

Validity

These Conditions of Purchase apply to all orders and to the entire supply relationship between Benedict GmbH ("Benedict") and the supplier, as well as with the two respective associated companies. They also exclusively apply even if other General Terms and Conditions or forms of the supplier remain unchallenged. Deviations from the following conditions require the prior written consent of Benedict. The supplier agrees to comply with the following conditions upon entering into the supply relationship, but at the latest upon acceptance of orders. The terms "delivery/deliveries" and "order/orders" used herein encompass both the supply of goods and equipment and by analogy the rendering of services, even if no explicit distinction is made in this regard in individual provisions.

Orders & confirmations

Unless otherwise agreed in writing with regard to the order process (e.g. via EDI systems), orders shall be made in writing and by authorised persons. If information in the order is not sufficient for assessing the order, Benedict must be contacted immediately for clarification. Orders or other obligations under the supplier relationship shall not be transferred to third parties in part or in full or fulfilled by these third parties without the permission of Benedict. Each order must be confirmed immediately, giving details of the price and the binding delivery date. If written confirmation is not provided within 3 (three) days from the order date, the order shall be deemed accepted with the conditions contained therein. Benedict shall be bound to order conditions stipulated in the supplier's confirmations (e.g. prices, dates, production data, etc.) that deviate from those in the order only after written confirmation. Unless expressly stated otherwise, the cited standards, samples, drawings and the like relate to the most recently published version or the version valid at the time of the order.

Place of delivery, prices and packaging

The place of delivery is our business address, unless otherwise determined in the order or expressly agreed otherwise in writing with us. Until transfer to us at the place of delivery, the supplier shall bear all risks and costs, in particular the premium for any appropriate transport insurance concluded by the supplier, unless agreed otherwise in writing. Unless agreed otherwise, the prices are DDP to the delivery address within the meaning of the applicable Incoterms, packed, cleared through customs and delivered free to destination, unloaded, and are fixed prices. Deliveries shall be properly packaged. Benedict's dispatch and packaging specifications must be strictly followed. Damage resulting from the failure to follow such instructions and/or costs shall be borne by the supplier.

Invoicing & delivery notes

Each delivery shall be accompanied by a detailed delivery note. For each invoice and delivery note line item, our order number and line item as well as our item number and designation must be specified. The absence of this information will hinder transfer and processing and correspondingly lengthen the duration of the payment period. Invoices shall be sent to the address indicated on our order header (not to the delivery address) after proper delivery and in compliance with the respective procedural requirements under VAT law.

Due dates of deliveries and delivery delays

Delivery and completion dates confirmed or prescribed by Benedict must be adhered to at all times, meaning that the delivery must be available at the specified delivery address at the specified time. Partial deliveries require the explicit permission of Benedict. If delivery is delayed, Benedict shall, without prejudice to any legal claims beyond this, and without having to prove specific harm incurred, be entitled to withdraw from the order with or without a grace period and to procure a replacement elsewhere. The supplier shall reimburse Benedict for any additional costs for such hedging transactions and other costs and damages due to an incomplete, non-order complaint, premature or late delivery, regardless of whether the supplier is at fault or not. Furthermore, Benedict reserves the right to charge or deduct 0.5% of the order value as a penalty for each commenced week of delay in delivery.

Payment terms

In the absence of any other written agreements, payment shall be made at the discretion of Benedict either within 14 days with a 3% discount, within 30 days with a 2% discount or after 60 days net. The payment periods begin only once both a legally compliant invoice is present and the corresponding delivery has been fully completed and accepted. In the event of early delivery or invoicing, the agreed delivery date shall be considered the beginning of the payment period. The assignment of invoice amounts is permitted only with our prior written consent.

Quality assurance & acceptance of deliveries

With the aim of ensuring that products and services are completely free of defects, the supplier operates a certified quality assurance system that at least meets the requirements of ISO 9001 standard. Benedict may audit this system accordingly as required. Until a supplier is approved for making deliveries, a visual and identity check will be carried out on a sample within a reasonable time after receipt of goods. After a supplier is approved, Benedict generally performs no further incoming goods inspections of deliveries, without this excluding or otherwise impairing the assertion of warranty or other rights of Benedict (elimination of the duty of inspection and notification of complaints). After acceptance of the delivery or service, recognised defects and claims shall in any case be taken as having been asserted in a timely manner if they are reported before expiry of the relevant warranty or limitation period. Upon delivery, the supplier declares that the goods/services have passed its outgoing goods inspection and that the quality and quantity of the delivered goods satisfy the order and other applicable requirements. Factory certificates, inspection reports, outgoing goods certificates etc. shall be provided to Benedict to the extent desired and free of charge with the delivery.

Requirements for shipments, warranty & liability

The warranty period for supplies/services to Benedict is 24 (twenty-four) months and commences at the earliest on the day on which the complete goods/services were finally accepted by Benedict. The supplier warrants and represents that all deliveries correspond in every respect at least to the agreed and also to any otherwise usually presupposed requirements. Deliveries must in particular be free of all defects in material, manufacturing, functionality and design as well as third-party rights (e.g. retention of title or security interests), may not infringe third-party intellectual property rights (e.g. patents, trademarks, copyrights, or utility patents) and meet the technical, safety, labour and environmental standards (e.g. RoHS, REACH) applicable at the time of delivery. All deliveries must meet and be correspondingly suitable for applicable legal, regulatory, judicial and technical standards and specifications for transportation, importation, storage, processing, rendering of services by the supplier, marketing and other use in a country or countries of the European Union. If and insofar as no special quality regulations are contained in orders, deliveries must at least be of commercial quality and comply with the respective state of the art. The goods must be manufactured using materials or ingredients fit for purpose, in each case of the highest quality, and expertly in accordance with the ordering information and other requirements.

In the event of any kind of concealed defect, warranty and limitation periods shall commence upon discovery of the defect at the earliest. Confirmations of the goods / services acceptance on return slips, delivery or other documents are always subject to the proviso that the delivery shall not be deemed accepted if any shortages or deficiencies are found on subsequent evaluation. The warranty and guarantee deadlines shall commence anew upon complete rectification of the defects. In the event of defects, irrespective of other claims and even if defects are insignificant or recoverable, Benedict is entitled, at its option and with the costs borne entirely by the supplier, to require conversion, replacement, removal of defects, or reasonable price reduction, or to remedy the identified deficiencies. If a grace period is imperative on the basis of statutory requirements, a period of not more than 2 weeks shall be considered adequate. In urgent cases, Benedict is entitled to make required repairs or replacements itself without a grace period, in such a manner as may appear suitable, and without notice and with the costs borne by the supplier, or to delegate this to third parties. The rectification of defects by Benedict or a third party shall not relieve the supplier of its warranty and other obligations. For defective deliveries, Benedict is also entitled to the reimbursement of all other direct and indirect losses, consequential losses and costs caused by the defective deliveries in addition to warranty claims. The supplier shall fully indemnify Benedict for all warranty claims and claims for damages brought by third parties in connection with delivered goods / services.

Documentation & support obligations

The supplier shall also deliver the specifications, manuals, drawings, warnings and other information required for proper use (installation, application, etc.) of the delivered goods / rendered services - including those provided by third parties and end users - unsolicited and updated on an ongoing basis. Furthermore, the supplier undertakes to keep all information, documents and samples required for the assessment of quality issues or for litigation related to deliveries until the expiry of the relevant time limits.

As soon as circumstances subsequently become known that may lead to the development of product liability, warranty or other liability claims related to delivered goods or services, the supplier shall, in addition to its other obligations, fully and immediately inform Benedict and reimburse any costs and damages arising in connection therewith - for example due to necessary product recalls. In case of complaints or product liability, the supplier shall generally, at its own expense, promptly provide Benedict all the requisite consultations and relevant evidence in a timely manner to support Benedict with its best efforts and to reimburse Benedict its appropriate internal costs.

Incidentals needed for delivery & confidentiality

Property and all other rights to all drawings, technical calculations, documentation, tools, moulds, samples, prototypes, etc. ("incidentals") issued for or due to a delivery (or inquiry) to Benedict or requested or made available by Benedict, belong to Benedict exclusively and already from the point of their creation. This applies even if incidentals are wholly or partly provided at the expense of Benedict and have not yet been fully paid. Incidentals may not be used for any other purposes other than to fulfil the obligations of the supplier towards Benedict, shall be stored carefully and repaired or replaced at the supplier's expense. All incidentals shall be transferred to Benedict at the latest upon delivery or cancellation of the order. However, Benedict may at any time and regardless of the reason, demand the immediate transfer of all incidentals. The supplier must document the exclusive rights of Benedict to incidentals in its books and where possible by signing. Benedict is not obliged to verify incidentals created by the supplier for completeness, accuracy or usefulness, nor does Benedict accept liability in any form or for incidentals originating from the supplier or goods / services created on the basis thereof.

Notwithstanding legal provisions extending beyond these, all information about and related to the supplier relationship, delivered goods / services as well as Benedict, the companies associated with Benedict and its business operations and trade secrets must be kept confidential and their exploitation for purposes other than the supplier relationship with Benedict is prohibited. The supplier shall bind its employees and other third parties to confidentiality of protected information before they are given to it and is responsible for compliance with the relevant data protection regulations.

Outside intellectual property & product liability

The supplier shall indemnify Benedict and hold it harmless from all claims and rights of third parties due to the violation of intellectual property (e.g. patents, trademarks, designs, copyrights, industrial designs, etc.), which are based on deliveries or otherwise connected with the supplier relationship, and shall ensure the unrestricted use of the deliveries or replacement by substitute deliveries not affected by the claims or rights.

The supplier shall indemnify Benedict and hold it harmless from all claims by third parties made on the basis of statutory or other mandatory provisions under Product Liability Law and which relate to the goods supplied or services rendered by the supplier (including partial products or rendered services), as well as the costs of product recalls.

Miscellaneous

To cover its relevant risks, the supplier undertakes to take out corporate and product liability insurance with adequate insured amounts and to prove this in writing to Benedict if requested.

The supplier is only entitled to demand the temporary suspension of the performance of some or all contractual obligations, citing force majeure, if it proves the underlying circumstances beyond a doubt and in writing. The supplier undertakes, in the case of force majeure, to treat Benedict no worse than the most favoured of its other customers.

Payments or failure to pursue receivables represent neither an acknowledgement of the proper nature of deliveries nor a waiver of warranty claims, damages or other legal titles to which Benedict is entitled, or the recognition of certain legal positions.

Applicable law and arbitration clause

In these Conditions of Purchase, all orders and the entire supplier relationship between the parties is subject to Austrian substantive law. The application of the United Nations Convention on the International Sale of Goods (CISG) is excluded. All disputes arising out of individual orders or otherwise from the supplier relationship between the parties or relating to its violation, termination or nullity shall be decided according to the rules of the Arbitration and Conciliation Code of the International Arbitration Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one or more arbitrators appointed in accordance with these rules. The place of arbitration and seat of the court of arbitration shall be Vienna (Austria). The language to be used in the arbitration proceedings shall be German. The occurrence of disputes in connection with the supplier relationship shall not entitle the supplier to withhold or discontinue confirmed deliveries/services or to reject orders.