

General Purchasing Conditions of Festool GmbH

1. Area of application

1. These General Purchasing Conditions apply to all business operations between Festool GmbH (hereinafter referred to as "**Festool**") and the supplier, also if they are not mentioned for subsequent contracts. They apply to works and services accordingly. Instead of the acceptance of the supplied products, the completion is deemed as acceptance for works and the receipt of the service for services.
2. Contrary or additional conditions of the supplier or conditions of the supplier which deviate from these General Purchasing Conditions are not part of the contract, unless Festool has approved their validity in writing. These General Purchasing Conditions also apply if Festool unconditionally accepts a delivery from the supplier while aware of the supplier's contrary, additional or deviating conditions.
3. Contrary, additional or deviating agreements to these General Purchasing Conditions, which are made between Festool and the supplier for the execution of the contract, must be put in writing. This also applies to the cancellation of the requirement for this written form.
4. Rights to which Festool is entitled in accordance with statutory regulations or other agreements beyond these General Purchasing Conditions shall remain unaffected.

2. Conclusion of contract and changes to contract, implementation of contract

1. Offers, drafts, plans, quotations and samples from the supplier are free for Festool.
2. An order only becomes binding when it is issued in writing by Festool or in the case of an order placed verbally after it has been confirmed in writing by the supplier. An order compiled using automatic systems which does not bear the signature and name is also deemed to constitute the written form. If the order contains any obvious mistakes, typing or calculation errors, it is not binding for Festool.
3. The supplier must inform Festool in writing before the conclusion of the contract, if the ordered products are subject to export control in accordance with the regulations applicable in the Federal Republic of Germany or other restrictions regarding marketability. In the case of improper information, in particular in the event of a lack of information, incorrect, incomplete or untimely information, Festool is entitled to withdraw from the contract following the lapse of a reasonable deadline set by Festool, irrespective of fault of the supplier. The same shall also apply if the products are subject to an export control or other marketability restrictions. Further claims by Festool shall remain unaffected.
4. The supplier must issue a written order confirmation without delay, at the latest one week after receipt of the order. The order confirmation must include the price and delivery time. Deviations between the order confirmation and the order are only considered agreed, if they have been confirmed in writing by Festool. The same shall also apply to subsequent changes to the contract.
5. The silence of Festool regarding offers, requests or other declarations of the supplier is only deemed as

consent, if this has been agreed beforehand in writing.

6. Order confirmations, shipping notes, consignment notes, delivery notes and invoices of the supplier must contain the scope of the delivery, the product and material numbers, the delivery quantity, the date of manufacture, as well as the order details, in particular the order number, order date and supplier number.
7. If during the implementation of a contract deviations from the originally agreed specifications become necessary or appropriate, then the supplier must immediately inform Festool thereof in writing and present the suggested changes. Festool will inform the supplier if and what changes of the supplier must be implemented vis-a-vis the original order. Festool is entitled to change the order at any time, in particular with regard to the composition of the products. In these cases, the supplier must be granted an appropriate deadline for the necessary production changes. If the costs arising for the supplier through the implementation of the contract change as a result of these changes, the contracting parties shall negotiate a corresponding adjustment of the price. If no agreement on a price adjustment can be made within 2 weeks of a written request for negotiation, Festool is entitled to terminate the contract without observing a period of notice.
8. If the financial circumstances of the supplier deteriorate significantly or if the substantiated application to initiate insolvency proceedings or comparable proceedings concerning the supplier's assets is refused due to a lack of assets, Festool is entitled to rescind from the contract, in whole or in part.
9. If the supplier has his head office within the European Union, he assures Festool that the products observe the rules on preferential origin of the European Community. Before the first delivery, Festool receives a long-term supplier declaration from the supplier for the products in accordance with the EC Regulation No. 1207/2001 Annex II. If the supplier has his head office in a state associated with the European Union, he must ensure all deliveries have the valid preference certificate at the time of importation. If the supplier has his head office in a third country, he must hand over a Certificate of Origin to Festool before the initial delivery. The supplier must immediately inform Festool in writing without any special request, if the details on the supplier's declaration, the preference certificate or the Certificate of Origin no longer apply to the products.
10. Festool reserves all property, copyright and other trade mark rights to all documents transferred to the supplier. Such documents cannot be made accessible to third parties. The supplier returns all documents to Festool immediately upon request by Festool, if they are no longer required in the ordinary course of business. The same applies accordingly, in particular for all drafts, samples, prototypes and models.

3. Packaging, shipment, transport insurance, delivery and acquisition of ownership

1. The supplier must observe the guidelines of Festool for the shipment of the products, in particular the respective applicable shipment, transport, packaging and delivery regulations. The delivery must be effected in packaging suitable for the product type.

The products must be packaged in a way that avoids transportation damage. Packaging materials must only be used to the extent required. Only environment-friendly and recyclable packaging materials can be used. The supplier must mark the packaging with the scope of the delivery, the product and material numbers, the delivery quantity, the date of manufacture, as well as the order details, especially the order number, order date and supplier number. The use of reusable packaging is only permitted with the prior written consent of Festool.

2. The supplier is obligated to conclude an appropriate transport insurance policy at his own cost. Upon request, the supplier must provide Festool with evidence of the conclusion and existence of a transport insurance policy. If the supplier does not properly comply with his obligation to conclude and maintain a transport insurance policy or his obligation to provide evidence thereof, Festool is entitled, but not obligated, to conclude a corresponding transport insurance policy at the expense of the supplier.
3. A delivery note must be enclosed as a single copy with all deliveries and must contain the scope of the delivery, the product and material numbers, the delivery quantity, the date of manufacture, as well as the order details, especially the order number, order date and supplier number.
4. Deliveries can only be made on working days within normal business hours from Monday to Thursday from 7:00 to 15:30 and on Fridays from 7:00 to 11:00. The supplier exempts Festool from all claims asserted by third parties on account of deliveries made outside these times, unless the supplier is not responsible for the delivery made outside normal business hours.
5. The supplier must observe the Ordinance on Hazardous Substances (GefStoffV) for the delivery of the products, in particular must package and mark the relevant products accordingly and indicate the hazardous substances explicitly on the delivery note.
6. The products immediately become the property of Festool free of encumbrances upon their handover. The supplier assures that he is authorised to perform the resale and transfer of title.

4. Delivery time

1. The delivery deadlines and dates specified in the order or otherwise agreed are binding. The delivery deadlines start from the date of the order. The products must be received at the place of destination within the delivery period or on the agreed delivery date.
2. If it becomes evident to the supplier that the delivery period cannot be kept, he must inform Festool thereof immediately in writing specifying the reasons and the probable duration of the delay.
3. In the event of a delay by the supplier, Festool is entitled, irrespective of its legal rights, to demand a contractual penalty of 0.5% of the net order value for each commenced week of the delay, however, a maximum of 5% of the net order value, unless the supplier is not responsible for the delay in delivery. Festool must apply the penalty at the latest with the final payment. Cases of force majeure are excluded. Further claims by Festool shall remain unaffected. The right of Festool to demand delivery is only excluded, if the supplier provides compensation in place of delivery upon request by Festool. The acceptance of the delayed delivery does not

constitute a waiver of compensation claims or the contractual penalty.

4. A delivery before the agreed delivery date is only allowed upon prior written consent by Festool. Festool is entitled to store products delivered early or return such items at the expense of the supplier, unless the early delivery is minimal.

5. Prices and payment

1. The price specified in the order is binding and is understood as "*free delivery to the point of use*". In the absence of an alternative written agreement, the price includes, in particular the costs for packaging, shipping, transport and insurance to the place of destination, as well as customs and other official duties. The statutory value added tax is included in the price, if the price is not expressly designated as the net price. If, in a particular case, the shipping and transport costs are not included in the price and Festool has agreed in writing to assume the shipping and transport costs, this only applies to the costs to the amount of a reasonably priced type of shipping and transportation, also if a more rapid type of transport should become necessary in order to observe the agreed delivery deadlines and dates.
2. When a delivery exempt from value added tax is to be taken into account, the supplier must provide the necessary evidence, insofar as the evidence is to be assigned to his area of responsibility. For deliveries within the European Union, the supplier must provide his VAT ID No. of his own accord in writing, provide evidence of his entrepreneurial status, as well as assist in the production of vouchers and books for the purpose of providing proof of export.
3. Festool receives the invoice from the supplier in duplicate form. It must not be enclosed with the delivery, but must be sent separately. Invoices without details of the scope of delivery, the product and material numbers, the delivery quantity, the date of manufacture, as well as the order details, in particular the order number, order date and supplier number, are deemed not to have been received on the grounds of being impossible to process.
4. The payment is effected following acceptance of the products and receipt of the invoice within 14 days at a discount of 3% –or within 30 days net. The payment is effected subject to invoice verification. Festool is entitled to make the payment by cheque or bank transfer at its own discretion. In the event of a defective delivery, Festool is entitled to withhold the payment until the proper fulfilment without suffering a loss of discounts, early payment discounts or similar price reductions. The payment term starts in this respect after complete elimination of the defects. In the case of advance delivery of the products, the payment term starts at the earliest with the lapse of the delivery period or at the agreed delivery date. Insofar as the supplier must provide material tests, test protocols, quality documents or other documentation, the acceptance of the products only activates the payment term, if the respective documentation is handed over to Festool at the latest at the acceptance.

6. Spare parts

Suppliers of products with spare part and accessories requirements are obligated to supply Festool for a period of a further ten years from delivery with the necessary spare parts and accessories at the existing prices plus compensation for the currency devaluation.

7. Transfer of risk

1. The supplier bears the risk of accidental loss and accidental deterioration of the products up until the transfer of the products to Festool.
2. If the supplier is obligated to install or assemble the products in the Festool plant, then the risk of accidental loss and accidental deterioration of the products only passes to Festool upon the installation or assembly of the products. This also applies if Festool has assumed certain services, for example transport costs.

8. Warranty, claims for defects and guarantees

1. The supplier guarantees that the supplied products correspond to the approved samples, as well as the relevant legal provisions and the regulations and guidelines of authorities, trade associations and professional associations. The supplier releases Festool from all claims of third parties, which are asserted due to non-conformity with the approved samples or as a result of the breach of these regulations by Festool or its customers, unless the supplier is not responsible for the non-conformity with the approved samples or the breach of these regulations or guidelines. The supplier must immediately inform Festool in writing about concerns it has regarding the execution of the order requested by Festool.
2. Festool must notify the supplier of obvious defects within two weeks of delivery of the products and latent defects within two weeks of their discovery. In the case of deliveries consisting of a variety of similar products, Festool must inspect an appropriate quantity of the supplied products for defects. If the products are deemed unmarketable by the inspection, the quantity being inspected is reduced by the appropriate amount. If individual samples of a delivery are defective, then Festool can, at its own discretion, demand the singling out of the defective items by the supplier or assert claims for defects for all of the delivery. If an inspection of the products beyond the normal scope of the incoming goods inspection is required as a result of product defects, then the costs of this inspection shall be borne by the supplier. In the case of delay and loss of the notification, the timely dispatch is deemed sufficient.
3. Insofar as Festool has concluded a quality assurance agreement with the supplier, the supplier is obligated to maintain a suitable quality management system and manufacture and inspect the products to the delivered in accordance with this quality management system. If the supplier obtains production or test equipment, software, services, material or other preliminary supplies from other suppliers for the manufacture or quality assurance of the products to be supplied, then the supplier shall include this condition contractually in its quality management system or shall guarantee the quality of the other suppliers itself. The supplier will perform, in particular, its own material testing. The supplier will keep records of the implementation of

quality assurance measures and store these records, as well as other samples of the products to be supplied, in a clearly arranged manner. The supplier shall grant Festool a right of inspection in the necessary scope, explain the records and provide copies of the records and other samples. Immediately after acceptance of the products, insofar as this is feasible within the ordinary course of business, Festool shall inspect whether the delivery corresponds to the ordered quantity and the ordered type and whether there is any apparent transport damage. If a defect arises during these inspections or later, Festool must notify the supplier within two weeks of the inspection or after its discovery. A further incoming goods inspection is not carried out.

4. If the products supplied must be properly disposed of by Festool due to defects in accordance with the respective legal provisions making them unsuitable for circulation, Festool is entitled to carry out the disposal at the cost of the supplier.
5. In the case of product defects, Festool is entitled, irrespective of the legal claims based on defects, to demand as subsequent performance, at its own discretion, the immediate elimination of the defect or the delivery of defect-free products by the supplier. The supplier must bear the expenses required for the purposes of the subsequent performance. This also applies if the products were brought to a location other than the delivery address specified by Festool after the delivery based on their intended use.
6. If the supplier does not fulfil his obligation for subsequent performance within an appropriate period set by Festool, then Festool can perform the necessary measures at the cost and risk of the supplier or have a third party perform such measures, unless the supplier is not responsible for the absence of the service owed upon expiry of the grace period. No period need be set if the supplier rejects both types of subsequent performance or if the subsequent performance to which Festool is entitled has failed or is unreasonable to Festool. The subsequent performance by the supplier is considered unreasonable and unacceptable by Festool, in particular, if Festool has already delivered the defective products to third parties. Also no period need be set if the supplier seriously and definitively refuses performance or if there are special circumstances which warrant the immediate assertion of a claim for defects taking both parties' mutual interests into consideration. Special circumstances in this sense occur particularly in urgent cases, in which a subsequent performance by the supplier is not likely to eliminate the grave disadvantage to Festool. In this case Festool is entitled to perform the necessary measures at the cost and risk of the supplier, also without the fruitless expiry of an appropriate period of grace, insofar as Festool has informed the supplier thereof.
7. The acceptance of the products, as well as the processing, payment and reorder of products not yet recognised as defective, does not represent approval of the delivery and the waiver of defect claims by Festool.
8. The statute of limitations for defect claims by Festool is 36 months starting from the delivery of the products.
9. Further guarantees of the supplier remain unaffected.

9. Series faults

1. The supplier will support Festool to the best of its ability in all measures associated with a series fault and which Festool consider necessary.
2. In the case of a series fault, the supplier also records products from the relevant batch, which have already been processed, remodelled or otherwise installed.
3. In the case of a series fault, the supplier is obligated, at the discretion of Festool, to provide a replacement or eliminate the defect with regard to the entire batch affected, as well as compensate all damage arising from the series fault, in particular for the compensation of consequential damages, unless the supplier is not responsible for the breach of duty. The costs for a product recall also fall under consequential damages.

10. Product liability

1. The supplier is obligated to release Festool from claims asserted by third parties from domestic and foreign product liability, unless the supplier is not responsible for the product defects and the damage incurred according to the principles of product liability law. Further claims by Festool shall remain unaffected.
2. Within the framework of this indemnity duty, the supplier must refund Festool any expenses resulting from or in connection with a warning, replacement or recall implemented by Festool. Festool shall inform the supplier of the content and scope of the measures to be implemented, insofar as this is possible and reasonable, and give the supplier an opportunity to comment. The supplier must support Festool to the best of its ability in the measures to be implemented, and introduce all measures that can be reasonably expected of him as set out by Festool.
3. The supplier is obligated to conclude and maintain a liability insurance policy with worldwide cover and cover appropriate to the products of at least € 10 million for personal injury for each individual person and at least € 10 million for material damage for the duration of the business relationship. Festool points out that a separate insurance policy may be necessary for products which are supplied to the USA. The supplier now assigns all claims from the liability insurance with all subsidiary rights to Festool. Festool accepts this assignment now. Insofar as an assignment is not allowed according to the insurance contract, the supplier hereby instructs the insurance company to only make any payments to Festool. Further claims by Festool shall remain unaffected thereby. Upon request, the supplier must provide Festool with evidence of the conclusion and existence of a liability insurance policy. The supplier refrains from any action or omission which could jeopardise the insurance cover.
4. If the supplier does not properly comply with his obligation i.a.w. clause 3, Festool is entitled, but not obliged, to conclude liability insurance at the cost of the supplier.

11. Property rights of third parties

1. The supplier guarantees that the delivery and use of the products does not breach any domestic or foreign patents, utility models, licences or other property rights and copyright of third parties. This

does not apply if the products have been developed by Festool.

2. Insofar as Festool or its customers exercise such rights on account of a breach by virtue of the delivery and use of the products by a third party, the supplier is obligated to release Festool from these claims. The indemnity obligation refers to all expenses, which Festool incur in connection with the claim. In particular, Festool is entitled to obtain approval for the use of the products by a third party at the cost of the supplier. The indemnity obligation does not apply if the supplier is not responsible for the breach of the property rights of third parties.

12. Force majeure

1. If Festool is prevented from fulfilling its contractual duties, in particular from accepting the products, owing to force majeure, Festool is free from its performance obligation for the duration of the obstacle, as well as a reasonable start-up period, without having to pay the supplier damages. The same shall also apply if the fulfilment of its duties is made unreasonably difficult or temporarily impossible for Festool as a result of unforeseeable circumstances which are not the responsibility of Festool, in particular by a labour dispute, official measures, energy shortages or significant operational interruptions. Festool may refuse the acceptance of the products, if such circumstances prevent the sale of the products as a result of reduced demand. This also applies if such circumstances occur at a time at which Festool is in default of acceptance.
2. Festool is entitled to withdraw from the contract if such an obstacle lasts longer than four months and Festool no longer has an interest in fulfilling the contract as a result of the obstacle. Upon request from the supplier Festool will declare after the expiry of the deadline whether it will exercise its right of withdrawal or accept the products within an appropriate time period.

13. Liability of Festool

1. Festool is liable without limitations for damages from the breach of a warranty or injury to life, limb or health. The same shall also apply to intent and gross negligence or insofar as Festool has assumed a procurement risk. Festool is only liable for simple negligence, insofar as essential duties are breached, which result from the nature of the contract and which are of particular importance for the achievement of the purpose of the contract. In the case of a breach of such duties, delay and impossibility, the liability of Festool is limited to those damages which could be reasonably foreseen within the framework of the contract. A mandatory legal liability for product defects remains unaffected.
2. Insofar as the liability of Festool is excluded or limited, this shall also apply to the personal liability of employees, representatives and subcontractors of Festool.

14. Confidentiality

1. The parties are obligated not to disclose all information made accessible to them, which is marked as confidential or in other circumstances is recognisable as company or business secrets, for a period of five years from delivery, and not to record

- or forward or utilise this information, unless required for the purpose of the business relationship.
2. The obligation to maintain secrecy does not apply, if it can be proven that the receiving party was already aware of such information or the information was generally known before the commencement of the contractual relationship or was made accessible to the general public or was made known or accessible through no fault of the receiving party. The burden of proof lies with the receiving party.
 3. The parties will ensure through suitable contractual agreements with the staff and representatives employed by them, in particular their freelance employees and contractors, as well as service providers, that these people will also refrain from the utilisation, disclosure or unauthorised recording of such business or company secrets for a period of five years from delivery.

15. Final provisions

1. The supplier is only entitled to transfer rights and duties to third parties upon the prior written consent of Festool. Subcontractors of the suppliers are considered agents. Festool must be immediately notified in writing of subcontractors or agents upon request.
2. Payments are only made to the supplier. The supplier is only entitled to offset counterclaims against payments due if the claims have been established as legally binding or are undisputed. The supplier can only assert a right of retention if its counterclaim is based on the same contractual relationship.
3. The law of the Federal Republic of Germany with the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) applies to the legal relationships between the supplier and Festool.
4. The sole place of jurisdiction for all disputes arising from the business relationship between the supplier and Festool is the head office of Festool. Festool is also entitled to file a lawsuit at the head office of the supplier, as well as at any other permissible court of jurisdiction.
5. Unless otherwise agreed, the place of fulfilment for all services of the supplier and Festool is the head office of Festool.
6. The contract language is German.
7. If a provision of these General Purchasing Conditions is or becomes ineffective or unenforceable, in part or in whole, or if there is an omission in these General Purchasing Conditions, the validity of the remaining provisions shall remain unaffected thereby. In place of the ineffective or unenforceable provision, the effective or enforceable provision which comes as close as possible to the purpose and intent of the ineffective or unenforceable provision is understood as agreed. In the case of an omission, the provision which corresponds to what would have been agreed according to the purpose of these General Purchasing Conditions, if the contracting parties had considered the matter at the outset, is understood as agreed.