

## **Conditions of Purchase**

### **1. General:**

- 1.1 Our conditions of purchase apply exclusively. We do not accept supplier's conditions to the contrary or deviating from our conditions of purchase unless our consent to their validity was given explicitly and in writing. Our conditions of purchase shall also apply even if, knowing about supplier's conditions to the contrary or deviating from our conditions of purchase, we accept without reservation.
- 1.2 Our conditions of purchase shall also apply to all future business with the supplier.
- 1.3 Our conditions of purchase shall apply to business dealings with business firms, only.

### **2. Conclusion and modifications of contract**

- 2.1 Orders, sales contracts and delivery calls as well as modifications of and amendments to them shall require the written form. Orders and delivery calls may also be placed by data telecommunication or facsimile.
- 2.2 Oral agreements reached prior to or at the conclusion of a contract shall require our confirmation in writing to take effect.
- 2.3 Oral agreements reached after the conclusion of a contract, in particular subsequent modifications of and amendments to our conditions of purchase - including this stipulation of the written form - as well as subsidiary agreements of any kind shall also require our consent in writing to take effect. Our employees (with the exception of the executive bodies authorised to represent, holders of a general commercial power of attorney or other authorised persons) are not entitled to deviate from the contents of these provisions or to complement the contents of the contract or to make commitments or promises.
- 2.4 If the supplier does not accept our order within two weeks from receipt, we shall be entitled to cancellation. Delivery calls shall become binding if the supplier does not object to them within 5 working days from receipt.
- 2.5 The Supplier Quality Assurance Agreement shall be an integral part of any contract entered into.

### **3. Prices and terms of payment**

- 3.1 If no special agreement was reached, prices shall be understood "free buyer's works", duty paid and inclusive of packing, turnover tax not included in the prices.
- 3.2 Shipping notes, freight bills, invoices and all correspondence shall bear our purchase order number.
- 3.3 The supplier shall bear the risk of loss or deterioration of the goods to be delivered until acceptance of the goods by us or our agent at the place to which the goods are to be delivered as per the order.
- 3.4 The obligation to take back the packings shall be governed by the provisions of law.

3.5 The supplier is obliged to issue an invoice for each order within 5 days after the delivery of the goods ordered. We can only deal with invoices if these - pursuant to the specifications of our purchase order - indicate the purchase order number mentioned therein and are made out to the correct invoice recipient. The supplier shall be liable for all consequences resulting from the failure to comply with this obligation unless he can prove that he is not responsible for such consequences.

3.6 Unless otherwise agreed, payment of the invoice shall be made either within 30 days with a cash discount of 3% or within 60 days without any deduction, counted from the maturity of the outstanding debt and the receipt of the invoice as well as of the goods or of the performance. The point in time which is later shall be authoritative for the maturity date. Payment will be made subject to invoice verification.

### **4. Delivery dates, default of delivery, force majeure**

4.1 Deadlines and time limits agreed upon are binding. The receipt of the goods at our place shall be authoritative for the observance of the delivery date or deadline. If delivery "free works" was not agreed upon, the supplier shall provide the goods in good time and taking into consideration the time for loading and shipping which he has to coordinate with the forwarding agent.

4.2 In case of default of delivery we shall be entitled to the legal claims. In particular, after the futile expiration of a reasonable time limit, we shall be entitled to claim damages instead of performance, or rescission.

4.3 If the supplier anticipates problems in respect of manufacture, material supplies, observance of delivery dates or similar circumstances which might prevent him from delivering on schedule or from delivering the quality agreed upon, then the supplier shall immediately advise our ordering department accordingly.

4.4 The unreserved acceptance of the delayed delivery or performance shall not constitute a waiver of the claims for compensation we are entitled to by reason of the delayed delivery or performance; this shall continue to be so until payment in full of the amount owed by us for the delivery or performance concerned.

4.5 As a rule, partial deliveries are not permitted, unless we expressly agreed to them or unless it can reasonably be expected of us to accept such deliveries.

4.6 If goods are delivered earlier than agreed, we reserve the right to return them to the supplier. If goods delivered too early are not returned, they will be stored at our works at supplier's risk and expense. The agreed delivery date alone shall be applicable for the payment.

### **5. Claims based on defects and recourse**

5.1 The supplier guarantees that the goods supplied meet the agreed specifications of the purchase order and are made of the agreed material, that according to the state of the art they are free from material defects, faulty manufacture and/or

design faults and free from defects or faults suspending or reducing the suitability for the usual or contractually agreed utilisation, or suspending or reducing the value of the goods supplied, and that they meet all legal provisions in force in Germany.

- 5.2 We are obliged to check the goods within a reasonable time limit for possible variations in quality and in quantity. We must advise externally noticeable defects to the supplier within 7 working days from receipt of goods – within 14 working days for machinery and machine units/parts -, and other defects immediately after detecting them. In this respect the supplier waives the objection of belated notice of defects.
- 5.3 We shall be entitled to full extent to the legal claims based on defects; we shall be entitled at any rate to demand from the supplier, at our option, the correction of faults or the delivery of a new corporeal thing. In this case the supplier shall be obliged to bear all expenses required for the purpose of correction of faults or of substitute delivery. The entitlement to damages, in particular the entitlement to damages in lieu of performance, remains expressly reserved.
- 5.4 In case the supplier does not begin to remedy the defect immediately after our demand for correction of faults, we shall be entitled in urgent cases, in particular to ward off acute dangers or to avoid major damages, to remedy the defect ourselves or have third parties do so at supplier's expense.
- 5.5 The period of limitation shall be 24 months from the passing of the risk. For those parts of the delivery repaired within the period of limitation of our claims based on defects, the period of limitation shall start running anew from the moment the supplier has fully met our claims for rectification of defects.
- 5.6 If the products delivered are used in a final product sold to a consumer, we shall be entitled to rights of recourse towards the supplier in the event of our customers holding us liable pursuant to Sections 478 and 479 of the German Civil Code (BGB).
- 5.7 In the event of defects in title the supplier shall, in addition, indemnify us from possibly existing claims of third parties. With regard to defects in title, the period of limitation shall be 10 years.

## 6. Product liability and recall

- 6.1 If we are held liable on account of product liability, the supplier shall be obliged to indemnify us from such claims if and to the extent the damage was caused by a defect of the subject matter of contract delivered by the supplier. In cases of liability with fault this shall however only apply if the fault is attributable to the supplier. If the cause of damage is within the supplier's area of responsibility, he shall bear the burden of proof in this respect. The supplier shall, in these cases, bear all costs and expenses, including the costs of a possible prosecution or recall campaign. In other respects the legal provisions shall apply.
- 6.2 The supplier undertakes to maintain a product liability insurance with an amount insured of € 5 million flat per personal injury / injury to property; if we are entitled to further claims for damages, these shall remain unaffected.

## 7. Industrial property rights

- 7.1 The supplier shall guarantee that, in connection with his delivery, no trademark rights, patent rights, copyrights or other industrial property rights of third parties are violated.
- 7.2 If we are held liable by a third party for infringing industrial property rights, the supplier shall be obliged to indemnify us from such claims at our first request in writing.
- 7.3 Supplier's obligation of indemnity shall apply to all expenses necessarily arising for us from or in connection with being held liable by a third party.
- 7.4 In other respects, the regulations on liability for defects shall apply to other claims on account of defects in title.

## 8. Secrecy

- 8.1 All business or technical information (documents or software and other knowledge or experience) made available by us shall, as long and as far as it is not provably known to the public, be kept secret to third parties and may only be disclosed to persons in the supplier's own firm who necessarily must be involved in the use of such information for the purpose of deliveries to us and who are also obliged to observe secrecy; such information shall remain our exclusive property. Without our prior consent in writing such information may not be duplicated (except for deliveries to us) or used for profit. At our request all information originating from us (if applicable including copies or records made) and all objects lent shall be returned to us or destroyed immediately and completely.
- 8.2 Products manufactured according to documents designed by us such as drawings, models and the like, or based on our confidential information or with our tools or with copied tools may neither be used by the supplier himself nor offered and/or delivered to third parties.

## 9. General provisions, place of jurisdiction, place of performance, applicable law

- 9.1 In the event of a provision of these conditions and of further agreements made being or becoming invalid, this shall not affect the validity of the remaining provisions. The contracting parties are obliged to replace the invalid provision by a provision equalling as far as possible the invalid one regarding the economic results.
- 9.2 Our place of business shall be the exclusive local jurisdiction for all disputes resulting from this contractual relationship or in connection with it. Notwithstanding this agreement on the place of jurisdiction we shall be entitled to assert our rights towards the supplier in any other court having jurisdiction pursuant to the applicable law. Unless specified otherwise in the purchase order, our place of business shall be the place of performance; this shall also apply to our claims for payment towards the supplier.
- 9.3 The contractual relationship shall be governed exclusively by German law and shall exclude the provisions on conflict of laws as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG).