. If the supplier is in default with its performance in accordance with the provisions of the German Civil Code, FOOKE GmbH is entitled, after expiry of a reasonable grace period, to demand either subsequent fulfilment and compensation for damages due to late delivery or compensation for damages instead of delivery and to withdraw from the contract with the supplier.
- f. All deliveries are made at the supplier's risk. The transfer of benefit and risk shall take place after acceptance of the delivery at the place of fulfilment.
- g. The supplier shall send us a dispatch note for each delivery on the day of dispatch of the goods.
- h. Deliveries of spare parts must be made within 24 hours of the order.
- i. Repairs must be carried out by the supplier within 24 hours of receipt of our repair request.
- j. Partial deliveries and/or deliveries before the agreed date require the prior consent of FOOKE GmbH. The supplier shall bear any additional costs incurred due to advance despatch or partial delivery, unless this is expressly requested by FOOKE GmbH

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5. Dispatch

- a. FOOKE GmbH will only recognise higher costs that may arise as a result of a deviation from the agreed shipping process if these have been agreed in writing. This applies in particular if deliveries are dispatched by the fastest route due to agreed deadlines being exceeded.
- b. All shipments shall be dispatched free of freight and ancillary costs. If delivery is ex works or free receiving station, claims for reimbursement of freight and other costs associated with the delivery shall only become due upon receipt of the invoice. Unless otherwise agreed in writing, the supplier shall bear the labour and material costs for shipping, shipping documents, customary packaging, etc. To avoid transport damage due to missing or inadequate load securing, the supplier must have the delivery secured. The supplier shall be responsible for all damage and costs arising from inadequate observance or non-compliance with these regulations.

Each delivery must be accompanied by a delivery note which enables a quick check of quality and quantity as well as identity between the order and the delivered goods. The delivered goods must be labelled. The labels must contain at least the following information about the goods: FOOKE order number; FOOKE article number; supplier order number, supplier article number, goods description, type.

If the supplier does not comply with this, any resulting costs shall be borne by the supplier. In addition, FOOKE GmbH is authorised to reject the delivery.

6. Safety and environmental protection

- a. Deliveries and services must comply with the statutory provisions, in particular the safety and environmental protection regulations including the Ordinance on Hazardous Substances, the Elektro and the safety recommendations of the competent German professional bodies or professional associations, e.g. VDE, VDI, DIN. The supplier guarantees the conformity of the delivered products with the guidelines determined by FOOKE GmbH as well as their labelling in accordance with the legal and official regulations. Relevant certificates, test certificates and proofs are to be supplied free of charge.
- b. Environmentally orientated management is one of the primary objectives of company policy. FOOKE GmbH therefore recommends the international standard ISO 14001 or orientation to the ISO 14001 standard.
- c. The supplier is obliged to determine and comply with the current status of the guidelines and laws applicable to its components with regard to substance restrictions and not to use prohibited substances. The supplier guarantees that, insofar as it is subject to the REACH Regulation with the products supplied, it will register/register in accordance with the provisions of the Regulation or fulfil the other obligations. Furthermore, it is guaranteed that none of its products contain hazardous substances according to the current candidate list of the ECHA (SVHC substances). Avoidance and hazardous substances in accordance with the applicable laws and directives must be indicated on the specifications by the supplier. If applicable, the safety data sheets must be submitted with the offers and with the delivery note for the first delivery.

Exceedances of substance restrictions and delivery of prohibited substances must be reported immediately, as far as possible at the time of the offer/contract confirmation.

The supplier is solely responsible for compliance with the accident prevention regulations when making deliveries and providing services. Any necessary protective devices and any instructions from the manufacturer must be supplied free of charge.

7. Technical equipment and facilities

- a. The supplier is obliged to design technical systems and equipment according to the latest state of the art, insofar as this does not contradict the recognised rules of technology, and in compliance with the relevant laws, regulations and conditions, in particular in compliance with the Occupational Health and Safety Act, the Industrial Safety Ordinance and the Equipment and Product Safety Act GPSG as well as their ordinances and technical rules. The directly applicable EC Directives, in particular Directives 98/37 EC (Machinery Directive), 73/23 EEC (Low Voltage Directive) and 89/336 EEC (EMC Directive) must be complied with.
- b. The supplier must ensure that systems do not consume more energy than is necessary for their intended use. Energy-efficient drives, motors and other active components must be used for the design of systems. The total energy requirement of the system must not exceed that of a comparable reference system of the same design and size/performance.
- c. The supplier must inform us of the necessary expert operation, necessary maintenance and servicing measures, inspections required for the intended use and trouble-free operation, and provide us with corresponding documents, e.g. maintenance instructions, free of charge, in particular assembly and parts lists in FOOKE quality and format (including manufacturer, article number, product designation, type).

8. Quality

- a. The Supplier must introduce a quality management system that is suitable in type and scope and corresponds to the latest state of the art and provide evidence of this to FOOKE GmbH upon request.
- b. On this basis, the supplier must ensure that the persons employed by him have the competence and all necessary qualifications to be able to provide the required services.
- c. FOOKE GmbH is entitled at any time, even without prior notice, to visit the Supplier's business premises during normal business hours and to inspect compliance with the quality standards to be guaranteed by the Supplier by its own personnel. For this purpose, the Purchaser and third parties authorised by the Purchaser are entitled to inspect the relevant documentation to be kept by the Supplier and to examine the materials required by the Supplier for the execution of its order.
- d. The Supplier is obliged to grant FOOKE GmbH or third parties commissioned by FOOKE GmbH, in particular auditors of a quality management system, unhindered access to the premises, materials and relevant documentation and to provide FOOKE GmbH with evidence of its own quality inspections upon request.

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- e. The supplier is obliged to constantly check the quality of the delivery item and to document it by means of quality tests. The supplier must keep the test documents for ten years and submit them to FOOKE GmbH if required. The supplier must oblige upstream suppliers to comply with the requirements of the quality audit within the scope of the legal possibilities and to monitor compliance by means of suitable controls.

The Supplier is obliged to inform the Purchaser about defective products and, if these are suitable for use, to obtain the prior written consent of FOOKE GmbH.

- f. Changes to the delivery item require the prior written consent of FOOKE GmbH. The same applies to changes to the delivery item due to changes in the production process, the production location or the use of other materials.

9. Warranty and recourse

- a. In accordance with the statutory provisions, the Supplier warrants that the delivery item is free of material defects and defects of title upon delivery to FOOKE GmbH, has the agreed quality and the guaranteed characteristics and complies with the recognised state of the art, in particular the relevant safety and accident prevention regulations and technical standards, has passed all prescribed tests and any necessary markings (e.g. CE, TÜV) have been affixed. Declarations of conformity are to be supplied free of charge.
- b. If FOOKE GmbH incurs costs as a result of a defective delivery, in particular transport, travel, labour, material costs or costs for an incoming goods inspection exceeding the usual scope, the Supplier shall bear these costs.
- c. If FOOKE GmbH takes back products manufactured and/or sold by it due to the defectiveness of the item delivered by the supplier or if the purchase price was rightfully reduced by a customer of FOOKE GmbH or if claims are made against us in any other way, FOOKE GmbH reserves the right of recourse against the supplier. Furthermore, FOOKE GmbH is entitled to demand compensation from the supplier for the expenses that FOOKE GmbH had to bear in relation to its customer, because the latter is entitled to reimbursement of the expenses necessary for the purpose of subsequent fulfilment, in particular transport, travel, labour and material costs.
- d. All documentation, e.g. operating or user manuals, must be enclosed in German and English.
- e. FOOKE GmbH is entitled to take recourse against the supplier in accordance with the statutory provisions if the resale is a sale of consumer goods.
- f. FOOKE GmbH is not obliged to immediately inspect incoming goods for defects, unless the defects are obvious or easily recognisable and can be detected with normal use and attention.
- g. A rectification shall be deemed to have failed after the second unsuccessful attempt, unless the nature of the item or the defect or other circumstances indicate otherwise.
- h. In the case of successive delivery contracts, FOOKE GmbH is entitled to immediate cancellation if significant defects or a serial defect and no immediate remedy is provided.

- i. Upon conclusion of the contract, the supplier offers FOOKE GmbH the assignment of its warranty claims against its upstream supplier. We can accept this assignment at any time.

10. Force majeure

Force majeure, in particular labour disputes, operational disruptions for which FOOKE GmbH is not responsible, unrest, official or legal measures (e.g. embargo) and other unavoidable events entitle FOOKE GmbH to withdraw from the contract in whole or in part.

Claims for damages or other financial claims by the supplier are excluded in this case.

11. Offers, brochures, data sheets, drawings, specifications, advertising material

The performance specifications of the supplier in his offers, brochures, data sheets, etc. represent guaranteed minimum characteristics of the goods to be delivered in relation to FOOKE GmbH.

12. Property rights of third parties

The supplier is liable for ensuring that no industrial property rights or trade secrets of third parties are infringed by the use of the delivered items. The supplier is obliged to indemnify FOOKE GmbH from any claims of third parties and to compensate any damage in case of infringement.

13. Non-disclosure

The supplier undertakes to treat all confidential information received directly or indirectly from FOOKE GmbH as confidential. Orders and all related commercial and technical details must also be treated as confidential information. In particular, all illustrations, drawings, calculations, quality guidelines, samples and similar items received must be kept secret. Reproduction and disclosure of confidential information is only permitted within the scope of operational requirements. It may only be disclosed to third parties with the prior written consent of FOOKE GmbH. Irrespective of this, the supplier agrees to enter into a separate confidentiality agreement at the request of FOOKE GmbH.

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14. Final provisions

- a. The place of fulfilment and exclusive place of jurisdiction is Borken if the supplier is a merchant who is acting in the exercise of his commercial or independent professional activity when concluding the contract, a legal entity under public law or a special fund under public law. The same shall apply if the supplier does not have a general place of jurisdiction in Germany or if his place of residence or habitual abode is unknown at the time the action is filed.
- b. However, FOOKE GmbH is also entitled to bring an action at the Supplier's general place of jurisdiction.
- c. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- d. Should one of the above provisions be or become invalid or unenforceable, this shall not affect the legal validity of the remaining provisions. In place of the invalid or unenforceable provision, a provision shall be deemed to have been agreed which, as far as legally possible, comes closest to what was intended by the contracting parties in accordance with the original meaning and purpose of the invalid or unenforceable provision. The same applies to any loopholes in the contract.