

# General Terms and Conditions of Purchase

## 1. Scope of Application, German Law

1.1 The following General Terms and Conditions of Purchase apply exclusively to our orders, unless other conditions have been expressly approved by us in writing. Our General Terms and Conditions of Purchase also apply if we, in the knowledge that the conditions of the supplier either contradict or derogate from our General Terms and Conditions of Purchase, accept the delivery from the supplier without reservation.

1.2 Our General Terms and Conditions of Purchase also apply to all future transactions with the suppliers.

1.3 The law of the Federal Republic of Germany shall apply.

## 2. Orders

2.1 Only orders given in writing have binding effect. Verbal understandings given on the conclusion of the agreement require our written confirmation to be valid.

2.2 Orders are given expressly and exclusively on our order form. The order is only due and proper if reference is made therein to the offer of the supplier or if a photocopy of this offer is attached to our order.

2.3 Acceptance of the order shall be confirmed without undue delay in writing.

2.4 Deliveries which are made without written confirmation are regarded as unreserved recognition of our General Terms and Conditions of Purchase. The acceptance of the merchandise does not signify the recognition of other terms and conditions.

## 3. Offer from Supplier

3.1 Offers from our suppliers represent applications to conclude an agreement subject to our General Terms and Conditions of Purchase.

3.2 If no other agreement is made in writing in an individual case our supplier is bound to its offer for eight weeks - calculated from the date of the receipt by us of the offer.

## 4. Prices, Payment Conditions

4.1 The prices named in the order are fixed prices, irrespective of whether these are individual orders or orders as part of a frame agreement. Given the lack of any deviating written agreements, the price includes delivery "free domicile" and appropriate packaging. The prices are otherwise net prices plus statutory VAT.

4.2 Freight, customs charges, taxes (with the exception of VAT) and other charges are included in the prices, if not expressly agreed otherwise in writing.

4.3 The supplier may only charge us for packaging materials if we have given our prior consent thereto. If the packaging material can be recycled and we return it to the supplier we shall either not be invoiced for such material or we shall be reimbursed therefore.

4.4 We shall only bear the costs for in-transit insurance if we have expressly instructed the supplier to take out in-transit insurance.

4.5 We are entitled to stipulate provisions relating to packaging, the choice of the means of transport, the transport route and transport insurance.

4.6 In as far as not otherwise agreed in writing, we shall not make any advance payments. If an advance payment has been agreed with the supplier in writing in an individual case he shall provide us with reasonable security of our choice.

4.7 Payments shall be made by credit transfer, cash payment or by acceptance free of charge for the supplier, as we choose.

4.8 Our payments shall be made within 14 days with 3 % discount, within 30 days with 2 % discount or within 90 days net after delivery and receipt of invoice.

4.9 If we ascertain defects on acceptance, part of the invoiced amount which appears acceptable to us shall be retained by us until such defects have been remedied.

4.10 We have the right of set-off with own claims due vis-à-vis the supplier.

4.11 Set-off against our claims by other companies in our group is ruled out.

## 5. Delivery Date, Delivery, Quantity to be Delivered

5.1 The agreed delivery times or dates shall always be binding. They are stipulated according to the calendar and are fixed dates. The delivery date is the date of arrival of the merchandise or service at the delivery address supplied by us.

5.2 Irrespective of the provisions in 5.4, we are entitled to assert in individual cases that our interest in the provision of the service no longer exists. In this event we may rescind the agreement without further prerequisites if the deadline is not met.

5.3 In the event of delayed delivery for which the supplier is responsible after a separate reminder we shall be reimbursed for all damage incurred by the delay. A reminder is not necessary if a deadline has been determined according to the calendar. We may demand compensation instead of performance after fruitless expiry of an appropriate deadline set by us.

5.4 In the event of delayed delivery we are entitled to rescind the agreement after fruitless expiry of an appropriate deadline set by us - irrespective of whether or not the supplier is responsible for the delay.

5.5 If it is recognizable that delivery dates cannot be kept the supplier shall contact us without undue delay. If he omits to inform us without undue delay or if he does so with a delay he shall reimburse us for all damage arising from the lack of or delayed information - irrespective of our further claims.

5.6 The acceptance of delayed deliveries and services does not represent a waiver of the claims to reimbursement.

5.7 Circumstances relating to force majeure, including strikes, lock-outs, disruption to transport and operations in our area for which we are not responsible shall release us or our subsidiaries for the period in which our obligation to accept merchandise is affected. Claims of the supplier for consideration and compensation are ruled out in such cases.

5.8 If we provide the supplier with technical assistance and provide appliances and/or personnel for this purpose, we shall invoice the supplier at our price or cost rates, provided no other agreements have been made in writing. We are entitled to deduct the invoiced amount for the assistance from the relevant invoice of the supplier.

5.9 The supplier is not entitled to deliver an amount other than that ordered by us.

## 6. Dispatch

6.1 We are entitled to determine the method of dispatch, the dispatch route and the forwarder or freight carrier. Irrespective of this provision, the supplier bears the costs for dispatch.

6.2 If - after express written declaration of intent - we are supposed to assume the costs of dispatch and leave the supplier free to ascertain the method of dispatch, he must select that method of dispatch which offers the greatest dispatch security and the most favourable cost. The supplier is only entitled to arrange the dispatch with his own vehicles with our express written permission.

6.3 If the supplier infringes these provisions he shall bear the resulting additional costs. We are entitled to deduct these extra costs from the invoice of the supplier.

## 7. Order Confirmation, Invoices, Delivery Notes, Dispatch Papers

7.1 One copy of the order confirmation and two copies of invoices shall be sent by separate post; they may not be enclosed with the merchandise.

7.2 Two copies of the delivery note shall be enclosed with the merchandise. They shall be attached clearly and visibly, protected by a self-adhesive plastic bag, to the outside of the packaging/merchandise.

7.3 The supplier is obliged to provide at his own cost all necessary documents accompanying the merchandise, shipping documents and other dispatch papers at his own cost and to provide us with such papers in due time.

7.3 All the aforementioned articles shall include the exact description of the scope of delivery, giving article, type, quantity, weight, our order and invoice number, our consecutive number and our file number.

7.4 In as far as acceptance of a delivery is dependent on documents being submitted we are not in arrears with receipt if the supplier has not submitted the documents in good time - including a reasonable time for their review.

7.5 The document binding for the delivered quantity is the record of acceptance (receipt of merchandise certificate) of our respective place for receipt of goods.

7.6 The supplier shall pay any extra costs incurred as a result of the non-observance of the above provisions.

## 8. Transfer of Risk

8.1 When the delivery is unloaded at the place of receipt named by us the risk is transferred to us.

8.2 If acceptance is agreed in a works supply agreement (delivery including assembly) the risk is not transferred to us until acceptance.

## 9. Liability for Defects

The statutory provisions apply to our rights with respect to material and legal defects with the following additions:

a) The limitation period for claims owing to defects is two years with effect from delivery, unless a longer period is provided for under statute. In cases in which acceptance of the works delivery is agreed under statute or contract the limitation period begins to run on acceptance.

b) If the merchandise delivered or services provided are defective we are entitled to demand improvements or replacement delivery. Where delays are dangerous or if the supplier is in arrears with the subsequent performance required by us or refuses such performance or if the subsequent performance demanded by us is unsuccessful we are entitled to remedy the defects ourselves, to have the defect remedied or to provide replacement at the cost of the supplier. Where delays are dangerous we shall decide at our discretion. The costs of the remedy of the defect include the required costs for work, travel, accommodation and daily allowances.

## 10. Notification of Defects

Our right to notify defects is not subject to any period.

## 11. Quality, Guarantees and Quality Review

11.1 The products to be delivered must comply with the agreed specifications, the statutory provisions, the relevant administrative provisions, the latest state of the art technology, the DIN standards and the relevant accident prevention provisions.

11.2 Descriptions of services, information regarding quality, guarantees and other quality agreements represent all guarantees given by the supplier.

11.3 The supplier shall always gear the quality of his products to be delivered to us to the latest state of the art technology and shall point out to us possibilities for improvement and technical changes.

11.4 The condition of a delivery when made to our goods acceptance department, our quality control and the record of acceptance are definitive for ascertaining the quality of a delivery.

11.5 The supplier shall establish and maintain a documented quality assurance system suitable in scope and nature which corresponds to the latest state of the art technology. It shall prepare records, especially with respect to its quality review and provide us with such, should we so request.

11.6 The supplier will prove to us the operational integrity of its quality assurance system on request.

## 12. Product Liability

12.1 If a claim is filed against us on the grounds of product liability owing to defectiveness of our product which can be attributed to merchandise of the supplier, the supplier shall release us from these compensation claims on first request - in as far as it is liable vis-à-vis third parties.

12.2 The supplier undertakes to take out adequate insurance covering all risks arising from product liability and shall

provide proof of such on request.

## 13. Confidentiality, Documents and Drawings/Records

13.1 The supplier undertakes to handle confidentially our orders and all associated information.

13.2 We retain the ownership rights and copyrights in illustrations, drawings, sketches, models, calculations and other documents. Third parties may not be given access to such without our written consent.

13.3 The supplier undertakes to use our documents exclusively to execute our order. It shall handle the documents in accordance with our instructions. Once the orders have been completed the documents shall be returned to us without special request. There is no right of retention.

13.4 If the supplier infringes these instructions he compensates us for the resulting damage.

## 14. Intellectual Property Rights

14.1 The supplier guarantees that intellectual property rights of third parties (patent, utility models, registered designs, trademarks, etc.) which exist within or outside the European Union are not infringed by the merchandise delivered by him, in as far as they were not manufactured in accordance with our samples, drawings and models.

14.2 If claims are made against us by a third party on these grounds the supplier is obliged to release us on first written request from these claims - including our expenses incurred in this connection.

## 15. Purchase according to Sample/Model

15.1 If we purchase merchandise according to sample or model the qualities of the sample or of the model are guaranteed by the supplier.

15.2 If it is usual to prepare a record relating to quality and properties, the content of this record shall be regarded as a component of the agreement.

## 16. Production in accordance with our Specifications

If merchandise is manufactured in accordance with our specifications production may only be commenced if we have checked and approved the outturn samples.

## 17. Changes to the Subject of the Delivery

If the supplier wants to make changes to the subject of the delivery which deviate from the original contractual agreements he may do so - provided far as these are only minor changes - only after prior written permission from us. Price increases based on these changes are excluded.

## 18. Delivery on the basis of Make-and-Take orders

18.1 If a make-and-take order has been concluded with the supplier the supplier is obliged to hold ready the demand quantities so that he is able to observe the deadline set by us. The deadline is a fixed date. Irrespective of the provisions in 18.2 and 18.3, we are entitled to assert in individual cases that our interest in the provision of the service no longer exists. In this event we may rescind the agreement without further prerequisites if the deadline is not met.

18.2 In the event of non-observance of the delivery date for which the supplier is responsible after a separate reminder we shall be reimbursed for all damage incurred by the delay. A reminder is not necessary if a deadline has been determined according to the calendar. We may demand compensation instead of performance after fruitless expiry of an appropriate deadline set by us.

18.3 In the event of delayed delivery we are entitled to rescind the agreement after fruitless expiry of an appropriate deadline set by us - irrespective of whether or not the supplier is responsible for the delay.

## 19. Contractual Penalty

19.1 We have the right to agree a contractual penalty with the supplier in the event of non-fulfilment or inappropriate fulfilment of a duty to act or in the event that the supplier breaches a duty to cease and desist. The penalty is deemed to have been invoked if the supplier is in arrears. If the performance owed is an omission, the forfeit shall be due when the contravention is committed.

19.2 We are entitled to set off the contractual against the claims of the supplier.

## 20. Part Deliveries

20.1 The supplier is only authorised to make part deliveries with our express written permission.

20.2 If a supplier makes a part delivery of a contractually agreed performance the performance is not considered to be complete until the full contractual performance has been carried out.

20.3 Part deliveries are not regarded as individually concluded transactions. If in the case of the respective part deliveries, the prerequisites for claims arising from liability for defects, arrears or impossibility are satisfied, we are entitled to assert the claims in this respect with regard to the entire delivery.

## 21. Reservation of Title, Transferability

21.1 We accept no reservation of title of whatever nature.

21.2 The claims of the supplier arising from this agreement may not be assigned to third parties without our written consent.

## 22. Place of Performance

Place of performance for all deliveries and services is the place of destination determined by us.

## 23. Forum, Final Provisions

23.1 In as far as the contractor is a businessman, a legal person under public law or a special public fund, the place of jurisdiction for all disputes between the contractor and the principal is Stuttgart. This also applies when our contractual partner does not have a general place of jurisdiction in Germany.

23.2 If a provision of these general terms and conditions of purchase should be or become invalid this shall not affect the validity of the other provisions.

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