

Conditions of purchase

1. Order and Order Confirmation

Only signed orders submitted in writing shall be regarded as valid, with all verbal agreements requiring a written confirmation. Any deviations from the conditions of purchase stipulated in the letter of confirmation sent by the Supplier, which directly affect the Ordering Party, shall be acknowledged as binding only when confirmed in writing. Tacitness shall not be regarded as a sign of consent. Through the acceptance and processing of the order, the Supplier hereby concedes that the delivery is to be executed exclusively in accordance with the conditions specified by the Ordering Party. Designs, models, matrices, stencils or patterns, which will be made available in order to secure an execution of an order, shall remain our property. The Supplier hereby expressly undertakes never to facilitate the items made available to them to any third party without our written consent, neither for reference, nor for disposal; the same applies to any thereafter-produced goods, whether in a raw or semi-finished state, as well as that of fully manufactured products – the Supplier shall not make them available to any third parties without obtaining our prior written consent. Furthermore, the same holds for the components which the Supplier has manufactured pursuant to our specification or with our substantial co-operation and assistance (testing, etc.). For the purposes of these provisions, the term 'third party' also applies to those entities or physical persons who are (sub)contracted or associated with the Supplier in whichever capacity and under whichever conditions. Upon a successful delivery, the designs are to be returned to us. No orders shall be delegated to third parties, either for manufacturing or delivery, without our written confirmation. The Supplier is obliged to confirm the order without delay. Should we not receive any official confirmation from the Supplier within the period of 10 days, calculated from the receipt of the order, we then reserve the right to cancel the order, with the Supplier not being entitled to derive any claims as a result of such cancellation. All documentation of the Ordering Party, such as construction drawings, designs, calculations, etc., hereby constitutes company and trade secrets of the Ordering Party. Any disclosure, duplication, publication or distribution thereof shall result in penal consequences.

2. Offer

Upon our request, the Supplier is obliged to provide us with an unbinding offer free-of-charge. In preparing the offer, the Supplier must adhere strictly to our specifications and instructions; the Supplier is further bounden to expressly indicate any such deviations as may arise with regard thereof.

3. Delivery and Lead Time

The lead time is calculated from the date of the order placement. Failure to comply with the terms of delivery and its deadline renders the Supplier in default, without the need of a reminder or a respite. In this case, the Ordering Party may claim damages and/or state a withdrawal from the contract, once the appropriate grace period has elapsed. The force majeure clause relieves the Supplier only if they notify us in due time of any unfavourable circumstances that have befallen them. If a penalty has been agreed upon, then the Ordering Party is entitled to demand its immediate payment without the necessity to provide the proof of damage. All other rights of the Ordering Party shall remain unaffected.

4. On-the-Spot Check and Receipt

The goods shall be officially accepted only following an on-the-spot check of quantity, weight and quality. Acknowledgements of receipt issued by forwarders, courier services, railway and postal services constitute no evidence of accuracy, completeness and/or compliance with our order delivery terms.

5. Transport and Packaging

Unless agreed otherwise, we shall not incur any expenses relating to the transport and freight (etc.) of any of the shipments, with the Supplier covering all the accruing costs. The goods are to be shipped at the sole risk of the Supplier. Packaging shall be paid for us only if such remuneration was expressly agreed upon. In such case, the packaging is credited to us in 2/3 of its calculated value and it is shipped back to the Supplier freight paid. Partial deliveries are acceptable only with our prior written approval. These partial deliveries are to be specified as such in the shipping documentation. If an order is being executed in partial deliveries, then AFT reserves the right to determine the sequence in which the individual parts of the order are to be delivered. AFT is entitled to use the delivered parts before the end of the overall delivery, without it constituting a confirmation of full order compliance. Unless the partial deliveries were not expressly agreed upon in writing, the Supplier shall bear all the additional expenses relating to the shipment, packaging and transport insurance. Whenever a delivery consists of several packaging pieces or pallets, then a packing list containing the following order information is to be enclosed with the delivery note issued for each transport unit:

- Package or pallet number,
- Item, quantity,
- The number and contents of the individual packages.

This information must also be clearly visible on the labelling of the individual packages.

6. Warranty

The Supplier's services are to be performed with the application of top quality technology and craft. They must also comply with the specific provisions of the order. The Supplier hereby warrants that the delivered goods possess the characteristics stipulated in the order; he further guarantees the usability of the products submitted by him or his representatives as intended, and that these very products have been professionally constructed upon an execution of correct calculations, as well as with the use of suitable materials of the highest quality, ensuring a flawless performance. The Supplier guarantees, first and foremost, the presence of the following features:

- a) the contractually specified figures of performance and consumption,
- b) safe and reliable performance,
- c) the up-to-date quality standard of the construction design and execution,

d) the use of appropriate material for all the parts and components,

e) the compliance with all the safety regulations imposed on by the public authorities. In accordance with the trade association regulations, especially the accident prevention instructions imposed by the competent professional association, any necessary safety devices are to be provided and included in the price.

Unless agreed otherwise, the warranty period shall be that of two years. The warranty period is calculated from the day of receipt, or, if such has not been stipulated, from the first operation. The official acceptance of the Supplier's service does not affect the warranty in such a case. The warranty period shall be stayed for the respective time span between the notification of defects and a successful fault correction. The Supplier hereby undertakes to eliminate all defects arising within the warranty period, which verifiably lie within his liability, immediately upon receiving a notification thereof from the Ordering Party and at his own expense. Should the Supplier be unable to comply with this obligation, the Ordering Party shall be entitled, yet not obliged, to execute a substitute performance at the Supplier's expense. Further statutory rights of the Ordering Party remain unaffected thereof.

7. Prices

The prices are fixed. The prices varying from the ordering prices, or any subsequent price changes, shall only be valid if they have been expressly agreed upon in writing. If price changes resulting from remuneration and price fluctuations have been agreed upon for the entire duration of the execution time, the Supplier is obliged to submit a written claim for a price increase to the Ordering Party at the latest within two weeks of becoming aware of the basis of the price change; otherwise, the previously set price lists shall remain binding. Obvious inaccuracies, such as spelling mistakes, clerical errors and miscalculations shall not be the subject of our liability.

8. Invoicing and Payment

Invoices are to be posted in one copy, whereas export orders are to be submitted in quadruplicates. Invoices must not be attached to the goods. Payment periods shall commence starting from the date specified in the purchase order. If such a date has not been fixed, the payment periods begin with faultless delivery of the goods. Should the Supplier fail to issue the invoice simultaneously with the delivery of the goods, the payment periods commence at their earliest starting from the date of the receipt of the invoice. The payment shall be due on the date of the payment order, payable to the bank account specified by the Ordering Party or by post. Unless special arrangements have been made, the Ordering Party may choose the payment method. In the case of a complete or partial redemption of the goods, without prejudice to any other agreement, the Supplier is required to reimburse any payment already made for the redeemed object, together with accumulated interest, in the amount calculated from the date of disbursement with the inclusion of the applicable interest rate of the German Federal Bank (Deutsche Bundesbank). With regard to advance payments, down payments and the like, the Supplier shall provide adequate collateral, upon request. All payments are made only to the Supplier. Payment transfers to third parties are subject to our prior consent.

9. Transfer of Ownership

The materials provided by us remain our legal property. They are to be stored separately and be clearly labelled as our property; the Supplier is responsible for insuring them, at his own expense, to the sufficient amount against fire and water damage and theft. They may be only used as intended. The processing or alteration of the reserved goods may be performed by the Supplier only upon our specific request. Should the reserve title goods be converted or mixed with materials that are not owned by us, we shall acquire co-ownership of the new item(s) in proportion to the value of the reserve title goods as per the other processed items, with their value being calculated at the time of the processing or transformation. The conditions that apply to the delivered reserve title goods shall also apply to the resulting new item. In the case that the Ordering Party makes an advance or down payment, the Supplier hereby undertakes to use those amounts to pay the third parties for all the materials necessary for the manufacturing of the subject of the order.

10. Promotion Material

Our express permission must be obtained before any reference is made to our existing or previous commercial relationship in promotional material of any form.

11. Force Majeure

Operational and work-related disruptions (strikes and lockouts) and other similar cases that result in a reduction in consumption are considered as force majeure and release us from the obligation of a timely acceptance of goods for the duration of the disruption in question.

12. Place of Delivery and Court of Jurisdiction

Any disputes that may arise between the Parties shall be heard before a court with jurisdiction over the registered headquarters of the Ordering Party. For orders placed by AFT GmbH & Co.KG, the jurisdiction is held by the city of Lörrach. For orders placed by AFT Förderanlagen Bautzen GmbH & Co.KG, the jurisdiction is held by the city of Bautzen. The contractual relationship is to be governed exclusively by the German law, as agreed.

13. Severability Clause

Should any of the above provisions prove to be or become invalid, the remaining provisions shall not be affected. The Parties undertake, in this case, to replace the ineffective provision with one which is the closest to the original clause. The same applies in the case of loopholes in the agreement which require regulation.