



VARTA Consumer Batteries GmbH & Co. KGaA Purchasing Conditions

01 Scope of application All orders or framework contracts that have been made shall be subject to these Purchasing Conditions and shall be deemed to have been accepted, while specific provisions stipulated in the order or contract shall take precedence. The Contractor (hereinafter referred to as CT) shall bear all costs incurred as a result of a culpable failure to adhere to the Purchasing Conditions of VARTA. The general terms and conditions of the CT shall not apply, even if we have not expressly contradicted them; both parties shall be bound by the Purchasing Conditions of VARTA. Any deviating conditions contained in an offer, the confirmation of an order or other explanations by CT shall only apply if they are expressly confirmed by VARTA in writing; this shall also be the case where VARTA fails to express any objection to the deviation.

02 Offers Offers are to be made by the CT according to the inquiry submitted by VARTA. If deviations from the inquiry are required for achieving the goal of the contract or for other understandable reasons, VARTA is to be informed of these deviations in the offer. Offers for VARTA are made free of charge.

03 Conclusion of contract A contract is deemed concluded when the CT provides written confirmation of VARTA's written order or when both parties sign a contract. Where a framework contract has been signed, confirmation of individual despatches is not required. Changes, additions, subsidiary agreements or supplements are only considered binding when they are confirmed in writing by both parties. If the CT does not confirm an order within 14 days, VARTA is entitled to revoke the order.

04 Delivery and service Delivery and service is to be rendered in accordance with the requirements in the order/framework contract and currently valid technical specifications. In particular, all the listed deliveries and services as well as all documentation material are to be included for the delivery or service to be considered complete. The delivery and service is to meet all the legal and official regulations in the land where the product will be used, in particular safety and environmental rules as well as the relevant technical regulations. A change to the delivery or service item(s) in the order/framework contract may only be made with written agreement from VARTA. If the CT considers a change to be necessary, he is to inform VARTA promptly and thoroughly about the extent of the change and its costs. The CT shall not make or be reimbursed for deviations carried out without written permission from VARTA.

05 Despatch Deliveries and services are to be made to the delivery address stipulated in the order/framework contract. Two copies of despatch notes are to be sent separately on the day of delivery to the purchasing department of VARTA. Another copy is to be included with the delivery. The order number and order date are to be indicated on the back of the consignment note or the parcel registration card. In the case where no delivery address has been included in the order/framework contract, delivery is to be made to the following addresses:

Werk Ellwangen:
VARTA Consumer Batteries GmbH & Co. KGaA
Alfred-Krupp-Str. 6
D-73479 Ellwangen

Werk Dischingen:
VARTA Consumer Batteries GmbH & Co. KGaA
Zwinkelweg 2
D-89561 Dischingen

Goods are accepted from 6:00 a.m. to 6 p.m. Monday to Friday.

06 Passing of risk The risk of accidental loss or accidental deterioration of the delivery or service item shall not pass to us until VARTA has received the merchandise according to these conditions.

07 Payment Bills from the CT may not contain any other messages except the information related to the order by VARTA. In case of an error in delivery, VARTA is entitled to withhold payment in proportion to the value of the goods still to be delivered and until proper fulfilment of this obligation.

08 Withdrawal The CT is not entitled to assign rights and obligations from the contractual relationship to third parties without the agreement of VARTA; exempt here from is an assignment of claims by the CT to his bank.

09 Transfer of ownership The CT transfers the ownership of the delivery items to VARTA as soon as delivery has been made according to the agreed delivery conditions.

10 Deadlines The delivery deadlines stipulated in the order/framework contract are an essential part of the contract and must be maintained. If a deadline is missed, the CT is to inform VARTA as soon as possible, meaning as soon as it is clear to him, about the reasons and the predicted length of the delay. The CT is obliged to make an increased effort at his own cost to make the delay as short as possible. If the CT defaults in delivery, VARTA is entitled to the legal right to withdraw from the contract or make claims for damage compensation after setting a reasonable grace period.

11 Contractual penalty If the CT defaults in his fulfilment of the agreed deliveries and services by the agreed deadlines, VARTA reserves the right to request payment of a contractual penalty of 1% of the entire value of the order at the beginning of every week following the missed deadline, but limited to 10% of the entire value of the order. The acceptance of a late delivery item does not exclude claims for a forfeited contractual penalty, provided that VARTA reserves the right to the contractual penalty when accepting the delivery.

12 Subcontractors To the extent that the CT avails himself of the services of a subcontractor for providing not only inessential but also significant deliveries and services, he is obliged to obtain authorisation from VARTA. VARTA will only refuse to grant authorisation for important reasons.

13 Claims of fault The CT guarantees that the service and delivery items supplied by him do not contain faults or defects, meaning they do not have errors and meet the requirements stipulated in the contract. If this is not the case, VARTA is entitled to demand subsequent performance, a replacement delivery or reproduction of the item. If subsequent performance fails to resolve the problem or in case this does not take place within the reasonable period set by VARTA, VARTA can make use of its right to reduction of the price or withdrawal from the contract. Without prejudice to the CT's liability for defects, VARTA is entitled, in cases of faults or defects which represent an operational safety risk or whose removal is required to avoid greater damage, to undertake removal on its own at the cost of the CT or to let third parties do so, if the CT is immediately informed and it is determined that the CT cannot undertake removal in the same amount of time. The legal right to claim compensation for damage is not limited by this condition.

14 Period of limitation for claims of fault The period of limitation for claims of fault is set at 36 months after delivery. For replaced delivery items or parts therefrom, the period of limitation begins anew after the successful replacement unless the replacement is only marginal in proportion to the inquiry. The same shall apply to improved delivery items or parts therefrom if the same defect occurs or the defect is caused by a defective improvement.

15 Notice of defects The period for reporting defects according to section 377 HGB (Commercial Code) is 14 calendar days. The period begins with the observation of defects upon delivery or, in cases of concealed defects, upon their discovery.

16 Industrial property rights If a third party makes legitimate claims against VARTA for a negligent infringement on industrial property rights or copyrights (hereinafter referred to as property rights) as a result of products delivered by CT and used according to the contract, the CT assumes liability for VARTA as follows:

- At his own cost, the CT will either obtain the user rights for the product, change the product so that the property rights are not violated, or replace the product. If this is not possible, VARTA is entitled to use another product. The CT will take back his product and reimburse VARTA for all the costs incurred in the replacement process. The CT is furthermore obliged to release VARTA from any claims.
- VARTA is not entitled to recognise a claim made by a third party for an infringement on property rights and is to immediately and comprehensively inform the CT about any such infringement. Only the CT is authorised to negotiate with third parties on this subject.
- The period of limitation for legal complaints is set at 36 months.

17 Product liability Where the CT is responsible for product liability damage, he is to release VARTA from any claims for compensation made by third parties as long as the cause of the product liability damage lies in the domain and organisation of the CT. The CT is to reimburse VARTA for all expenses incurred in this context. The CT is obliged to take out product liability insurance with a limit of indemnity amounting to at least 3 million Euros for bodily damage and property damage; if VARTA is entitled to other damage compensation claims, these remain unaffected.

18 Liability To the extent that something is not regulated in the order/framework contract or in these purchasing conditions, the basis and the amount of the CT's liability is determined by the appropriate legal directives.

19 Insurance The CT is obliged to obtain the insurance common in his field and in the appropriate amount and to demonstrate this upon request by VARTA.

20 Withdrawal Irrespective of the cases defined in these Purchasing Conditions for the withdrawal from the contract and the legally defined ways of rescinding or withdrawing from a contract, VARTA is entitled to withdraw from a contract for the following reasons:

In case of a crude violation of the contract by the CT, VARTA is entitled to rescind the contract and may choose to request either remuneration for previously made payments in exchange for returning the delivery or service items or to retain the delivery or service items in exchange for payment of a percentage of the purchase price. VARTA shall not recognise any other claims made by the CT. VARTA's legal and contractual right to claim compensation for other emerging damages remains unaffected. If a contractual partner stops making payment or if judicial bankruptcy proceedings or non-judicial insolvency proceedings are commenced against his assets, the other party is entitled to rescind the contract for the non-fulfilled part.

21 Force majeure Neither of the contractual parties is responsible for events defined as force majeure. Events classified as force majeure are in particular war, fire, flooding, earthquakes, strikes and other events which lie beyond the control of the contractual parties. The deadline for fulfilling contractual obligations will be extended in accordance with the duration of the disruptive event. The partner which is unable to fulfil his contractual obligation on account of force majeure is obliged to inform the other party within 10 days of any such event and its expected length, and to demonstrate proof of this disruptive event, e.g. by providing confirmation from the Chamber of Commerce. If one of the contractual partners cannot be expected to fulfil his contractual obligation on account of the previously mentioned reasons, he is hereby authorised to withdraw from the contract without having to recognise any claims for damage compensation.

22 Confidentiality VARTA reserves its property rights and copyrights in drawings, patterns, documentation, CAD data and other documents as well as the data carriers (hereinafter referred to as information). These may only be used for the production of the items included in the order/framework contract. Making copies of the information is only permitted for operational requirements and for determining copyright. The information is to be kept confidential, may not be made available to third parties and is to be returned after the completion of the order. The preceding obligation to confidentiality remains in effect for a period of three years after the conclusion of the commercial relationship. Subcontractors are likewise obliged to maintain confidentiality.

23 Publications The CT may only name VARTA, VARTA trade marks or other VARTA labels as references or in publications, or advertise the commercial relationship in any other way, if VARTA has agreed to this in advance in writing.

24 Applicable law and court of jurisdiction The court of jurisdiction for all disputes arising in connection with this contractual relationship is Ellwangen (Jagst), Germany. All legal relationships in connection with this contract are defined by German law and in accordance with the UN Convention on Contracts for the Sale of International Goods (CISG).

Dated: 05/2010