

## Terms and Conditions of Purchase

Applicable in business transactions with companies, legal persons under public law and special public funds.

### 1 General information

- 1.1 Our terms and conditions of purchase shall apply exclusively; any general terms and conditions of Supplier in conflict with or different from our Terms and Conditions of Purchase are hereby rejected unless expressly accepted by us in writing. Our Terms and Conditions of Purchase shall also apply even if we accept or pay for deliveries of products and the provision of services of Supplier (hereinafter referred to as Contractual Products/Services) in the knowledge that Supplier's terms and conditions contradict or deviate from our Terms and Conditions of Purchase.
- 1.2 Our Terms and Conditions of Purchase shall also apply to all future business transactions with Supplier, until such time as our new Terms and Conditions of Purchase go into effect.

### 2 Conclusion of and amendments to contracts

- 2.1 Orders, contracts and delivery call-offs as well as their amendments and supplements shall be in written form. Orders and delivery call-offs may also be made by remote data transmission or telefax.
- 2.2 Oral agreements before or during conclusion of the contract shall require written confirmation from the purchasing department in order to become effective. Article 2.1, sentence 2 shall apply *mutatis mutandis*.
- 2.3 Oral agreements following the conclusion of the contract, in particular subsequent amendments and supplements to our Terms and Conditions of Purchase – including this clause on the written form – as well as collateral agreements of any kind, shall also require written confirmation from the purchasing department in order to become effective.
- 2.4 Cost estimates shall be binding and free of charge for unless expressly agreed otherwise.
- 2.5 If Supplier fails to accept an order within two weeks from receipt, we have the right to cancel the order. Delivery call-offs shall become binding unless Supplier objects within five working days from receipt.

### 3 Delivery

- 3.1 Deliveries deviating from the terms agreed upon in our contracts and orders require our written prior consent.
- 3.2 All agreed dates and deadlines are binding. The receipt of the goods by us is the determining factor for having met the date of delivery or the period of delivery. Unless "freight prepaid" (DDU as per Incoterms 2000 or DDP as per Incoterms 2010) is agreed upon, Supplier shall make the goods available in due time, taking into account the time needed for loading and shipping to be agreed upon with the carrier.
- 3.3 If Supplier is responsible for setup or installation, and unless otherwise agreed, Supplier shall assume all necessary incidental costs such as travel expenses, availability of tools as well as daily allowances, unless otherwise agreed.
- 3.4 If agreed-upon dates are not met, the applicable law shall apply. If Supplier foresees difficulties with respect to production, the supply of required materials, compliance with delivery date or similar circumstances that might interfere with Supplier's ability to deliver on the agreed date or in the agreed quality, Supplier shall promptly notify our ordering department.
- 3.5 The unconditional acceptance of a delayed delivery or service shall not be construed as a waiver of claims to which we are entitled due to the delayed delivery or service; this applies until complete payment of the amounts owed by us for the delivery or service in question has been effected.
- 3.6 Partial deliveries are precluded as a rule, unless we have expressly agreed to them or they are reasonable.
- 3.7 The values determined by us during the incoming inspection shall prevail with respect to quantities, weights and dimensions, unless evidence to the contrary can be produced.
- 3.8 With respect to software included within the scope of delivery, including its documentation, we shall have the right to use such software with the agreed-upon performance features and to the extent necessary

for the use of the product in accordance with the agreement. This is in addition to the right of use of such software to the extent provided for by applicable law (§§ 69a ff. UrhG [German copyright law]). We have the right to make a backup copy, even without express consent.

### 4 Force majeure

Acts of God, labour disputes, disruption in operations not due to negligence, civil unrest, official action and any other unavoidable events shall entitle us – notwithstanding our other rights – to rescind the contract, in whole or in part, provided such incidents are of not inconsiderable duration and result in a substantial reduction in our needs.

### 5 Advice on dispatch and invoice

The information contained in our orders and delivery call-offs shall apply. The invoice showing the invoice number and other references must be sent in one copy to the respective printed mailing address. (The provisions stipulated in § 14 UStG [German Value Added Tax Act] shall be adhered to.)

### 6 Pricing and transfer of risk

Unless otherwise agreed upon, the prices are "Delivered Duty Paid" (DDP as per Incoterms 2010) including packaging. Prices are exclusive of VAT. Supplier is responsible for the safety of the goods until the goods are accepted by us or our local representative at the location to which the goods must be delivered in accordance with the contract.

### 7 Payment terms

- 7.1 Unless otherwise agreed, payment shall be made within 14 days subject to a 2% discount, or within 30 days without any discount, as of the payment due date and receipt of the invoice and the products or full provision of services. The payment is made subject to invoice verification.
- 7.2 We shall not owe any due date interest. Seller's claim to payment of default interest remains unaffected. Statutory provisions govern when we are deemed to be in default. In any case, however, Seller must give notice of default.
- 7.3 We are entitled to rights of set off and retention, as well as to the defence of non-performance of the contract, to the extent provided by law. In particular, we are entitled to retain payments due in cases where we have claims against Seller for incomplete or defective performance of services.
- 7.4 Seller has the right of set off or retention only for legally adjudicated or uncontested counterclaims.

### 8 Claims based on defects and recourse

- 8.1 Acceptance is subject to an examination for faultlessness, especially also for correctness, completeness and fitness. We have the right to inspect the Contractual Products/Services to the extent that and as soon as it is reasonably practicable for us in the ordinary course of business; we shall give notice of any defects found immediately after their discovery. Supplier hereby waives the objection to a delayed notice of defects.
- 8.2 Any defects in quality or defects in title (including incorrect delivery or short delivery, incorrect installation, or inadequate installation, operation and user instructions), and any other breaches of duty by Seller, shall be governed by applicable law, unless provided otherwise below.
- 8.3 We have the right to choose the method of remedial performance. Supplier has the right to reject the method of remedial performance chosen by us pursuant to § 439 para. 3 BGB [German Civil Code].
- 8.4 If Supplier fails to immediately commence with correction of the defect following our request to correct the defect, in urgent cases, especially to ward off imminent risks or to prevent major damage, we are entitled to undertake such correction ourselves or have it undertaken by a third party at Supplier's expense. Any claims for defects are subject to a limitation period of 2 years, unless the delivered products were used in a structure in accordance with its customary use and caused the structure's deficiency. The limitation period begins with the date on which the Contractual Products/Services are delivered (transfer of risk).

- 8.5 In case of defects in title, Supplier shall also hold us harmless against any alleged third party claims. The period of limitation regarding defects in title shall be 10 years.
- 8.6 With respect to parts of the delivery that were reconditioned or repaired within the period of limitation, the period of limitation starts anew at the moment Supplier has completely satisfied our claims for remedial performance.
- 8.7 Supplier shall assume all costs if, as a result of the defective delivery of Contractual Products/Services, we incur costs, especially transportation, travel, labour, material costs or costs for incoming inspection in excess of the customary extent.
- 8.8 If we take back products built and/or sold by us as a result of the defectiveness of the Contractual Products/Services supplied by Supplier, or if our customers reduced the purchase price or if claims of whatever nature are made against us on that account, we reserve the right to request reimbursement from Supplier, whereby an otherwise required deadline is not needed to assert our claims.
- 8.9 We are entitled to demand a reimbursement for expenses from Supplier for expenses incurred by us because our customer has a claim against us for the reimbursement of expenses incurred for the purpose of remedial performance, especially transportation, travel, labour and material costs. This also applies if the Contractual Products/Services were delivered by us to the customer.
- 8.10 Notwithstanding the provision in Article 8.4, the period of limitation in the cases stipulated in Articles 8.8 and 8.9 ends at the earliest 2 months after the date at which we satisfied the claims asserted against us by our customer, and ends at the latest 5 years after delivery of the Contractual Products/Services by Supplier.
- 8.11 If a defect in quality becomes evident within 6 months after the transfer of risk, it is alleged that the defect was already present at the time of the transfer of risk, unless this is in contradiction to the nature of the product or defect concerned.

## 9 Product liability and recall

In the event a product liability claim is asserted against us, Supplier shall hold us harmless from such claims if and to the extent that the damage was caused by defective Contractual Products/Services delivered by Supplier. In cases where liability attaches only in the event of wrongdoing, the foregoing shall apply only if Supplier has engaged in wrongdoing. If the cause of the damage falls within the area of responsibility of Supplier, Supplier must prove that Supplier engaged in no wrongdoing. In the above cases, Supplier assumes all costs and expenses, including the costs for any legal action or a recall campaign. All other matters shall be governed by applicable law.

## 10 Performance of work

Persons who perform work on our premises in fulfilment of the contract shall observe the applicable plant rules and regulations. Liability for accidents suffered by such persons on our premises is hereby excluded unless caused by wilful or grossly negligent breaches of duty of our legal representatives or agents.

## 11 Supplied materials

Materials, parts, containers and special packaging provided by us remain our property. These may only be used as intended. Any processing of materials or assembly of parts is done in our interest. It is understood that we are co-owners of the products produced using our materials and parts in the ratio of the value of the materials provided relative to the value of the overall product; Supplier shall keep custody of the shared property to the extent of our co-ownership interest.

## 12 Documentation and confidentiality

- 12.1 Supplier shall keep confidential all business or technical information made accessible by us (including features which might be learned from objects, documents or software submitted and any other information or experiences) towards third parties, as long as and to the extent that they cannot be proven to be in the public domain, and shall only make such information available in Supplier's premises to persons who need to make use of the information for the purpose of supplying products or services to us and who must also be made subject to a duty of confidentiality; all such information remains our exclusive property. Without our prior written consent, such information – except for deliveries to us – may not be duplicated or used for commercial purposes. Upon our demand, all information originating from us (including any copies or recordings thereof) and loaned items shall be immediately returned to us or destroyed promptly and fully. We reserve all rights to such information (including copyrights and the right to file for industrial property rights such as patents, utility models, semiconductor protection, etc.). In the event that these are provided to us by third parties, this reservation of rights also applies to these third parties.
- 12.2 Products built on the basis of documentation prepared by us, such as drawings, models and the like, or based upon our confidential information, or built with our tools or tools modelled on our tools, may neither be used by Supplier nor be offered or supplied to third parties. The same shall apply, mutatis mutandis, to our printing orders.

## 13 Place of performance

The place of performance is the place to which the goods are to be delivered in accordance with the contract.

## 14 Miscellaneous provisions

- 14.1 All contracts between the parties shall be governed exclusively by German law, with the exception of German conflict of law rules and the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).
- 14.2 The place of jurisdiction for any disputes, including international ones, arising directly or indirectly from contracts between the parties subject to these Terms and Conditions of Purchase shall be Ravensburg, Germany. In addition, we have the right to file legal action against Supplier in a court at Supplier's registered office or place of business or in a court at the place of performance, at our discretion.
- 14.3 If any provision of these Terms and Conditions and of additional agreements should be or become ineffective, the validity of the remaining provisions shall remain unaffected thereby. The parties are obligated to replace any invalid provision with such valid provision as most closely approximates the economic effect of the original provision.

88250 Weingarten, Germany, 19 October 2011