

§ 1 Scope of application

1. These Conditions of Purchase shall apply exclusively; if the Supplier's General Conditions of Purchase conflict with or differ from same, we shall only recognize said General Conditions of Purchase if their validity has been expressly approved by us in writing. Our Conditions of Purchase shall also apply where we accept or pay for products and services of the Supplier (hereinafter: contractual goods) knowing that the Supplier's conditions conflict with or differ from our Conditions of Purchase.

2. Our Conditions of Purchase shall also apply to all future deliveries and services by the Supplier.

§ 2 Conclusion of Contract

1. Agreements, orders and call off deliveries, as well as other modifications and additions, must be made in writing. An order shall be deemed to be accepted unless the Supplier notifies us to the contrary within five (5) working days of the order date. Call off deliveries shall be binding upon the Supplier where the Supplier fails to contest the call off within 3 working days of receipt.

2. Where trade terms in accordance with the International Commercial Terms (INCOTERMS) are agreed, the Incoterms 2010 shall apply.

§ 3 Prices, Payment

1. Unless a separate agreement is reached, prices are fixed and shall be DAP delivery address (INCOTERMS 2010) including packaging, plus the sales tax applicable in each case.

2. Unless otherwise agreed payments are due 60 days after receipt of a proper invoice and full performance. Where payment is remitted within 21 days of receipt of invoice and full performance deduction of a 2% discount is permitted. Payment is subject to audit.

3. Default in payment shall arise only after due date and formal reminder. The amount of interest on arrears shall be determined solely on the basis of the statutory interest rate stated in the German Commercial Code (HGB)

4. We retain the right to exercise our statutory rights of set off or retention.

§ 4 Place of performance, Delivery, Packaging

1. Unless otherwise defined on a case by case basis, delivery is agreed DAP delivery address (INCOTERMS 2010). The Supplier shall be liable for the material risk until acceptance of the goods by us or our agent at the agreed place for delivery of the goods.

2. If the Supplier has agreed to erect or install the goods, and unless otherwise expressly agreed, the Supplier shall be liable for all the necessary costs thereof. Any erection or installation of the goods by the Supplier at our production plant shall be performed in accordance with our Terms and Conditions for the Performance of Works at our Production Plant.

3. Partial deliveries are not permitted unless we have expressly agreed to the same. In any event any non delivered quantities shall be listed on the delivery note and on the invoice.
4. Quantities, weights and dimensions shall be based on the values ascertained by us during incoming goods inspection, subject to evidence to the contrary.
5. Title to the goods shall pass to us upon full payment of the contract price. Any extended rights of reservation of title of any kind shall be subject to separate agreement. We are entitled to process and resell the goods prior to the remittance of payment.

§ 5 Shipment, Packing, Waste Disposal

1. Shipping documents including delivery notes, packing notes and shipping invoices for third countries shall be enclosed with the shipments. Order numbers are to be quoted on all documentation together with any labelling requested in our order.
2. The Supplier undertakes to use environmentally friendly packaging that can be recycled or disposed of at low cost. Styropor chips are not permitted for use as packaging material. Packaging must guarantee protection against damage, dirt and damp during transport and storage in order that assembly at our premises or the premises of one of our agent companies is possible at no further cost. Any important information on contents, storage and transport must be visibly affixed to the packaging. Loaned packaging shall be returned carriage not prepaid to the Supplier's address.
3. We shall insure the shipment where the goods are shipped at our risk. We shall not reimburse the cost of any shipping insurance taken out by the Supplier.
4. Where the Supplier fails to adhere to the aforesaid we shall be entitled to invoice the Supplier for any additional cost which we incur as a result.
5. The cost of any return of empties, packing material and loading equipment shall be borne by the Supplier. The special rules in relation to container transport shall remain applicable.
6. Any waste material incurred through the supply of the goods shall be removed by the Supplier at the Supplier's cost in accordance with the statutory requirements unless otherwise agreed. Title to the waste material, the risk of its loss and the legal responsibility for its disposal shall pass to the Supplier upon accrual.

§ 6 Delivery Dates

1. If agreed deadlines are not met, the statutory regulations shall apply.
2. The Supplier shall only be entitled to rely on our failure to provide requisite information where despite having sent a written reminder setting a reasonable deadline we have failed to provide him with the same.
3. In the event of late delivery or service we shall be entitled to impose liquidated damages of 0.5% of the net value of the goods delivered late per working day, up to a maximum of 7% of the value of the goods.
4. Unconditional acceptance of a late delivery or service does not constitute a waiver of the claims to which we are entitled as a result of late delivery or service; this shall apply up until we have remitted the sums owing in full.

§ 7 Notification, Force Majeure

1. If the Supplier realises that delivery as specified in the contract is or will be impossible owing to problems with production, supply of primary material, compliance with the delivery date or similar circumstances, the Supplier must notify us accordingly without delay. The agreed delivery date shall not be extended upon such notification.
2. Force majeure and events beyond our control shall entitle us, without prejudice to our other rights, to withdraw from the contract either fully or in part, where we have no further commercial interest in performance as a result.

§ 8 Quality Assurance, Incoming Goods Inspection

1. Where the parties have signed a quality assurance agreement and the terms thereof conflict with the following the terms of the quality assurance agreement shall take precedence.
2. The Supplier shall manufacture the goods to the latest technical and scientific standards, legal and technical norms, any guidelines given by any supervisory authority and any applicable safety regulations. The Supplier guarantees that the goods comply with the requirements under the European Directive 2002/95/EG dated 27. January 2003 and any other orders and directives limiting the use of dangerous substances in electrical and electronic appliances. The Supplier shall supply brand new goods only.
3. The Supplier undertakes to maintain a system of quality management which corresponds to the most recent technical standards (e.g. DIN EN ISO 9001:xxxx, EN 9001:xxxx, AS 9001:xxxx, JS 9001:xxxx or similar management systems). The Supplier shall carry out tests during manufacture in accordance with the requirements of his system of quality management unless we deem particular testing necessary at a preliminary stage and submit a testing plan requiring the same. The Supplier shall carry out final testing of the products which shall ensure that only non faulty goods are supplied.
4. The Supplier shall contractually bind its sub-suppliers to comply with the obligations set out in sub-clauses 1 and 2 above and shall provide evidence of the same upon request.
5. Acceptance of the goods or service is subject to an examination thereof as to the absence of faults insofar as and as soon as such an examination is feasible in the ordinary and proper course of business. Such examination shall include the type and quantity of the products supplied as well as any external damage thereto. Furthermore any incoming goods inspection is replaced by the quality assurance measures undertaken by the Supplier in accordance with the provisions aforesaid.

§ 9 Sub-suppliers, Access

1. The Supplier shall not be entitled to award a contract from us to any sub-supplier in whole or in part, without having obtained our prior written consent. Where we consent to the use of a sub-supplier the Supplier shall remain responsible for the compliance of the goods with our order requirements and all non-disclosure obligations, including works performed by its sub-suppliers.
2. We, our customers and any supervisory authority are entitled to inspect at the Supplier's plant the goods and all materials and parts required by the Supplier for the manufacture of the goods at any time. Accordingly the parties aforesaid shall be granted access to the Supplier's plant and to the premises of his sub-suppliers at any time during normal working hours in order to audit the manufacturing process of the goods.

§ 10 Defective Goods

1. The statutory regulations on material defects and deficiencies in title shall apply without restriction, unless otherwise provided below .
2. In urgent cases, especially in order to counter acute risks or prevent major damage, we shall be entitled to rectify defects ourselves or arrange for such to be rectified by third parties, at the Supplier's expense.
3. Claims for material defects and deficiencies in title shall be time barred upon the expiration of the statutory warranty period.
4. Any Products repaired or replaced during the warranty period shall benefit from a new full warranty period upon the terms set out aforesaid and such new warranty period shall commence upon complete performance by the Supplier of our warranty claim.
5. The Supplier shall be liable for all costs accruing to us as a result of defective delivery of the contractual goods, in particular transport, travel, work, material costs and investigation costs in excess of those normally incurred.
6. If products manufactured and/or sold by us are returned to us on account of defects in the Products supplied to us by the Supplier, or if the price of purchase from us is reduced or if other claims are made against us as a result, we reserve the right of recourse against the Supplier, whereby no time limit needs to be set in respect of our defect rights, as would otherwise be required.
7. In the event of recourse we shall be entitled to demand compensation from the Supplier for the expenditure accruing to us in relation to our customers on account of the defective service.
8. Notwithstanding sub-clause 3 any claim under sub-clauses 6 and 7 aforesaid shall be time barred not earlier than 2 months after the date upon which we have satisfied the claims of our customers against us.
9. Where we exercise our right to rescind the contract we shall remain entitled to use the goods and services provided by the Supplier without charge until we have obtained a suitable replacement. The Supplier shall be liable for any cost incurred due to the rescission of the contract and for any required disposal.

§ 11 Product liability

1. In the event that a claim is asserted against us on the basis of product liability, the Supplier shall be required to indemnify us for such claims upon first demand where and insofar as the loss was caused by a defect in the contractual goods delivered by the Supplier and, in cases of liability with fault, if the fault is attributable to the Supplier. If the Supplier is responsible for the cause of the loss, the burden of proof shall rest with the Supplier.
2. In such cases the Supplier shall be liable for all costs and expenses, including the costs of any legal prosecution or recall action. For the remainder, the statutory regulations shall apply.

§ 12 Insurance

The Supplier shall for the term of the contract including periods of guarantee and limitation for warranty claims shall take out and maintain liability insurance on terms customary in the trade and with an insurance sum of not less than 10 million€ per damage claim.

§ 13 Provision of Materials, Tools, Spare Parts

1. We retain the right to provide the Supplier with materials, devices and tools for the manufacture of the goods. Any materials, devices and tools provided by us shall remain our property. Similarly we shall acquire title to any materials, devices and tools purchased or manufactured by the Supplier subject to us having remitted payment for the same. Title shall pass to us upon payment.

2. We are entitled to request the surrender of our property at any time and the Supplier hereby expressly waives the exercise of any legal right of retention to which he may be entitled.

3. The Supplier shall ensure and accordingly undertakes that there will be a continuous supply of spare parts available to us or our customers for a period of 15 years following the final series production at reasonable prices which are customary in the trade.

§ 14 Confidentiality

1. Any confidential information disclosed by one party to the other or of which one party becomes aware during the collaboration shall not be disclosed to any third party either during the term of the collaboration or after it has expired; nor shall such confidential information be used by the receiving party for its own commercial purpose. The same shall apply as regards the conclusion of this agreement and its content. The parties shall ensure that their respective employees are bound by this obligation.

The aforesaid non-disclosure obligation shall not apply in relation to information which

- was previously known to the other party prior to the signing of the agreement;
- was legally obtained from third parties;
- is in the public domain or is the general state of technology;
- was released for disclosure by the disclosing party.

2. The non-disclosure obligation shall remain in force for a period of 5 years after the expiration of this agreement.

3. Upon the expiration of this agreement the parties shall return all confidential documents and information unrequested or destroy the same where requested to do so by the disclosing party and provide evidence thereof.

4. In the event of a breach of the confidentiality undertakings aforesaid the Supplier shall pay us a penalty in such reasonable amount as we decide in our discretion per breach. A defence based on continuation of breach shall not be open to the Supplier.

5. The parties shall comply with all data protection requirements, including where access is given to the other party's plant, or to its hard and software. They shall ensure that their vicarious agents shall also comply with these provisions and that they are bound not to disclose any data prior to the commencement of their work. The parties do not intend to process or use personal data on behalf of the other party. Any transfer of personal data shall occur only in exceptional circumstances as a side effect of performance of the parties contractual obligations. All personal data shall be treated by the parties in accordance with data protection laws.

§ 15 Final provisions

1. Should individual provisions of these General Terms and Conditions be wholly or partially ineffective, this shall not affect the validity of the remaining provisions. A provision that comes closest to the commercial intention of the ineffective provision shall then be agreed.
2. The place of jurisdiction is the head office of our company; if we file an action we reserve the right to take proceedings against the Supplier in the Supplier's jurisdiction or alternatively, at our absolute discretion, to settle the dispute by arbitration in the Supplier's jurisdiction.
3. All legal dealings between the Supplier and ourselves shall be governed by the law of the Federal Republic of Germany, excluding the conflict of laws provisions but including the Vienna UN Convention on Contracts for the International Sale of Goods (CISG).