

## General ~~General~~ Purchasing Conditions

### 1. Conclusion of the contract

1.1 These General Purchasing Conditions exclusively form the basis of the contract between the purchaser and the contractor. General Purchasing Conditions of the contractor are excepted. The General Purchasing Conditions of the purchaser also apply for all contractor's future supplies and other performance to the purchaser up to new General Purchasing Conditions of the purchaser apply.

Orders, arrangements and alterations are binding only if they are issued or confirmed by the purchaser in writing, by fax or in electronic form.

1.2 Correspondence is to be carried out with the Purchasing Department. Arrangements with other departments, that alter the points established in this contract, require explicit written confirmation by the Purchasing Department in the form of a supplement to the contract.

1.3 Orders and calls for delivery are considered to have been accepted if the contractor does not object to them in writing within one week of receipt. The purchaser is, however, also entitled to revoke the order within a further week, if the contractor has not issued a written acceptance beforehand.

1.4 The contractor must treat the conclusion of the contract as confidential. He may name the purchaser as a reference to third parties only with the purchaser's written agreement. The purchaser must treat as confidential the information made available to him in connection with the conclusion and implementation of the contract, provided that this has not been proved to be or become common knowledge.

1.5 Estimates of costs, initial samples and samples in general are binding and not to be remunerated unless otherwise explicitly agreed in writing.

### 2. Prices

2.1 The agreed prices are fixed prices and include – in addition to the rate of value added tax prevailing at the time – duty-paid free at the place of use including packaging and freight costs. If a price is agreed 'ex works' or 'ex stores', the purchaser takes over only the most favourable freight costs. The contractor bears all the costs which arise including loading and excluding haulage up to the delivery of the goods to the carrier. The agreement concerning the place of fulfilment is not affected by the method of pricing.

2.2 The purchaser reserves the right to accept over or short deliveries.

### 3. Clauses of commerce/trade

For interpretation of the clauses of commerce/trade the Incoterms 2000 apply.

### 4. Proofs of origin, proofs under value added tax law, export restrictions

4.1 Proofs of origin requested by the purchaser will be provided by the contractor with all the necessary information and made available properly signed without delay. This applies correspondingly to proofs under value added tax law in the case of foreign and intra-Community supplies.

4.2 The contractor will inform the purchaser without delay if a delivery is wholly or partly subject to export restrictions according to German or other law.

4.3 Contractors from member states of the European Union are required to let the purchaser have long-term supplier declarations in accordance with the European regulation prevailing at the time without being asked within 30 days of the acceptance of the order and then in each case within the first two months of each calendar year. If this cannot take place for particular supplies of goods, the corresponding proofs of origin must be supplied at the latest with the presentation of the bill.

### 5. Delivery, dates, delay

5.1 Variations from the contracts concluded and orders of the purchaser are permitted only after prior consent in writing.

5.2 Agreed dates and time limits are binding. The receipt of the goods by the purchaser defines the compliance with the delivery deadline or delivery period. If the delivery is not agreed as 'free at factory gate' (DDU or DDP in accordance with Incoterms 2000), the contractor must make the goods available in due time, taking into account the time to be agreed with the carrier for loading and dispatch.

5.3 Is the installation or the assembly undertaken by the contractor and, unless otherwise agreed, the contractor bears all necessary additional costs as for example travel costs, the provision of tools and benefits to his employees for extra costs.

5.4 If agreed delivery dates are not kept, the legal regulations apply in principle. As soon as the contractor becomes aware of difficulties with regard to the production, provision of primary material, keeping of appointments or similar circumstances that could prevent him from making a delivery in accordance with the appointment or from delivering in the agreed quality, the contractor must inform the Purchasing Department of the purchaser without delay. The obligation to comply with agreed appointments is not affected by this.

5.5 In the event of delay of the contractor, and after the expiry of an appropriate subsequent period set by the purchaser without result, the purchaser can have the supply not yet provided by the contractor carried out by a third party at the expense of the contractor. Instead of this, the purchaser can also withdraw from the contract after the expiry of a subsequent period set by him without result.

5.6 The acceptance without reservation of the delayed delivery or service does not include a renunciation of the claims to compensation to which the purchaser is entitled on account of the delayed delivery or service; this applies until the completion of the payment owed by the purchaser for the delivery or service concerned.

5.7 Partial deliveries are in principle not authorised, unless the purchaser has explicitly agreed to these or they are reasonable to him.

5.8 Subject to other proof, the values ascertained by the purchaser in the process of incoming goods inspection are definitive for the number of items, weights and measures.

5.9 For software, including its documentation, that is part of the scope of supply, the purchaser has in addition to the right of usage to the legally authorised extent (Paragraphs 69a ff. UrhG [German Copyright Act]) the right of usage with the agreed performance characteristics and to the extent necessary for a use of the product in accordance with the contract. The purchaser may also make a back-up copy without explicit agreement.

5.10 The contractor bears the risk for the object until the acceptance of the goods by the purchaser or by the purchaser's agent at the place at which the goods are to be delivered in accordance with the order.

5.11 Force majeure, industrial disputes, operational interruptions that are not the fault of the operator, disturbances, official measures and other unavoidable events entitle the purchaser regardless of his other rights to withdraw from the contract wholly or partly, as far as they are of considerable duration and have a considerable reduction of the needs of the purchaser as a consequence.

5.12 If an insolvency proceeding on the contractor's asset or an out-of-court composition proceeding is applied for, the purchaser is entitled to withdraw all or part from the contract.

### 6. Quality

6.1 The delivery must meet the agreed specifications.

6.2 The contractor has to aim the quality of the supplying products permanently at the state of the art and to point out feasibilities of innovations and technical modifications to the purchaser.

6.3 The contractor must set up and maintain a quality management system that is suitable in type and extent, corresponds to the state of the art and is documented. He must draw up records, in particular concerning his quality checks, and make these available to the purchaser on request.

6.4 The contractor herewith consents to quality audits for the evaluation of the effectiveness of his quality assurance system by the purchaser or by his agent, if applicable with the participation of the purchaser's own customer.

6.5 The contractor is obliged by the wish of the purchaser to conclude a quality assurance agreement with the purchaser.

6.6 The contractor will also carry out an examination of stock several times in the calendar year at the request of the purchaser if required.

6.7 As supplier for the automotive industry, purchaser is subject to the statutory end-of-life vehicle regulation which is based on the directive 2000/53/EG. Suppliers of production material and operating supplies, which remain in the finished products, are therefore obliged to confirm adherence to the bans on heavy metal when submitting an offer. These requirements must be adhered to during the entire product life cycle. The purchaser must also be provided with the material composition in the International Material Data System IMDS, no later than at the time of initial sampling.

## **7. Claims arising from defects and recourse**

7.1 Acceptance always takes place subject to the reservation of an examination for fault-freeness, in particular for correctness, completeness and suitability. The purchaser is entitled to examine the contractual product as far as and as soon as this is possible in accordance with the orderly course of business; the purchaser will complain any defects of the supply after their discovery without delay.

7.2 The purchaser is in principle entitled to choose the type of subsequent fulfilment. The contractor is entitled to refuse the type of subsequent fulfilment chosen by the purchaser under the conditions of Paragraph 439 Section 3 BGB [German Civil Code].

7.3 If the contractor does not rectify the defect within a period of time adequate to the individual circumstances, the purchaser is entitled in urgent cases, in particular to avoid acute dangers or greater damage, to carry out these himself, or have them carried out by a third party, at the cost of the contractor.

7.4 Warranty claims expire in 24 months, but not before the expiry of six months after the lodging of the complaint in respect of the defects, unless the object has been used in accordance with its usual usage for a construction and has caused its defectiveness. The period of limitation for claims of defective quality begins with the supply of the contractual object (transfer of risk). The period of limitation in accordance with Paragraph 479 BGB remains unaffected.

7.5 The purchaser is entitled to rights of recourse in accordance with Paragraphs 478 and 479 BGB towards the contractor, in particular when the purchaser is responsible for such claims towards a third party. This also applies in the event that the object supplied has been used or further processed by the purchaser or a third party.

7.6 In the event of deficiencies in title caused by negligence or intention of the contractor, the contractor additionally releases the purchaser from possibly existing claims of third parties.

7.7 If costs arise to the purchaser as a result of defective delivery, in particular transport costs, tolls, working costs, material costs or costs for an incoming goods inspection going beyond the usual extent, the contractor must bear these costs.

7.8 If the purchaser takes back products produced and/or sold by himself as a consequence of the defect of the contractual product supplied by the contractor or if because of this the purchase price to the purchaser was reduced or if there was a claim against the purchaser in some other way because of this, the purchaser reserves the right of recourse to the contractor, in the process of which there is no need for an otherwise necessary setting of a limit of the purchaser's rights regarding the defects.

7.9 The purchaser is entitled to demand compensation from the contractor for the expenditure which the purchaser was responsible for in relationship to his own customers, because they have a claim against the purchaser for compensation of the expenditure necessary for the purpose of the subsequent fulfilment, in particular transport costs, tolls, working costs and material costs.

7.10 The expiry of the applicable limitation period in the cases of Items 7.8 and 7.9 comes into effect at the earliest two months after the date at which the purchaser has fulfilled the claims of his own customers against him.

7.11 The contractor has liability without fault for the guaranteed properties of the deliveries. The period of limitation according to Paragraph 479 BGB applies to such derelictions of duty.

7.12 In addition to the requirements made in the sections above the legal regulations apply.

## **8. Product liability**

8.1 If a claim arising from product liability is made against the purchaser under German or other law, the contractor will intervene on behalf of the purchaser, in so far as he would be directly liable. A contractual liability of the contractor remains unaffected. The contractor is obliged to release the purchaser from claims of this kind, if and as far as the damage has been caused by a defect of the contractual object supplied by the contractor. In cases of liability with fault, however, this applies only when the contractor is at fault. If the cause of the damage lies within the area of responsibility of the contractor, he bears the burden of proof in this respect. In these cases the contractor takes over all the costs and expenditure including the costs of possible legal proceedings or recall action. In addition, the legal provisions apply.

8.2 The purchaser will inform the contractor without delay if he wants to assert a claim against him in accordance with the preceding paragraph. As far as it is reasonable to the purchaser, he will give the contractor the opportunity to examine the claim and to come to an agreement with the purchaser about the measures to be taken, e.g. negotiations about a settlement.

## **9. Industrial Property Rights**

9.1 The contractor avouches, that the use of delivery items according to the terms of the contract does not violate industrial property rights of third parties. The contractor is aware of the provided use of delivery items by the purchaser. As soon as the contractor realizes that the use of his supplies and work/service leads to the use of industrial property rights applied for or granted of third parties he has to inform the purchaser. In case the contractor negligently or intentionally infringes these obligations, the purchaser is released by the contractor from any claim asserted by third for the violation of industrial property rights. Even if the contractor has not caused the infringement by negligence or intention, the contractor is additionally obliged to redress to the purchaser the right regarding the contractually use of the delivery items or to modify them so that the violation of industrial property rights ends/ceases to exist, yet the delivery items make up as contractual.

9.2 The contractor will notify any use of published and unpublished industrial property rights granted or applied for of his own or licensed by third for the delivery items.

9.3 The contractor will notify any inventions arising within the scope or on occasion of this contract with him and/or his assistants to the purchaser without delay, provide any necessary documents to evaluate the invention and give any information asked for by the purchaser. This applies correspondingly to any know-how that may possibly arise at the contractor and/or his assistants within the scope or on occasion of the implementation of this contract.

The contractor transfers the right to apply for industrial property rights for any inventions arising from him and/or his assistants within the scope or on occasion of this contract.

The rights granted and transferred above are compensated by the agreed prices for the delivery items.

## **10. Performance of working**

Persons who carry out work on factory premises in fulfilment of contract must respect the provisions of the factory regulations in each case. The liability for accidents which happen to these people on the factory premises is excluded as far as these were not caused by intent or grossly negligent dereliction of duty of the legal representative or vicarious agents of the purchaser.

### **11. Provision of material and joint property**

Materials, parts, containers and special packing made available by the purchaser remain the property of the purchaser. These may be used only in accordance with the conditions. The processing of materials and the assembly of parts take place for the purchaser. Agreement exists that the purchaser is co-owner of the products manufactured with the use of materials and parts of the purchaser in proportion to the value of the materials made available to the value of total product; these products are kept in this respect by the contractor for the purchaser.

### **12. Drawings, documentation/brochures of construction, tools, confidentiality**

12.1 Drawings and other documents, devices, models, tools and other means of production that are entrusted to the contractor, remain the property of the purchaser. The ownership of tools and other means of production that are paid for by the purchaser is based on the arrangements made in a separate tool agreement.

12.2 Without the written agreement of the purchaser the above-mentioned objects may neither be scrapped nor made available to third parties, e.g. for the purpose of production. They may not be used for purposes other than those contractually agreed, e.g. supply to third parties. During the implementation of the contract they are to be carefully stored for the purchaser by the contractor at the contractor's cost. The regulations in Items 12.1 and 12.2 also apply accordingly to printing orders.

12.3 The care, maintenance and partial renewal of the above-mentioned objects are based on the arrangements made at the time between the purchaser and the contractor.

12.4 The purchaser reserves all the rights to drawings or products made according to his information as well as to procedures developed by him.

12.5 All commercial or technical information made available by the purchaser (including features that are to be gathered for instance from the objects, documents or software handed over, and other knowledge or experiences) are, as long as and as far as they are not demonstrably public knowledge, to be kept in confidence from third parties and may be made available in the contractor's business only to such persons as necessarily have to be brought in for their use for the purpose of supply to the purchaser and who are likewise committed to maintaining confidentiality; they remain the exclusive property of the purchaser. Such information – except for supplies to the purchaser – may not be reproduced or used in any other way without the prior consent of the purchaser in writing. All information originating from the purchaser (if applicable including copies or drawings made) and objects entrusted by way of a loan are on demand of the purchaser to be returned to him completely and without delay or to be destroyed.

The purchaser reserves all rights to such information (including copyrights and the right to registration of industrial property rights, such as patents, utility models, semiconductors etc.). In so far as these were made available to the purchaser by third parties, this reserved right also applies in favour of these third parties.

### **13. Payment**

13.1 The purchaser may pay with 3% discount at the end of the month following the date of invoice, or up to 60 calendar days after the date of invoice without discount, unless otherwise agreed with contractor. Where premature deliveries are accepted, the due date is based on the agreed delivery date.

13.2 Payments by the purchaser do not signify acceptance of the statement of account and take place subject to the reservation of checking the bill.

13.3 Claims of the contractor arising from this contract may be assigned to third parties with the written agreement of the purchaser.

13.4 The purchaser can offset all the claims which the contractor has against him against all the claims to which he is entitled against the contractor.

### **14. Place of fulfillment, partial inefficacy/validity, place of jurisdiction, applicable law**

14.1 The place of fulfillment for deliveries is the place of use, for payments it is the business headquarters of the purchaser.

14.2 Should any of the provisions of these conditions or of other terms agreed be or become void, the validity of the remaining parts of these conditions shall not be affected. The purchaser and the contractor are obliged to replace any void provision with another provision permitting as closely as possible the same economic success.

14.3 Place of jurisdiction shall be the court's registered office generally competent for the purchaser. The purchaser may sue the contractor at his general place of jurisdiction as well.

14.4 In addition to the stipulations of this contract the sole law applicable is the law of the Federal Republic of Germany excluding colliding right and the UN Convention on Contracts for the International Sale of Goods (CISG).