

Standard terms and conditions of purchase and **privacy policy** of TMD
(TMD Friction Holdings GmbH, TMD Friction Services GmbH, TMD Friction EsCo GmbH, TMD Friction GmbH, TMD Performance GmbH)

1. Placement of orders

- 1.1 The following terms and conditions apply exclusively to all legal transactions between us and the supplier. Other standard terms and conditions and, in particular, terms and conditions of sale do not apply even if we do not expressly object to them.
- 1.2 Exceptions to our terms and conditions of purchase will only be binding on us if we have accepted or confirmed them in writing.

2. Order acceptance

- 2.1 Orders shall be confirmed by the supplier within 24 hours of receipt.
- 2.2 If we do not receive the supplier's order confirmation within the period stated above, the order will be deemed not to have been placed.
- 2.3 Obvious errors, such as typing or calculation errors in a purchase order will not be binding on us, even if we have accepted the order.

3. Delivery date

- 3.1 The delivery date stated in the purchase order is binding. It is calculated from the date the order was placed. The delivery date will only be deemed to have been observed if the subject matter of the order has been received in full or the service rendered at the location we have specified.
- 3.2 Where the supplier is in default of delivery, we will be entitled to exercise our statutory rights. In particular, we will be entitled to claim damages in lieu of performance after setting a reasonable grace period which ended without yielding any results. Our right to receive the goods or services will only be excluded after the supplier has paid any damages in full.
- 3.3 The supplier shall promptly notify us in writing of any impending delays in delivery.

4. Transport costs and transport risk

- 4.1 The supplier shall bear all direct and indirect transport costs.
- 4.2 Unless otherwise agreed, the supplier shall take out an adequate transport insurance at its expense.
- 4.3 The risk in all the goods and/or services delivered based on our purchase orders will only pass to us on the date when the goods have arrived and/or the services have been rendered at the location we have specified and after we have received a proper dispatch notice or proof of performance.

5. Delivery

- 5.1 Each delivery must be notified in writing to our purchasing department at least two days before the arrival of the goods or services, stating the exact delivery date. The operative event for determining the timeliness of delivery is the date of arrival. The date and number of our purchase order as well as our material number shall be stated in all shipping and freight documents, and a delivery note stating the weight shall be enclosed to each package. Every delivery of raw materials shall be accompanied by a safety data sheet in the language of the country of delivery. Alternatively, the safety data sheet can be sent to the following Email address: sdb@tmdfriction.com.

- 5.2 Where the supplier's performance is subject to acceptance, this can only be carried out at the place of performance we have specified. The supplier or his representative may attend such acceptance procedures if they reserved this right in their order acceptance. Circumstances beyond our direct sphere of influence release us from the acceptance obligation for the duration of the effect thereof.

- 5.3 The supplier may only deliver the quantities specified in our purchase order. Our liability for safekeeping of excess deliveries will be limited to the customary care applied to our own goods. We will be entitled to return any excess deliveries at the expense and risk of the supplier without the need for a formal notice. At our request, the supplier shall promptly collect the excess deliveries at the place of performance at their expense and risk.

6. Prices and payment

- 6.1 The prices specified in our purchase orders are binding. Any price variations that would impose extra costs on us must be approved by us in writing. All prices shall include packaging. The return of packaging material shall be subject to a separate agreement.
- 6.2 Every invoice shall include our order number and date as well as the shipping address and specify the shipping method. A separate invoice shall be issued for each order.
- 6.3 By accepting the order, the supplier accepts our payment terms of 30 days from the date of receipt of the invoice or if we have not received the goods or services by this time, to give us a discount of 2.5% from the date of receipt of the goods or performance of the service. Our payments are eligible for cash discount if we have instructed our bank to make them within the aforementioned periods or - in the case of cheque payments - we have sent the cheques for the relevant amount to the supplier.
- 6.4 Our payment shall not be construed as a defect-free acceptance or a waiver of the notification of defects.

7. Warranty

- 7.1 We examine the goods arriving at our premises or the services rendered to us within the customary inspection periods. The supplier hereby waives any objection to delayed notifications of defects. In any case our inspection obligation will only begin after the goods have been received in full at the place of performance we have specified and after we have received a proper despatch notice.
- 7.2 If the goods have a material defect, we will be entitled to exercise our statutory rights at our choice. A rectification of defects shall be deemed to have failed after one unsuccessful attempt. We will be entitled to withdraw from the contract even in the case of a minor breach of contractual obligations by the supplier. In urgent cases we will be entitled, without setting a deadline and after consultation with the supplier, to remedy any defects ourselves or to have them remedied by third parties or to make a replacement purchase at the supplier's expense.
- 7.3 Where defective goods are returned to the supplier, this shall be at the supplier's expense and risk. We can also demand compensation from the supplier for those expenses that we have to bear in relation to our customer if the defect already existed when the risk was passed to us.
- 7.4 Our claims for defects are subject to statutory limitation periods. They start to run upon the timely receipt of a notification of defects within the meaning of 7.1 above. The

Standard terms and conditions of purchase and privacy policy of TMD
(TMD Friction Holdings GmbH, TMD Friction Services GmbH, TMD Friction EsCo GmbH, TMD Friction GmbH, TMD Performance GmbH)

- liability of the supplier for defects ends at the latest ten years after delivery of the goods. This limitation shall not apply if our claims are based on facts that were known or should have been known to the supplier or which the supplier failed to disclose to us.
- 8. REACH**
- 8.1 The supplier is solely responsible for ensuring that the delivered goods are fully compliant with the requirements of EU Regulation No 1907/2006 (REACH) of 18 December 2006, as amended, including all changes as well as any national regulations which have been issued to implement the EU Regulation.
- 8.2 The supplier hereby warrants that they have met all obligations resulting from REACH. In particular, the supplier hereby warrants that any chemical substance which is used or contained in his goods has been approved and released for our use.
- 8.3 If the substance is subject to approval under REACH, the supplier hereby warrants that all the approval restrictions of Annex XVII to REACH have been adhered to and that the supplier has fulfilled their obligation to provide comprehensive safety data sheets in accordance with REACH. The supplier further warrants that they have complied with the requirements arising out of Article 32 and 33 of REACH.
- 8.4 The supplier shall monitor and review the published list of substances requiring approval by the European Chemicals Agency (List of Substances of Very High Concern under REACH) and notify us without delay as soon as goods are delivered, which contain a substance which must be included ex officio into the list of Substances of Very High Concern.
- 8.5 The supplier undertakes to inform us duly and promptly of any changes, which have an impact on the compliance with REACH and to provide us, without the need for a formal request and at their expense, with all the necessary information that we require to ensure that the requirements of REACH Regulation have been met.
- 8.6 Where the supplier is not domiciled in the EU, the supplier shall appoint a sole representative, established in the EU and who will be responsible for ensuring compliance with the import requirements of REACH. The supplier shall provide us with the contact details of this sole representative without the need for a formal request prior to delivery.
- 8.7 We reserve the right to cancel orders if goods are delivered that do not comply with the aforementioned conditions. In the event of a cancellation of blanket or individual orders or a proven violation of national or international provisions ensuring compliance with REACH, the supplier shall indemnify and hold us harmless against any actions, liabilities, losses, damages, judgments and liabilities to third parties, on whatever legal basis, and to bear any loss, damage or other detriments suffered by us as a consequence of such violation.
- 9. Energy efficiency**
- The supplier shall comply with all relevant laws and regulations on energy efficiency.
- 10. Intellectual property rights, confidentiality obligation**
- 10.1 The supplier warrants that his delivery or service does not violate any domestic or international intellectual property rights (patents etc.) and/or rights of use or exploitation of third parties. The supplier shall indemnify us against any third-party claims in this respect. The supplier's indemnification obligation shall extend to any necessary expenses incurred by us as a result of or in connection with the third-party claim.
- 10.2 Any information, either oral, written or in the form of drawings, that the supplier receives from us, shall be treated as confidential, even if such information has not expressly been designated as confidential. We retain all intellectual property rights, copyrights, rights of use or exploitation with respect to information supplied by us, in particular, as regards any drawings, drafts, descriptions, attachments, etc. They are furnished to the supplier for his exclusive personal use for the purpose of our respective purchase order. The above documents shall be treated as confidential and may not be reproduced or made accessible to third parties without our written consent – even after execution of the order – and shall not, in particular, be brought to the knowledge of our competitors in any form. The supplier shall be liable for damages if such documents pass from the supplier's area of responsibility into the possession of third parties, who then proceed to use or exploit them. The supplier's fault will be presumed.
- 10.3 If our purchase order is not accepted, all documents attached to our purchase order shall be returned to us promptly without the need for a formal request. The same shall apply after execution of our purchase order.
- 10.4 Any tools, matrices, utilities, etc. manufactured according to our specifications, drawings or documents may only be used solely for our purposes, irrespective of whether we or the supplier are the owners of such items. The supplier shall assume liability for the proper handling and safekeeping of all items furnished to the supplier at the time of order placement and in the course of the execution of the order. The same shall apply to all items, etc. made available by us for the execution of the order; immediately upon completion of the order such items shall be returned to us upon request and free of charge at the supplier's risk.
- 11. Quality, safety of the delivered goods**
- 11.1 With regard to initial sample deliveries we refer to the VDA publication "Quality protection of supplies, selection of suppliers, sample deliveries, quality performance in series production" in its most recent version. Irrespective of this, the supplier shall inspect the quality of the contractual items on an ongoing basis. The parties shall share information about any possible quality improvements.
- 11.2 The supplier shall inform us in writing of any changes in the production process and/or the item to be delivered and to document such changes. Such changes require our previous written consent prior to their implementation.
- 11.3 The goods delivered to us shall comply with the applicable accident prevention regulations, other safety regulations, in particular VDE regulations, TÜV specifications, the state of the art, the provisions of the Law on Equipment Safety as well as the provisions of the Machinery Directive (2006/42/EG). If any purchase orders issued by us should give rise to objections regarding compliance with the above regulations, the supplier shall immediately inform us accordingly in writing prior to accepting the order.
- 11.4 The supplier shall retain any quality documentation in accordance with VDA (for example control plans, drawings and documents related to sampling) for a duration of 15 years after such documentation has been set up and to provide us with such documents upon our request. The

Standard terms and conditions of purchase and **privacy policy** of TMD
(TMD Friction Holdings GmbH, TMD Friction Services GmbH, TMD Friction EsCo GmbH, TMD Friction GmbH, TMD Performance GmbH)

- supplier also shall comply with the notified specific requirements of our customers and the VDA guidelines on quality management in the automotive industry.
- 12. Call-off orders**
- We are entitled to increase the ordered quantities in line with our future needs. The supplier undertakes to accept and execute subsequent orders or call-offs under the contract in accordance with our terms and conditions of purchase.
- 13. Set-offs, right of retention, assignment**
- 13.1 The supplier is only entitled to set off undisputed or legally established claims and exercise the right of retention in relation to such claims.
- 13.2 Subject to Article 354a of the German Commercial Code (HGB), the supplier's claims arising from the purchase order may only be assigned to a third party with our previous written consent.
- 14. Product liability, indemnity, insurance coverage, cartel damage**
- 14.1 Where the supplier is responsible for the damage to a product, they shall indemnify us against third-party claims at first request, insofar as the cause is within their sphere of influence, and they are liable for damages in relation to third parties.
- 14.2 In this context, the supplier shall reimburse any expenses in accordance with Articles 683 and 670 of the German Civil Code (BGB) arising from or in connection with a recall instigated by us. Where feasible and reasonable, we shall inform the supplier about the content and scope of the recall and give him the opportunity to comment.
- 14.3 The supplier shall maintain adequate product liability insurance at their own expense. The coverage shall be adequate taking into account the nature and quantity of the goods to be delivered. We are entitled to demand a written proof of adequate product liability insurance.
- 14.4 In the event that the supplier is/was a member of an illegal cartel and in particular if they participated in fixing prices and/or terms and conditions, he shall pay us liquidated damages in the amount of 15 % of the total amount of the orders which we placed with them during the duration of the cartel, unless the supplier proves that the actual amount of damage was lower. This applies to cartels violating national law as well as cartels violating EU law. Membership of the supplier in an illegal cartel shall be established if the supplier is fined by a competition authority or is exempt from a fine because he applied for a leniency programme.
- 15. Compliance, accident prevention regulations and other provisions**
- 15.1 The supplier shall comply with all laws and regulations which are applicable to the supplier; the supplier shall, in particular, observe the ethical standards which are usual in their industry and monitor compliance with such laws and regulations.
- 15.2 Suppliers and their employees carrying out work on our premises shall observe the applicable accident prevention regulations. The applicable accident prevention regulations of the competent trade association can be made available on request. In addition, the safety regulations covering the conduct on our premises as well as the regulations governing the entering and leaving of our premises apply in a supplementary manner. We do not accept any liability for any damage or loss arising from the non-compliance with regulations or instructions; the supplier shall be liable for any damage incurred by us for the same reason.
- 15.3 The supplier hereby confirms that they have read the UN Global Compact Principles available at <http://www.unglobalcompact.org> "The Ten Principles" and that they will comply with the provisions and rules contained therein.
- 15.4 If the supplier or the supplier's bodies and/or employees are in violation of criminal law provisions in the country where the supplier has its place of business or in the country in which the supplier performs the major part of their services to us, we will be entitled to terminate the contract for good cause with immediate effect.
- 15.5 If the supplier or the supplier's bodies and/or employees are in violation of the legal provisions in the country where the supplier has its place of business or in the country in which the supplier performs the major part of its services to us and fails to stop this violation within 30 days of receipt of a written reminder from us, we will be entitled to terminate the contract with immediate effect.
- 15.6 If the supplier or the supplier's bodies and/or employees are in violation of the UN Global Compact Principles and they fail to stop this violation within 30 days of receipt of a written reminder from us, we will be entitled to terminate the contract by giving a three months' notice with effect from the end of the calendar month.
- 15.7 **Conflict minerals:** The supplier hereby confirms that they do not purchase the materials mentioned in the Dodd Frank Act (Dodd-Frank Wall Street Reform and Consumer Protection Act section 1502) and all other future materials from the countries mentioned in the Dodd Frank Act.
- 15.8 The supplier hereby confirms that to the extent that they sell recycled material to us, this material is purchased from smelters mentioned in the listing of "CFS Compliant Smelters".
- 15.9 The supplier shall send TMD without the need for a formal request documents confirming their compliance with the duties described above and to submit to an audit by TMD, if required.
- 15.10 The supplier shall impose the same obligations on their suppliers as the supplier has under these standard terms and conditions.
- 15.11 The supplier hereby undertakes to comply with the requirements of the EU General Data Protection Regulation (EU GDPR) and indemnify TMD accordingly.
- 16. Export control and customs**
- 16.1 The imported goods shall be delivered duty paid. The supplier agrees to permit inspections by the customs authorities, to provide explanations and information and to transmit all required official confirmations at their expense. Specifically, the supplier shall be responsible for providing the correct customs values.
- 16.2 In the case of goods and services imported from EU countries, the supplier shall always state the EU VAT identification number.

Standard terms and conditions of purchase and privacy policy of TMD
(TMD Friction Holdings GmbH, TMD Friction Services GmbH, TMD Friction EsCo GmbH, TMD Friction GmbH, TMD Performance GmbH)

- 16.3 The supplier shall comply with the applicable German, European and US export and customs regulations as well as the export and customs regulations of the country of origin for all the goods and services to be supplied by them.
- 16.4 The supplier shall inform TMD in writing of any permits required for the (re)export of the goods under the German, European and US export and customs provisions as well as under the export and customs provisions of the country of origin.
- 16.5 For goods from preference countries, the supplier shall have each shipment accompanied by complete and correct preference certificates and/or supplier declarations. The long-term supplier declarations must be presented once a year.
- 16.6 In order to fulfil the duties mentioned above, the supplier shall make available all required documents and information, in particular (i) the relevant export listing numbers, (ii) the ECCN (Export Control Classification Number of the US Commerce Control List), provided the US Export Administration Regulations apply to the goods, (iii) the commodity code in accordance with the current commodity classification of the foreign trade statistics and the HS (Harmonised System) Code, and (iv) the certificates of origin. In addition, the supplier shall designate a contact person in their company to clarify any queries.
- 17. General**
- 17.1 If the supplier terminates the delivery or services agreement, the supplier will remain obliged to continue to supply the goods, which TMD orders either for the duration of 12 months or as long as it reasonably takes for TMD to obtain authorisation for a new supplier, whichever of the aforementioned periods is longer. If the supplier violates this obligation, the supplier shall indemnify TMD against any resulting losses, including the damage/loss incurred by TMD's customers and their customers. This is without prejudice to the supplier's right to terminate the delivery or work agreement for good cause without notice.
- 17.2 Place of performance for the supply of all goods and services shall be the place indicated in our purchase order; if no place has been indicated this will be Leverkusen, Germany. Place of jurisdiction for all obligations and disputes arising from this contractual relationship shall be Leverkusen, Germany.
- 17.3 The contractual relationship as well as these terms and conditions of purchase shall be governed by the laws of the Federal Republic of Germany, including the United Nations Vienna Convention on Contracts for the International Sale of Goods of 11 April 1980, without reference to conflict of laws provisions.
- 17.4 If any provision of these terms and conditions of purchase is held to be invalid, the remaining provisions will not be affected or impaired thereby.

18. Data processing information

Name and contact details of the controller:

TMD Friction Holdings GmbH, TMD Friction Services GmbH, TMD Friction EsCo GmbH, TMD Friction GmbH, TMD Performance GmbH, all with a business address in Schlebuscher Str. 99, 51381 Leverkusen, Germany.

Contact details of the data protection officer

datenschutz@tmdfriction.com

Processing purposes and legal basis

The controller processes personal data for the purposes of contract initiation, contract performance and implementation. In accordance with Article (6) (1) (b) EU GDPR, the processing of your data is necessary for the performance of a contract. Furthermore, we may have a legitimate interest in the processing of personal data pursuant to Article (6) (1) (f) EU GDPR. We pursue the following legitimate interests: Central administration of customers and supplier data within our group of companies, optimised implementation of the existing contractual relationship with you, in particular through the involvement of IT service providers and the coordination of business transactions with other business partners.

Data categories and data origin

The above-mentioned TMD companies process the following categories of personal data:

- Title, first name, last name
- Business email address
- Business telephone number (landline and/or mobile)

We have received this information from you or from your employer.

Recipients

We may pass on your personal data to companies affiliated with TMD.

Furthermore, your personal data will be passed on to third parties, as far as this is necessary for the performance of a contract or if we have a legitimate interest in this regard (see above).

Duration of storage

After termination of the contractual relationship or if we no longer have a legitimate interest in storing and/or processing your data, the personal data will be stored in accordance with the statutory retention or documentation requirements under the relevant commercial or tax laws.

Rights of data subjects

Under EU GDPR you have the following rights:

Right of access, rectification, erasure, restriction of processing and data portability.

In accordance with Article 14 (2) (c) in conjunction with Article 21 EU GDPR, you have the right to object to processing provided this is based on Article 6 (1) (f) EU GDPR.

Right to lodge a complaint with the supervisory authority

You also have the right to lodge a complaint with the competent supervisory authority if you believe that the processing of your personal data is not lawful. This is the supervisory authority responsible for your place of residence.

Status: January 2019