

General Terms and Conditions of Purchase

§ 1 General provisions

- (1) The order is placed solely on the basis of these Terms and Conditions of Purchase. Conflicting, supplementing or deviating conditions of the supplier shall not become part of the contract, even if no further objection is made regarding these conditions. The Terms and Conditions of Purchase shall also apply if the purchaser unconditionally accepts the supplier's delivery in the knowledge that the supplier's terms and conditions conflict with, supplement or deviate from the purchaser's Terms and Conditions of Purchase or if the supplier stipulates that his Terms and Conditions be the exclusive basis for delivery.
- (2) These Terms and Conditions of Purchase shall also apply to all future purchasing transactions with the supplier, irrespective of whether or not reference is expressly made to them when they are concluded.

§ 2 Conclusion of Contract; Assignment

- (1) Orders and order confirmations as well as their amendments and supplements must be made in writing (including telex or e-mail). This also applies to changes made after conclusion of the contract or for the revocation of the requirement of the written form. If oral side agreements are made at the time of conclusion of the contract, these shall only be effective if they have been confirmed in writing by the purchaser. In the event of changes to the Terms and Conditions of Purchase, the most current version of the purchaser shall apply.
- (2) Orders can only be accepted within a period of 2 weeks after receipt by written order confirmation of the supplier.
- (3) The supplier is not entitled to assign or pledge his rights and obligations under the contract without prior written consent of the purchaser or to have his claims against the purchaser collected by third parties. This shall not apply to the extended reservation of title.

§ 3 Prices; Payment

- (1) The prices stated in the order are binding. Prices include packaging costs. If not otherwise agreed, the prices are free domicile according to INCOTERMS 2010 to the shipping address stated in the order.
- (2) Invoices specifying the order details are to be issued as a single copy, one copy for each complete delivery, to the address of the purchaser or to the place designated by him. The statutory value added tax shall be shown as a separate item on the invoice.
- (3) Payment shall be made within 14 days of receipt of a valid invoice (§ 3 (2)), minus 3% discount, at the latest - without deduction - 60 days from the end of the month in which a valid invoice was issued. The deduction of discounts is also permissible in the event of offsetting or retention due to defects. In the event of defective delivery, the purchaser shall be entitled to deduct a cash discount if payment is made within 14 days of proper performance.
- (4) If premature performance is accepted (§ 4 (2)), the due date shall be based on the initially agreed delivery date.
- (5) Payments do not imply acceptance of the delivery as conforming to the contract.
- (6) The purchaser has the right of set-off and retention to the extent permitted by law. The supplier may only exercise rights of set-off and retention with respect to undisputed or legally established claims. If the supplier is obliged to provide guarantees, the purchaser is entitled to hold back all payments until the guarantees have been furnished in the agreed form.

§ 4 Delivery Date; Delay

- (1) The agreed dates and deadlines are binding.
- (2) Partial or advance deliveries are only admissible with the purchaser's consent.
- (3) Upon delivery at the latest, the supplier shall provide free of charge all documents and quality records required for approval by the end customer and/or regulatory bodies or other institutions. However, compliance with deadlines for deliveries shall in principle require the timely provision of all documents, necessary approvals and releases (in particular of plans), which are to be submitted by the supplier as well as compliance with his other obligations. The timeliness of deliveries involving installation or assembly as well as of services depends on their provision in an acceptable condition.
- (4) If the agreed dates and deadlines are not met for reasons within the supplier's responsibility, the purchaser shall be entitled to a contractual penalty of 1% of the contract value per commenced week, up to a maximum of 10% of the amount in default. Any further claims for damages shall remain unaffected, but the contractual penalty shall be set off against actual damages. The purchaser may also assert the contractual penalty without express reservation of assertion upon delivery until final payment.
- (5) The supplier shall be obliged to inform the purchaser immediately in writing if he foresees difficulties in manufacturing or in obtaining the primary material or if circumstances beyond his control occur or become apparent to him from which follows that punctual delivery in the agreed quality is not possible.

§ 5 Quality

- (1) The supplier shall establish and optimise a quality management system in accordance with DIN ISO 9000 et seq. The same claim shall be agreed with his subcontractor.
- (2) For his deliveries, the supplier must comply with the accepted rules of engineering, with safety regulations, requirements of the International Union of Railways (UIC Code) and agreed technical data. Changes to the deliverable as well as changes in manufacturing which may affect the condition, suitability or other quality of the deliverable shall only be permissible with the purchaser's written consent.
- (3) The supplier must ensure that the deliveries and services also comply with the applicable environmental legislation, accident prevention and other occupational health and safety regulations, the safety-related rules and all other legal requirements applicable in the Federal Republic of Germany or in the country to which the delivery is to be made, and must inform the purchaser in writing of any special treatment and disposal requirements that are not generally known for each delivery. Any costs incurred by the purchaser due to disregard of this provision shall be reimbursed by the supplier.
- (4) First article inspection: Agreement on first article inspection shall be subject to DIN ISO 9000 et seq, the technical conditions and design requirements of the purchaser and his accepted technical examinations.
- (5) For assessment of the quality standard described in § 7 (1) to (4), the supplier shall secure and retain the requisite documentation and submit it to the purchaser at the latter's request. If an audit pursuant to DIN ISO 9000 et seq, or a factory inspection is required to assess the supplier's quality standard, the purchaser shall be granted such an audit after reasonable advance notice. Upon request, the supplier also ensures that the purchaser is granted such access by his subcontractors.
- (6) The purchaser's monitoring of the quality standards shall not affect the supplier's actions arising from or in connection with the contract.
- (7) The supplier shall inform the purchaser of any unsuitability of the deliverables for the purposes communicated to him or otherwise made known to him and of any possibilities for improvement, insofar as they are apparent to him without unreasonable effort.

§ 6 Warranty

- (1) The goods delivered shall be accepted with the reservation that upon inspection they will prove to be complete and without defect. The purchaser is obliged to inspect the goods within a reasonable timeframe for any deviations in quality and quantity. Incoming goods are inspected in the ordinary course of business, but no later than 4 weeks after delivery. The period begins immediately in accordance with § 377 HGB (German Commercial Code). Apparent defects shall be reported to the supplier within this period, whereas concealed ("hidden") defects must be immediately reported upon their identification. In this case, the supplier will waive the claim of late notification of defects. It is possible to define more far-reaching requirements for incoming goods inspection in quality assurance agreements.
- (2) Subject to other proof, the values ascertained by the purchaser in the process of this inspection for defects are definitive for the number of items, weights and measures.
- (3) In the case of surplus deliveries which exceed the scope customary in the trade, the purchaser reserves the right to return the surplus goods at the supplier's expense.
- (4) The supplier warrants that his deliveries and services are free from defects for a period of 24 months from delivery of the end product manufactured by the purchaser to the purchaser's customer, at the latest 30 months from delivery to the purchaser. The purchaser is entitled without any restrictions to the statutory warranty claims for defects. In any case, the purchaser may demand from the supplier, at his discretion, either the remedy of defects or the delivery of a new item. Any costs incurred by this shall be borne by the supplier. This shall also apply to those expenses incurred due to deliveries being made to and services being provided at a place other than the place of performance.
- (5) In the event of imminent danger, the purchaser may, after notifying the supplier, remedy the defect or make a replacement delivery himself at the supplier's expense or commission a third party to do so.
- (6) In the case of minor defects, the remedy of which, in the opinion of the purchaser, is not expected to exceed an amount of € 1.000 (minor damage), the purchaser shall in principle be entitled to remedy the defect himself at the supplier's expense. Other statutory warranty claims shall remain unaffected.
- (7) All warranty obligations must be met without delay.
- (8) If the supplier does not immediately comply with the purchaser's warranty request or if rectifications or replacement deliveries repeatedly fail or if the purchaser only becomes aware of a defect after the start of production, the purchaser may, at his discretion, demand a reduction of the purchase price or cancellation of the contract. The purchaser may regard the remedy of the defect as having failed if the first attempt at remedying the defect was unsuccessful.
- (9) If serial damages occur during the warranty period, the supplier is obliged to remedy the cause of the defects by changing designs, manufacturing processes or by using other materials. In the event of such serial damage, all parts of the affected delivery series shall be replaced at the supplier's expense if so requested by the purchaser. Costs incurred by the replacement of the delivered goods shall be borne by the supplier. If, within the framework of the warranty obligation, parts are changed or replaced by other parts as a result of a change in design, manufacturing processes or the use of other materials, these damages shall be remedied at the expense of the supplier at the purchaser's request and without prejudice to a possible expiry of the warranty period for a period of 5 years, and the spare parts held by the purchaser or his customers shall be changed or replaced free of charge. Serial damage occurs if at least 10 % of the delivered parts have the same defect and this is due to construction, manufacturing, material, design and execution defects or assembly errors on the part of the supplier.

§ 7 Liability

- (1) The supplier shall be fully liable to the purchaser for any damages for which he or his assistants or vicarious agents are responsible.
- (2) Responsibility for product damage shall include the supplier's obligation to indemnify the purchaser upon his first request from damage compensation claims of third parties which may be asserted against the purchaser due to defects in a product that was delivered by the supplier. This shall also apply if the purchaser and the supplier are jointly and severally liable or individually liable to third parties.
- (3) Within the scope of his liability for damages within the meaning of § 9 (2), the supplier is also obliged to reimburse any expenses pursuant to §§ 683, 670 BGB as well as pursuant to §§ 830, 840, 426 BGB which arise in connection with the prevention or reduction of the product liability risk of necessary damage prevention measures (e.g. recall actions carried out by the purchaser). The purchaser must inform the supplier - to the extent possible and reasonable - of the content and scope of the recall measures to be carried out and give him the opportunity for comment. Other legal claims remain unaffected.
- (4) For the entire duration of the contract, including all warranty periods, the supplier undertakes to take out product liability insurance with a coverage total of € 2 million per physical injury/property damage - as a lump sum - and to furnish the purchaser with proof thereof upon his request. At the purchaser's request, the supplier must assign to the purchaser all compensation claims arising from this insurance. Further claims for damages remain unaffected.

§ 8 Property Rights, Confidentiality

- (1) If the supplier is responsible, he shall be liable for claims arising from the infringement of property rights or applications for property rights by third parties when the delivery items are used in accordance with the contract.
- (2) If claims are asserted against the purchaser by a third party, the supplier shall be obliged, insofar as he is responsible, to indemnify the purchaser upon first written request from all claims arising from the infringement of property rights or applications for property rights. The purchaser is not entitled to make agreements of any kind with the third party without the supplier's consent and the purchaser in particular may not conclude a settlement with the third party.
- (3) There shall be no obligation to indemnify pursuant to § 8 (2) if the supplier manufactures the deliverables in accordance with drawings, models or other equivalent descriptions or information provided by the purchaser and has no knowledge of, or in connection with the products developed by him, cannot have knowledge of the fact that property rights or applications for property rights are infringed by this.
- (4) The supplier's obligation to indemnify shall apply to all expenses necessarily incurred by the purchaser as a result of or in connection with claims asserted by a third party.
- (5) The limitation period for these claims is five years from the time of the conclusion of the contract.
- (6) The supplier undertakes to inform the purchaser immediately of any risks of infringement and alleged cases of infringement becoming known in this context and to give him the opportunity to counteract any such claims.
- (7) On request, the supplier shall inform the purchaser of the use of published and unpublished own and licensed property rights and applications for property rights concerning the deliverables.
- (8) The documents and items supplied and transmitted to the supplier shall be kept strictly confidential from third parties. They may not be made available to third parties without the express written consent of the purchaser and shall only be used for the provision of the ordered deliveries and services. Duplication or manufacture of identical items is only admissible within the scope of operational requirements and legal provisions. The confidentiality obligation shall also apply after execution of this contract. It expires when and insofar as the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become common knowledge.
- (9) The contracting parties undertake to treat as confidential all commercial or technical facts which are not in the public domain and which become known to them in the course of the business relation.
- (10) In case of references or publications, the supplier may only name the purchaser's company or trademarks if he has previously obtained the purchaser's written consent.
- (11) Subcontractors shall be put under the same obligation.

§ 9 Identification, Brands

- (1) All deliveries and services must be labelled and marked in accordance with the applicable technical or other standards in force in the country for which the delivery or service is intended. This shall also (but not exclusively) apply to CE markings.
- (2) In addition to the above, only the purchaser's article number and his brand(s), as communicated to the supplier, each in their current version, may be shown on the deliverable(s) (the products) and contained in/on the corresponding drawings, packaging and labels. Markings, identifications or references to the supplier or OEM brands may not be shown on the products themselves, nor on sub-components, packaging or labelling.

§ 10 Reservation of Title; Provision of Goods; Confidentiality

- (1) The purchaser reserves his property rights, copyrights and other rights with regard to the illustrations, drawings, models, templates, samples, dies, calculations, tools and similar items provided to the supplier.
- (2) After execution of the order, all items and documents shall be returned to the purchaser in accordance with § 9 (1) without further request. Insofar as the supplier manufactures or duplicates these items at the purchaser's expense, he hereby transfers ownership of these items to the purchaser and stores them until they are returned after the corresponding deliveries have been made. The purchaser accepts this transfer of ownership. The supplier shall not make the items belonging to the purchaser available to third parties, transfer ownership thereof or pledge them to third parties without the purchaser's express written consent.
- (3) If the items provided to the supplier by the purchaser are processed or transformed into a new movable item, the purchaser shall be deemed to be the manufacturer. In the event of a combination or inseparable mixing with other items that are not owned by the purchaser, the purchaser acquires co-ownership of the new item in the ratio of the value of his item (purchase price plus VAT) to that of the other processed items at the time of processing. If the combination or mixing is effected in such a way that the supplier's items must be regarded as the main item, it shall be deemed agreed that the supplier shall transfer a pro-rated co-ownership to the purchaser; the supplier shall hold sole ownership or co-ownership in trust for the purchaser.
- (4) If the security interests to which the purchaser is entitled pursuant to § 9 (3) exceed the purchase price of all goods subject to retention of title not yet paid by more than 10 %, the purchaser is, upon request of the supplier, obliged to release the security interests at his discretion.
- (5) The supplier undertakes to take out sufficient insurance at his own expense against fire, water and theft for the items provided by the purchaser at their replacement value and to furnish the purchaser with proof thereof upon the latter's request. At the same time, the supplier as of now assigns to the purchaser all rights to claim compensation from this insurance; the purchaser accepts the assignment. The supplier also undertakes, at his own expense, to carry out any necessary maintenance and inspection work as well as all maintenance and repair work in due time. He shall notify the purchaser immediately of any malfunctions. If he culpably fails to do so, claims for damages shall remain unaffected.

§ 11 Spare Parts and Readiness for Delivery

- (1) The supplier undertakes to supply spare parts for the normal period of use, but at least for 10 years after the last delivery of the deliverable at reasonable conditions.
- (2) If the supplier discontinues delivery of the spare parts after expiry of the period specified in § 12 (1) or discontinues delivery of the deliverable during this period, the purchaser shall be given the opportunity to place a final order. Upon the purchaser's request, all information, documents, technical descriptions and other documents required for the manufacture of the spare parts shall be handed over to the purchaser. Use shall be free of charge.

§ 12 Invalidation of Individual Provisions

- (1) In the event that individual provisions of these Terms and Conditions of Purchase are or become invalid, this shall not affect the validity of the remaining provisions hereof. The contracting parties undertake to replace the ineffective provision by a provision that approximates it as closely as possible in its commercial objective.

§ 13 Deterioration in Assets; Changes regarding the Supplier

- (1) If the supplier ceases payment or the compliance with other contractual obligations, or if judicial or extrajudicial insolvency proceedings are instituted against its assets, the purchaser shall be entitled to withdraw from the part of the contract which has not been fulfilled.
- (2) The purchaser shall have a right of termination without notice in the event that the supplier's company is sold to a third party or legally or economically restructured and the purchaser can under these circumstances no longer reasonably be expected to continue to be bound by this contract and the individual contracts concluded under it. Notice of termination must be in writing.

§ 14 Place of Jurisdiction; Place of Performance; Applicable Law.

- (1) If the supplier is a merchant, the place of jurisdiction shall be Aachen. This also applies to cheque and bill of exchange proceedings. The same place of jurisdiction shall apply if the supplier does not have a general place of jurisdiction in the Federal Republic of Germany at the time when legal proceedings are instituted. However, the purchaser shall also be entitled to sue the supplier at his registered office or at the place of performance.
- (2) The place of performance shall be the place specified by the purchaser to which delivery is to be made.
- (3) The law of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods.