

**1 GENERAL, SCOPE OF APPLICATION**

- 1.1 The terms and conditions of purchase of Hagedorn Gütersloh GmbH shall apply exclusively; any terms and conditions of the supplier that conflict with or deviate from the terms and conditions of purchase of Hagedorn Gütersloh GmbH shall only apply if Hagedorn Gütersloh GmbH has agreed to them in writing. The terms and conditions of purchase of Hagedorn Gütersloh GmbH shall also apply if Hagedorn Gütersloh GmbH has accepted the delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from the terms and conditions of purchase of Hagedorn Gütersloh GmbH.
- 1.2 All agreements made between Hagedorn Gütersloh GmbH and the supplier during contract negotiations must be made in writing.
- 1.3 The Terms and Conditions of Purchase shall only apply to companies within the meaning of § 14 BGB (German Civil Code).
- 1.4 The Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier.
- 1.5 Insofar as the contractual services construction services or other work services, the General Terms and Conditions of Contract of Hagedorn Gütersloh GmbH as of 1 September 2019 shall take precedence over these Terms and Conditions of Purchase.

**2 OFFER, CANCELLATION**

- 2.1 If the order of Hagedorn Gütersloh GmbH is not based on a previous offer of the supplier or deviates from it in terms of content, the supplier may accept it in writing within a period of 2 weeks from receipt of the offer, unless Hagedorn Gütersloh GmbH specifies a different period for acceptance. After expiry of this period, Hagedorn Gütersloh GmbH's order shall lapse. Written acceptance shall be deemed equivalent if the supplier commences delivery or performance of other contractual services without reservation.
- 2.2 Hagedorn Gütersloh GmbH is entitled to terminate the contract at any time. If the contract is cancelled, § 649 sentence 2 BGB shall apply accordingly. In this case, the supplier is obliged to provide Hagedorn Gütersloh GmbH with the documents and information required for an examination of the deductions mentioned in § 649 sentence 2 BGB.

**3 PLACE OF FULFILMENT, DELIVERY, SHIPPING**

- 3.1 The place of fulfilment is the location of the place of use/delivery of the client specified in the contract.
- 3.2 Delivery must be made at the risk and expense of the supplier free to the construction site or other destination. The place of use, department, cost centre, order number (if applicable), date of the order and other notes requested in the order must be stated on the delivery note or other shipping documents. The consequences of incorrect, incomplete or late shipping documents shall be borne by the supplier.
- 3.3 Each delivery/service of the supplier shall be handed over at the specified destination exclusively against a confirmation of receipt from Hagedorn Gütersloh GmbH.
- 3.4 If delivery in lorry trains or lorry semi-trailers has been agreed, it is also agreed that residual quantities of the scope of delivery will be delivered by solo lorries without any additional charge being made for this. Transport or ancillary transport costs may only be charged if this has been expressly agreed in writing with Hagedorn Gütersloh GmbH.
- 3.5 If the delivered material is delivered with packaging or transport aids (e.g. pallets) for a fee, the supplier undertakes to collect these auxiliary goods from the place of use free of charge and with immediate reimbursement of the calculated fees on request and to dispose of them properly if necessary.

**4 PRICES, TERMS OF PAYMENT, INVOICES**

- 4.1 The price stated in the order is binding. Unless otherwise agreed in writing, the price shall include delivery to the construction site or another contractual destination, including packaging. Unless otherwise agreed in individual cases, the supplier must collect packaging and transport aids free of charge for Hagedorn Gütersloh GmbH. If the supplier fails to this obligation despite being set a reasonable deadline, Hagedorn Gütersloh GmbH may dispose of the packaging at the supplier's expense.
- 4.2 The prices stated in the order are fixed prices until the end of the construction period and exclude subsequent claims. They do not include the supplier's statutory value added tax. Insofar as the supplier is liable for payment, it must also show and collect the statutory VAT separately in accordance with the German Value Added Tax Act (UStG).
- 4.3 Additional and/or changes to the deliveries/services must be made in writing and will only be recognised and remunerated by Hagedorn Gütersloh GmbH if they are made in writing.
- 4.4 Unless otherwise agreed in writing, Hagedorn Gütersloh GmbH shall pay the purchase price within 14 days of receipt of an invoice verifiable by Hagedorn Gütersloh GmbH with a 3% discount or net within 30 days. The date of payment for transfers or payments from one of Hagedorn Gütersloh GmbH's accounts shall be the date of submission or dispatch of the transfer order to the post office or to the financial institution, provided that the account of Hagedorn Gütersloh GmbH is a bank account that can be used by Hagedorn Gütersloh GmbH. The execution of the transfer order shows sufficient cover.
- 4.5 Hagedorn Gütersloh GmbH shall be entitled to rights of set-off and retention to the extent permitted by law.
- 4.6 Invoices must be submitted to Hagedorn Gütersloh GmbH in a single copy. Invoices for materials delivered to different places of destination or construction sites must be issued separately. Invoices must the construction site or other destination, the cost centre specified in the order and the order date. Invoices are to be sent exclusively to:

Hagedorn Gütersloh GmbH  
Werner-von-Siemens-Str. 18  
33334 Gütersloh

**5 DELIVERY TIME, DELAY, CONTRACTUAL PENALTY**

- 5.1 The delivery/service date specified in the order is binding. Early delivery requires early notification and the consent of Hagedorn Gütersloh GmbH.
- 5.2 If a specific delivery date has not been agreed, the delivery shall be made on call. In this case, it shall be carried out at short notice and within a reasonable period of time.
- 5.3 The supplier must inform Hagedorn Gütersloh GmbH immediately and demonstrably in writing if circumstances exist that appear to jeopardise compliance with the delivery date owed or, if a delivery date has not been agreed, timely delivery. If Hagedorn Gütersloh GmbH has reason to fear that the delivery will not be made on time, the supplier must immediately declare this in writing and submit proposals for solutions.
- 5.4 If the delivery/performance deadline is exceeded, Hagedorn Gütersloh GmbH shall be entitled to the statutory claims in full. If the supplier fails to make the declaration required in clause 5.3 sentence 2 despite setting a reasonable deadline

and if Hagedorn Gütersloh GmbH cannot reasonably be expected to wait any longer in view of the resulting disadvantages, Hagedorn Gütersloh GmbH shall be entitled to withdraw from the contract and, if the omission of the declaration was culpable, to claim damages.

- 5.5 In the event of a delay in delivery, Hagedorn Gütersloh GmbH is entitled to demand a contractual penalty of 0.1% of the delivery value for each working day of delay, but not more than of the delivery value in total. Hagedorn Gütersloh GmbH is entitled to claim the contractual penalty in addition to fulfilment. The reservation of the contractual penalty may be declared to the supplier within 12 working days at the latest, calculated from the date of receipt of the delayed delivery. Further claims and rights are reserved.

## 6 QUALITY, MATERIAL DEFECTS AND DEFECTS OF TITLE

- 6.1 The delivered goods shall be inspected by Hagedorn Gütersloh GmbH for quality and quantity deviations after delivery. If a defect becomes apparent or if a defect not recognisable during a proper inspection becomes apparent at a later date, Hagedorn Gütersloh 's notification of defects shall be deemed timely if it is received by the supplier within five days of discovery of the defect.
- 6.2 For bulk goods, Hagedorn Gütersloh GmbH is authorised to carry out continuous weighing, which can be performed on a state-recognised scale. The supplier must support the weighing. In the event of a negative deviation of the control value, all deliveries of the bulk goods type of the day in question shall be reduced by the percentage by which the control weighing is below the supplier's delivery specification.
- 6.3 All building materials and components must comply with the generally recognised rules of technology, in particular the relevant DIN standards and public building regulations. If they bear a quality mark of a quality protection association or other association, the associated quality requirements must be fulfilled. The supplier to subject the delivered items to a careful outgoing goods inspection in order to ensure that they are free of defects.
- 6.4 Hagedorn Gütersloh GmbH shall be entitled to the full statutory claims for liability for defects. In any case, Hagedorn Gütersloh GmbH be entitled to demand that the supplier, at its discretion, remedy the defect or deliver a new item. The right to claim damages, in particular the right to claim damages in lieu of performance, is expressly reserved. In addition, the supplier shall bear all expenses and costs in connection with the defect as incurred in the relationship between Hagedorn Gütersloh GmbH and its customer, e.g. the removal and installation costs of the defective items delivered and any claims for damages of Hagedorn Gütersloh GmbH's customer.
- 6.5 The limitation period for claims due to defects in supplied building materials or components that have caused the building to be defective is, in deviation from § Section 438 (1) BGB five years and twelve weeks.
- ## 7 PROTECTION RIGHTS
- 7.1 The supplier that no third-party rights are infringed in connection its delivery.
- 7.2 If claims are asserted against Hagedorn Gütersloh GmbH by a third party, the supplier shall be obliged to indemnify Hagedorn Gütersloh GmbH against such claims upon first written request.
- 7.3 The supplier's obligation to indemnify shall also apply to all expenses incurred by Hagedorn Gütersloh GmbH as a result of
- or necessarily arise in connection with the utilisation by a third party.
- 7.4 The limitation period for these claims is ten years, beginning with the conclusion of the respective contract.
- ## 8 RESERVATION OF TITLE, PROVISION OF , WITNESSES, CONFIDENTIALITY, ADVERTISING
- 8.1 If goods/objects/rights are provided by Hagedorn Gütersloh GmbH to the supplier, Hagedorn Gütersloh GmbH reserves the right of ownership. Processing or remodelling by the supplier shall be carried out on behalf of Hagedorn Gütersloh GmbH. If the goods subject to retention of title of Hagedorn Gütersloh GmbH with other items not belonging to Hagedorn Gütersloh GmbH, Hagedorn Gütersloh GmbH shall acquire co-ownership of the new item in the ratio of the value of Hagedorn Gütersloh GmbH's item to the other processed items at the time of processing.
- 8.2 If the item provided by Hagedorn Gütersloh GmbH is inseparably mixed with other items not belonging to Hagedorn Gütersloh GmbH, Hagedorn Gütersloh GmbH shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title to the value of the other items.  
the other mixed items at the time of mixing. If the mixing takes place in such a way that the supplier's item is to be regarded as the main item, it is agreed that the supplier shall transfer co-ownership to Hagedorn Gütersloh GmbH on a pro rata basis; the supplier shall hold the sole ownership or co-ownership for Hagedorn Gütersloh GmbH.
- 8.3 The supplier is obliged to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with the express authorisation of Hagedorn Gütersloh GmbH. The confidentiality obligation shall also apply after the fulfilment of this contract; it shall expire if and to the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known.
- 8.4 The supplier is not permitted to use the delivery to Hagedorn Gütersloh GmbH for advertising purposes (print advertising, signs/posters at the place of delivery/installation, etc.) unless Hagedorn Gütersloh GmbH gives its written consent for the type, scope and duration of the advertising use.
- ## 9 ASSIGNMENT OF RECEIVABLES
- 9.1 The assignment of claims of the supplier against Hagedorn Gütersloh GmbH to third parties is excluded without the consent of Hagedorn Gütersloh GmbH. § Section 354a HGB remains unaffected.
- ## 10 PLACE OF JURISDICTION, APPLICABLE LAW, WRITTEN FORM
- 10.1 If the supplier is a merchant, the exclusive place of jurisdiction for disputes arising from this contract shall be Gütersloh. However, Hagedorn Gütersloh GmbH shall also be entitled to sue the supplier at its registered office, its branch office or the special place of jurisdiction of the place of fulfilment.
- 10.2 Unless otherwise agreed in individual contracts, the law of the Federal Republic of Germany apply exclusively.
- 10.3 Any amendment to the contract must be made in writing in order to preserve evidence.

**11 CANCELLATION OR WITHDRAWAL FOR GOOD CAUSE**

- 11.1 Hagedorn Gütersloh GmbH may terminate the contract or withdraw from the order for good cause, in particular if the supplier has filed an application for the opening of insolvency proceedings or if the contractor has temporarily suspended payment or if insolvency proceedings have been opened against the contractor's assets or the opening has been rejected for lack of assets.