



## General Purchase Conditions

### 1. Area of Application

- 1.1 Any delivery of goods and services (hereinafter "the Customer") shall be subject to the Terms and Conditions set forth. They are also valid for all future contracts with the Supplier.
- 1.2 These general purchase conditions shall be valid even if the Customer, aware of a Supplier's conflicting or divergent conditions, accepts a delivery from this Supplier without reservation.
- 1.3 These general purchase conditions are also applicable to contracts of work and services in which the Supplier supplies the material from which the work is to be made.

### 2. Offer, order

- 2.1 An offer aiming at the conclusion of a supply contract (order) is only valid if made in writing (letter or fax); the Supplier may only process orders per e-mail if this was previously agreed upon per letter or fax. In his offer, the Supplier will point out components which are energy-efficient or, alternatively, will submit an appropriate quotation.
- 2.2 The Supplier is obliged to accept the order in writing within two weeks from the date of order, stating the price and delivery period. This means that the Customer must receive the Supplier's acceptance within these two weeks. After expiry of this date the Customer is no longer bound by his order. No remuneration will be granted for the drawing up of offers, plans, drafts and such like.
- 2.3 The supplier has to inform the Customer about missing documents. If the supplier diverges in his confirmation from the order of the Customer, he has to advise the Customer expressly without delay.
- 2.4 If nothing else has been agreed the delivery is to be made "Free Works" (DDU) including packaging. Even if the Customer is to arrange transport / pick-up the agreed price includes the price for packaging if nothing else has been agreed upon expressly.

### 3. Delivery time and delay

- 3.1 Delivery dates and deadlines agreed upon are binding. The goods must arrive at the Customer's within the stipulated time. If the goods are not to be delivered "Free Works" (DDU), the Supplier must make the goods available taking into account the usual time for loading and forwarding and inform the Customer accordingly in writing that the goods are ready to be collected.
- 3.2 The Supplier must inform the Customer in writing and without delay of any circumstances which make it impossible for him to keep the delivery date or deadline.
- 3.3 If the Supplier fails to deliver or perform within an additional period of grace set by the Customer, too, the Customer shall without prior notice be entitled to refuse acceptance, rescind the contract or demand compensation for non-performance. The Customer shall be entitled to rescind the contract or demand compensation for non-performance. We shall be entitled to rescind the contract even if the delay was not the Suppliers fault. Additional costs caused by the delay, especially the costs of substitute procurement

elsewhere, shall be borne by you.

- 3.4 Unless otherwise agreed and in case of default the Customer is entitled to claim a contractual penalty of 1 % of the value of the goods for each beginning week of default; but no more than 5 % of the total value of the goods in all. The Customer reserves the right to assert further claims should the loss exceed the contractual penalty.
- 3.5 The right to demand an agreed upon contractual penalty for inappropriate performance shall be reserved until the final payment.
- 3.6 In case of force majeure, such as war, lockout, strike or other unforeseeable events, which cause major stoppages, the Customer is entitled, under exclusion of any claims for compensation by the Supplier, to terminate the contract.

### 4. Prices, invoices, payments

- 4.1 Prices shall be fixed prices. They shall include all expenses in connection with the goods and services provided.
- 4.2 Each invoice must state the Supplier's number assigned by the Customer, the order number, the well defined name of the item, the customs tariff number if necessary and the division or the branch the goods are intended for.
- 4.3 Payment is only made after the Customer has received the goods according to agreement as well as the proper and verifiable invoice. Deliveries which are made before the agreed date are deemed to have taken place at the agreed date of delivery.
- 4.4 Should, by way of exception, a deposit have been agreed upon this deposit will only be made against an unlimited bank guarantee in accordance with the Customer's conditions.
- 4.5 If nothing else has been agreed the term of payment is payment not later than 14 days after the goods and invoices are received less 3 % cash discount or not later than 30 days after the goods and invoices are received net.
- 4.6 If a delivery is faulty in some way the Customer is entitled to refuse payment to an appropriate extent until the order has been properly fulfilled.
- 4.7 The Supplier may only assign his claims to third parties if the Customer has agreed to this beforehand in writing.
- 4.8 The Customer is entitled to offset claims against claims belonging to a company in which he has a share of at least 50 %.

### 5. Dispatch

The Supplier must inform the Customer of the dispatch in writing in duplicate on the day of dispatch at the latest. The Customer's order no. and the dates of order have to be indicated on all documents, such as consignment notes, advices of dispatch and parcel directions. In case of part or final deliveries this fact has to be stated expressly. Should insufficient or wrong specifications either by the Supplier or his forwarder lead to wrong or incorrect handling or customs clearing the Supplier is liable for the damage or extra costs



resulting there from.

## **6. Passage of risk, title**

- 6.1 Irrespective of the agreed Inco terms the risk passes to the Customer in case of delivery without installation or assembly upon receipt at the delivery address and in the event of delivery with installation or assembly upon successful completion of our acceptance. Commissioning or use shall not replace declaration of acceptance.
- 6.2 The Customer shall acquire property of the delivered goods after payment. Any elongated or extended retention of title shall be excluded.

## **7. Obligation to examine goods and notify defects**

- 7.1 The Customer will examine incoming goods only with regards to externally noticeable damages and externally noticeable deviations of identity or quantity. Such defects will be notified without delay. The Customer reserves the right to conduct a more extensive examination of incoming goods. Furthermore the Customer notifies defects according to the circumstances of the orderly course of business. Insofar the Supplier shall waive the objection of delayed notice of defects.
- 7.2 If the Customer returns defective goods to the Supplier he shall be entitled to debit the invoice amount paid. The Customer reserves the right to claim further expenses.

## **8. Warranty of defects of quality and title**

- 8.1 Defective deliveries must be replaced immediately by deliveries that are free from defect, and faulty services must be repeated faultlessly. In the event of development or design engineering defects the Customer shall be entitled to immediately assert the rights provided for under section 8.3.
- 8.2 You shall require our consent to repair defective goods or services. You shall bear the risk during the time in which the good or service to be delivered is not in the Customers possession.
- 8.3 If the Suppliers fails to remedy the defect within an additional appropriate period of grace that the Customer has set he shall be entitled at his own discretion to rescind the contract or reduce remuneration and additionally in either case to demand compensation of damages and expenses.
- 8.4 In urgent cases especially for the purposes of preventing an exceptionally high damage or loss, for the removal of insignificant defects and in the event that you are in default of remedying a defect, we shall be entitled, after notifying you and after a reasonable short period of grace has expired, to remedy the defect and any resultant damage or loss ourselves or through third parties at your expense. This right shall also apply if you deliver the good or service late and the Customer therefore has to remedy defects immediately so that he does not miss his own delivery deadlines.
- 8.5 The warranty period for defects of quality or title shall be 36 months as from the passage of risk in accordance with section 6. The expiry of warranty period shall be suspended from the date of notification of defects until the Customer receives a faultless good service.

- 8.6 If part of the good or service is remedied or replaced, the period of grace under section 8.5 shall restart on the date the Customer receives the faultless good or service. This does not apply if the Supplier expressly reserves the right for supplementary performance, if he delivers in case of kindness, to prevent differences or for the survival of the supply relationship.

- 8.7 If the Supplier has to deliver or perform in accordance with our plans, graphs or other specific demands you expressly guarantee the conformity with our demands. If delivery or performance deviates from the demands the Customer shall immediately has the right under section 8.3.

- 8.8 The statutory rights shall in any case be reserved.

- 8.9 If, after receipt of a warning letter, the Supplier is again late in supplying essentially identical or similar goods or services, or such goods or services are again defective, the Customer shall immediately be entitled to rescind the contract. In this case the Customer shall be entitled to rescind the contract. In this case the Customer shall be entitled to rescind contracts with regards to future delivery of goods and services on basis of this or another contractual relationship, too.

## **9. Indemnification in the event of defects**

- 9.1 The Supplier shall indemnify the Customer against all claims raised against the Customer by third parties – for whatever legal reason – due to a defect of quality or title or another defect of a product delivered by the Supplier and shall also reimburse the expenses off he Customer necessary for the defense against the claims.

## **10. Confidentiality**

- 10.1 The parties undertake to keep secret all commercial and technical details and not pass it on to third parties that come to their knowledge in their business relations and which are not generally known.
- 10.2 Drawings, designs, templates, samples and such like may not be given to or otherwise be made available to unauthorized persons. The duplication of such material is only permitted insofar as this is necessary for the operational procedure and in accordance with the copyright.
- 10.3 Subcontractors have to be put under the same respective obligations.
- 10.4 The Customer points out that personal data in relation to the contractual relationship may be stored and may be transferred to associated companies in the corporate group, too.

## **11. Provision of materials**

- 11.1 All technical documents, designs, tools, printer's copies, drawings and other means of production etc. that the Customer provide shall remain our property; all trademark, copyright or other property rights shall remain with the Customer. They, together with all duplicates that the Supplier may have been made, must automatically be returned to us the Customer as soon as the order has been executed. The supplier shall not be entitled to assert a right of retention in this respect. The supplier may only use the said objects to execute the order. The supplier may not pass them on, or make them otherwise accessible, to unauthorized third parties. The said objects may only be duplicated in so



- far as it is necessary for the execution of the order.
- 11.2 The ownership in technical documents, designs, tools, printer's copies, drawings and other means of production etc. which are manufactured by the Supplier at the Customer's expense, passes to the Customer as soon as payment has been effected. Like the means of production provided by the Customer they too must be treated and stored with care, insured by the Supplier against the risk of fire, dampness or floods, theft, loss and other damage and may only be made available to or used for deliveries to third parties with the Customer's prior written consent. After the order has been processed the means of production have to be handed to the Customer immediately and unsolicited.
- 12. Environmental protection**
- 12.1 The goods and services must comply with the statutory provisions, especially the provisions relating to safety and environmental protection, including the regulations on hazardous substances, with safety recommendations of competent German professional bodies or organizations, such as DIN and with the agreed specifications.
- 12.2 Concerning the information on the properties of the item and the guarantees the Supplier is obliged to take special records in German on the production and testing proceedings, the details of which are agreed upon between the parties separately. Sub- or prior contractors have to be put under the same respective obligations.
- 12.3 The Supplier has to comply with the rules and regulations of the accident prevention and insurance association/accident prevention provisions. Essential guards as well as manufacturer's instructions shall be included free of charge.
- 12.4 The Supplier is requested to improve his energy efficiency, to implement an energy management system and to inform us accordingly.
- 13. Industrial property rights**
- 13.1 If the Supplier is at fault he is liable for any claims that arise if the uses of the goods in accordance with the terms of the contract lead to the infringement of industrial property rights.
- 13.2 If and insofar as the Supplier did not produce the delivered item according to a description supplied by the Customer and the Supplier could not know, while developing the delivered item, that it would infringe industrial property rights, the Supplier exempts the Customer from any claims which arise from the use of such industrial property rights. Beyond that, the Customer's right to claim for damages remains unaffected.
- 13.3 At the Customer's request the Supplier will list all industrial property rights he knows of or learns of and which he uses in connection with the items delivered or to be delivered.
- 14. Import and export provisions**
- 14.1 For goods and services from a country (other than Germany) that is within the EU, the EU value added tax identification number shall be quoted.
- 15. General Provisions**
- 15.1 All orders / contracts are subject to German law, even if
- the Customer buys goods from abroad. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 15.2 The place of jurisdiction, provided that the Supplier is a businessman, shall be the place of business of the Customer using these general terms and conditions. However the Customer may also take legal action against the Supplier at his place of business.
- 15.3 If an insolvency proceeding against the Supplier is either being applied for or has already been started the Customer is entitled to terminate the contract.
- 15.4 Without a written agreement of the Customer it is not allowed to disclose the business relationship for advertising purposes.
- 15.5 Customary trade terms shall be interpreted in accordance with the Incoterms effective at the time.
- 15.6 Should any of the clauses of these General Terms and Conditions be wholly or partially invalid, the validity of the remaining clauses or parts thereof shall not be affected,
- 15.7 In the event that the clauses in these Terms and Conditions are unclear the Supplier and Customer agree and acknowledge herewith that the original German Terms and Conditions (Allgemeine Liefer- und Zahlungsbedingungen) should be applied to govern the business relationship between the Supplier and the Customer.