

**Order No. and Delivery Note No.** have to be always indicated in invoices, freight documents, delivery notes (including place of unloading) and other correspondence. **Otherwise no processing is possible!**

**Any deviations from our order specifications have to be highlighted in the order confirmation.**

## I. General

The legal relations between the supplier and us are regulated by these Terms and Conditions of Purchase and possible other agreements. We do not accept any deviating terms and conditions of the supplier, they shall not apply, even when we have not objected against them in individual cases or when we accept deliveries of the supplier without reservations.

## II. Orders, Order Acceptance

1. When preparing a delivery quotation, the supplier shall exactly refer to our regarding request, any deviations have to be clearly indicated.
2. The basis of the contract between the supplier is our order including service specification; when we enclose technical drawings to the order, they are exclusively determinant for the service specification. Orders have to be confirmed by the supplier immediately (order confirmation). Any deviations from our order specifications shall be clearly indicated in the order confirmation. Orders, changes of orders and order confirmation as well as call-offs (including batch call-offs based on master agreements) have to be made out in text form, at least. Agreements by phone or oral agreements made at the time of the conclusion of the contract are subject to our confirmation – in text form, at least.
3. Should the supplier does not accept the order at short notice, not later than within one week after its receipt at the latest, we are entitled to withdraw it.
4. Within reasonable bounds for the supplier, we may request for changes in the delivered goods, their construction and design. The resulting implications, in particular regarding additional or reduced cost and the delivery deadlines, shall be amicably settled in an appropriate way.

## III. Master Agreements

1. When we have entered in a master agreement for supplies and/or services (“Master Agreement”), we are not obliged to permanently and exclusively satisfy our need from this supplier, if not otherwise stipulated in the master agreement. Order sums, order quantities and/or divisions in lots mentioned in the master agreement are measuring parameters for the stockpiling of the supplier and do not establish any obligation of acceptance in the absence of an individual call-off by us, if not otherwise stipulated in the master agreement.
2. By delivery/lot call-offs in the frame of master agreements, associated individual contracts with the supplier are established under the conditions of the master agreement (in particular regarding the service period), unless the supplier has not raised justified objections within three working days after the receipt of the call-off. Call-ups in the range of agreed acceptance quantities and lot divisions must not be objected against.
3. Should the master agreement include order sums or order quantities, the supplier shall notify us as soon as 80% of the master volume has been reached that can be called off. On our request, the order sums and/or order quantities shall be increased, as far as this is reasonably acceptable by the supplier.
4. We reserve changes of the order quantities stated in the master agreement and the cancellation of call-offs (individual orders) within the frame of master agreements. The supplier is entitled to request for a reasonable compensation of expenses incurred, or to object against the change or cancellation, provided that the performance of the change or cancellation cannot be reasonably expected from him.

## IV. Delivery Deadlines

1. The service period stipulated in the contract is binding. When calendar weeks (CW) are indicated as service period, the last working day of that week is considered the latest date of delivery. The supplier is obliged to immediately notify us in writing when he, for whatever reason, will presumably not be able to comply with agreed delivery deadlines. The supplier shall state the reasons and the presumable duration of the delay.
2. An advance or partial delivery or service may only be provided with our prior written consent, and does not prejudice the agreed date of payment.
3. Should the supplier not render his service, or not within the agreed delivery date, or when he is in arrears, we reserve to assert our legal rights (in particular withdrawal or compensation). Clause 5 shall remain unaffected.
4. In the case of delays caused by sub-suppliers, the supplier is deemed responsible for them.
5. When the supplier is in arrears in a delivery or service ordered, we are entitled – irrespective of further legal claims – to request for a flat-rate compensation of our damage suffered from the delay, amounting to 0.5% of the net price of the order for each completed calendar week, however not more than 5% of the net price of the order in total. We reserve to claim for a greater damage upon substantiation. The supplier is entitled to substantiate that we suffered no or a lower damage only.

## V. Delivery, Transfer of Risk

1. Unless otherwise agreed, the delivery shall be made free domicile, i.e. free delivery factory, duty paid (DDP as per Incoterms 2010).
2. Partial deliveries or services are generally not permitted, unless we have not expressly given our consent to them.
3. The supplier bears the material risk up to the handing-over of the goods to us or to our representative at the location where the goods shall be contractually delivered to.
4. The supplier is obliged to clearly indicate our order No. and the delivery note No. on any invoices, all shipping documents and delivery notes. When the supplier neglects to give such indication, we are not responsible for any resulting delays in processing and payment.
5. Storage, assembly and operating instructions and, as far as applicable, safety data sheets have to be supplied free in the official EU languages and the languages of the EFTA member states as well as in Turkish, Chinese (simpl.), Japanese and Russian. The same applies to documents required for the maintenance and repair of the delivered goods. We are entitled to duplicate and process such instructions and documents and to forward them to our customers.

## VI. International Use of the Products, Compliance Regulations

1. The supplier is notified that we market our products all over the world.
2. The supplier undertakes to comply with the industrial health and safety regulations as well as the regulations on environmental protection applicable to the delivered goods and its use in Germany, as well as the corresponding regulations of the EU, NAFTA, ASEAN, the regarding member states and the corresponding regulations of China, Japan, the Russian Federation and South Korea, above all the stipulations regarding accident prevention, industrial health and safety, machinery safety and environmental protection.
3. The supplier ensures that the delivered goods and their components are not subject to any export ban or export restrictions according to the applicable export control regulations. Export control regulations in this meaning are – unless specified otherwise below – all laws and ordinances applicable for the Federal Republic of Germany regulating – limited to the technical features of goods – an export control.
4. The supplier undertakes to notify us immediately in writing if such an export ban or export restriction exist.
5. In particular, the supplier has the obligation to provide information when any of the following regulations applies:
6. Export List, Part I, Section C, of the German Foreign Trade and Payments Regulation,
7. Annex I of the EU Dual Use Regulation
8. Commerce Control List of the Export Administration Regulations (EAR) of the U.S.A.

9. Any damages or expenses incurred to the client because of a violation by the supplier of the abovementioned obligations have to be borne by the supplier, who shall indemnify us against any respective third-party claims.

## **VII. Producer Liability / Insurance**

1. Should the supplier be liable for any personal injury or property damage of us or third parties caused by his product, he shall pay compensation or indemnify us from any claims of third parties on first request, in as much as he or his subcontractor has caused the product defect that gave rise to such liability.
2. On request, the supplier shall provide evidence of a product liability insurance policy.

## **VIII. Packaging**

1. The Supplier shall pack the delivered goods on his own cost in compliance with the stipulations of the HPS Packaging Guidelines. In the absence of any written agreement on the contrary, the price for the delivery "free domicile" also includes the packaging.
2. When desired by us, the packaging material shall be collected and taken back by the supplier on his own cost.

## **IX. Examination of the Goods, Quality Assurance**

1. The commercial obligation of the examination and notification of defects applies according to the legal regulations, subject to the following proviso:
2. In line with the customs of the branch and within reasonable limits, our examination duty is restricted to deficiencies that become evident in an external examination during our incoming goods inspection, including the delivery documents, and during random sampling in the course of our quality control (e.g. transport damages, incorrect or short delivery). Our obligation of notification remains unaffected. The notification is deemed given in due time when it is made within three working days. For obvious quality and quantity deviations, the period commences at the time of the handing-over of the delivery or service to us, and in the case of hidden quality and quantity deviations, at the time of their detection.
3. Notice on defect in the case of immediately forwarded products: For the case that the products delivered by the supplier to us that shall be immediately forwarded to our customer, and the supplier has known this fact or could recognize it, the supplier waives the defence of delayed notice on defect, if we or the customer examine the goods within 10 working days after their arrival and immediately notify the supplier of a recognized (apparent) defect. We are not obliged to any defects examination of deliveries that have been packed for forwarding transport, before their delivery to the customer.
4. If we have entered in a quality assurance agreement with the supplier, it will become part of the contract. Its stipulations shall have priority then.
5. Upon reasonable notice, we are entitled to inform ourselves during the regular business about the contractual execution of the delivery, to witness or hold tests at the supplier's premises. Possible subcontractors shall be committed to grant us the same rights too. The tests do not release the supplier from his warranty and liability obligations.
6. Data carriers or electronically transmitted (e.g. by e-mail or data transfer) deliveries and services used in the course of the supplier's performance have to be checked by the supplier by suitable test and analysis procedures before they are forwarded to us or before they are used, to ensure the absence of malicious software. This obligation of the supplier to check outgoing goods is applicable irrespective of the implementation of a quality assurance management system.

## **X. Defect Liability, Warranty, Provision of Technical Drawings**

1. The legal warranty regulations apply to our rights regarding material and legal deficiencies of a delivery or service, including delivery regress (§§ 445a, b, 478 BGB [*German Civil Code*]), subject to the following proviso:
2. In particular, the supplier is liable that the delivered goods are new, suitable for their intended purpose and correspond to our specifications and the generally accepted rules of engineering as well as the applicable health, safety and accident prevention regulations.
3. Our specification requirements are determined by the technical drawings provided by us. We are entitled to reject and request the new delivery of any defectively manufactured products deviating from provided technical drawings, even without any check of serviceability or rectification or notice on defect. The supplier uses possible electronic processing aids provided by us in his own responsibility, we are not liable for their compatibility with the performance-determining technical drawings.
4. Should the supplier, in the case of a deficiency, does not comply with his obligation for rectification – at our option by the remedy of the deficiency (rectification) or the delivery of an item free of defects (substitute delivery) – within a reasonable period fixed by us, we are entitled to remedy the deficiency by ourselves and request the supplier for the compensation of the expenses incurred and for a reasonable advance payment. When the rectification by the supplier has failed or cannot be reasonably expected from us (e.g. because of high urgency, immanent risk) there is no need to set a deadline; the supplier shall be informed in advance, if possible, or immediately about the substitute performance.
5. When the delivered item is used in a product manufactured by us, the limitation period is 24 months from the putting into service of our product. When the delivered item is forwarded to one of our customers, the limitation period is 24 months from the arrival at our customer. In both cases however, the limitation period lapses 36 months after the transfer of risk. For other delivered items, the limitation period is 24 months after the transfer of risk. Compulsory legal regulations (§§ 445b, 478 clause 2 BGB) remain unaffected.

## **XI. Prices and Terms of Payment**

1. The prices stated in the order are binding.
2. The supplier shall bear all possibly incurring customs fees, duties and cost of importation relating to the order.
3. Prices are quoted exclusive of value-added tax.
4. If not otherwise agreed in writing, we pay within 30 days after the receipt of the delivery and invoice with 3% discount.
5. We are entitled to statutory offsetting rights or rights of retention.
6. We pay with the reservation of a correction if objections arise subsequently.
7. As far as payments have to be made by us for deliveries and/or services not made or rendered yet, appropriate bank guarantees in our favour shall be issued by a renowned German credit institution before we effect the payment.

## **XII. Assignment**

Any assignment of claims against us is only effective subject to our prior written consent. Should the supplier assign his claim against us to a third party without our consent, the assignment is nevertheless valid. However, we have the option to render our services to the supplier or the third party with discharging effect.

## **XIII. Reservation of Title**

The transfer of the goods delivered by the supplier to us is made absolutely independent from the payment of the price. Any effective reservation of title declared by the supplier is only applicable until the payment of the goods delivered to us and only for them.

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## **XIV. Secrecy, Provision, Advertising**

1. The supplier undertakes to keep in strict confidentiality all commercial and technical information, which have not been publicly known yet, as business secrets, even after the termination of the contract.
2. Any items and rights provided by us, in particular drawings, models, templates, samples and electronic fabrication documents and software, irrespective of their storage medium, shall not be made available or disclosed to unauthorized third parties. Any duplication of such items is only permitted as required for the business and in compliance with the applicable copyright regulations. They are confided to the supplier exclusively for the purpose of our order, and have to be returned after the completion of the order.
3. This applies correspondingly to the items manufactured by the supplier according to our specifications, as described above.
4. The supplier undertakes to obligate his sub-suppliers to maintain secrecy to the same extent.
5. We reserve all proprietary rights, copyrights and industrial property rights in items provided by us (including the right to register such rights).
6. The supplier may only use our business relationship for advertising purposes subject to our prior consent.

## **XV. Industrial Property Rights of Third Parties**

1. In accordance with the legal regulations, the Supplier is liable for claims resulting from the violation of industrial property rights or the registration of such rights in the course of the contractual use of the delivered goods. He shall indemnify us and our customers accordingly. The supplier retains the right to prove that he is not accountable for the violation of the rights of third parties.
2. The contractual partners undertake to inform each other immediately about any risk of violations that become known or about any asserted violations, and to provide the opportunity to jointly counteract such claims.
3. On request, the supplier shall inform us about the use of any published or unpublished corporate or licensed property rights and registrations of property rights in the delivered goods.

## **XVI. Withdrawal, Performance of the Contract**

1. In case of a serious cause, we are entitled to withdraw from the contract in total or in part, or to request for its performance at a later date without additional claims by the supplier.
2. *Serious causes are, in particular, strike, lockout or other disruptions in operation. The regulation stated in Chapter XIX remains unaffected.*

## **XVII. Hazardous Goods**

Regarding the delivery of hazardous goods, the supplier shall be fully responsible for the compliance with the applicable legal regulations, as e.g. labelling, packaging, forms, etc.

## **XVIII. Integrity Clause**

1. The supplier and we undertake:
2. To not engage in any form of corruption in the mutual contractual relationship and towards third parties;
3. To take all necessary, also organisational, measures, to prevent corruption, including the instruction of the
4. employees and other authorised persons.
5. Corruption in the broadest sense means any seeking or accepting, offering or allowing, facilitating or concealing of improper payments and other similar benefits.

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6. In case of violations if this integrity obligation by the supplier, we are entitled to withdraw from the contract for cause. Other claims (including legal ones) from us to the supplier, particularly for compensation, remain unaffected.
  7. The supplier acknowledges that we, in the case of a violation against this integrity obligation, will disclose all information and data, even if assured to keep them in confidence, in cooperation with the prosecution authorities.

### **XIX. Law, Place of Jurisdiction, Place of Fulfilment**

1. This contract is exclusively subject to German law, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
2. Munich is the exclusive place of jurisdiction, also regarding direct deliveries to the customer.
3. However, we can also sue at the location of the supplier's domicile.
4. Munich is place of fulfilment; should another place be indicated in the order the latter shall be the place of fulfilment. Munich is place of fulfilment for payments.