

## Terms and Conditions of Purchase

The following conditions apply only to persons who, when the contract is concluded, are exercising their commercial or independent professional activity (entrepreneurs) and to juristic persons under public law and to special funds under public law.

### 1. General

The following conditions of purchase and these conditions only, apply to our orders. Any conditions of sale or delivery which conflict with them are hereby expressly excluded. Any alterations or additions to these conditions of purchase are binding only if they are confirmed by us in writing.

### 2. Orders and Confirmation of Orders

Only orders made in writing are binding. Orders or agreements made orally or by telephone must, if they are to be binding, be confirmed by us in writing.

All orders are to be confirmed by the supplier at once, giving the price and time of delivery. If the supplier fails to accept the order within two weeks of its being submitted, we are entitled to countermand it.

### 3. Time of Delivery and Dates

Dates and time-limits are binding. Delay occurs without reminder. Proof that the date of delivery or the time-limit has been observed is given by the delivery of the goods to us, insofar as no other address for delivery has been given. If delivery "carriage paid" has not been agreed upon, the supplier shall make the goods available to us punctually, having due regard to the usual period for shipping.

If the date agreed upon is not met by reason of circumstances for which the supplier is responsible, we are entitled, at our own choice and without prejudice to further legal provisions, to withdraw from the contract after the expiry of a reasonable additional period, to obtain a replacement from a third party and/or to require damages for non-performance. We have a claim to repayment of all additional costs which arise for us as the result of delays in delivery or services which are the responsibility of the supplier. Acceptance of the late delivery or service does not imply waiver of claims for compensation.

If the delivery time agreed upon is not met, we have in addition a claim for payment of a contractual penalty of 0.1 per cent per working day, up to a maximum of five per cent of the sum contracted. We are entitled to claim a contractual penalty besides fulfilment of the contract. If we have not already reserved the penalty with acceptance, the penalty can be claimed by us until our payment. The asserting of a damage beyond the contractual penalty is not excluded.

If the supplier should foresee difficulties in manufacturing or in obtaining the primary material, and if circumstances arise which the supplier is powerless to affect and which will probably prevent him from making delivery punctually and of the quality agreed upon, the supplier must at once inform our ordering department.

In the case of number of items, weights and measures, the values determined by us on checking the goods on receipt are applicable.

Additional or short shipments, and partial or advance deliveries, require our agreement. Shipping is carried out at the supplier's risk.

Delivery is to be made carriage paid and/or post-free. Packing charges are to be borne by the supplier.

Transport insurance is borne by us.

Our regulation, viz., that we are proscriptive SLVS, must be observed unconditionally.

#### **4. Passing of Risk**

The supplier bears the risk of damage and loss of the goods until the goods are accepted by us or by our agent at the place where the goods are to be delivered in accordance with the contract.

If a delivery should entail installation by the supplier, in our works or with third parties, and/or if acceptance should be necessary either under contract or by law, the risk is transferred to us only on acceptance.

#### **5. Prices/Off-Set**

If no different agreements are made in writing, the prices agreed upon are deemed to be fixed prices until delivery.

During unsatisfactory supply or performance we are entitled to withhold our payment in full amount, as far this is not in contradiction to good faith.

#### **6. Insolvency of the Supplier**

In the event of the supplier's insolvency we are entitled to retain a reasonable sum by way of security, of at least ten per cent of the price agreed upon, until the expiry of the period of limitation for warranty claims.

The supplier assigns to us his warranty claims against his primary supplier. We are entitled, in the event of the supplier's insolvency, to disclose this assignment.

In addition, we are entitled to withdraw from orders for the volume of the goods which have not been fulfilled by this time.

## 7. Presentation of Account and Payment

Accounts are to be submitted by the supplier in duplicate.

Payment is made upon completion of delivery or service and after reception of a correct invoice including purchase-number, customer-number, quantity, price and part-number.

If payment is made within 14 days of due date a discount of three per cent is agreed upon.

In general, payment is made net cash within 60 days of the account being received and delivery completed.

Payments do not imply that we recognise the delivery or service as being in accordance with the contract.

## 8. Guarantee, Notification of Defects, Duty to examine and Requirement to give Notice of Defects

Technical specifications as well as performance data specified by the supplier are considered as warranty of their condition.

If there are defects in the technical specifications, or its features guaranteed including guaranteed ratings, operating points, our specification and the performance characteristics in the catalogue of the supplier, we have the right to choose between termination, price reduction, a new delivery, on-the-spot repair or compensation for failure to fulfil the contract. Other claims for compensation remain unaffected.

If a defect is discovered, the supplier also bears the costs of checking and determination of the defect, without prejudice to other, further claims by us.

We are entitled to remove defects at the expense of the supplier and without informing the supplier in advance, if the immediate removal of a defect is justified by reason of a particular need on our part, or if there is reason to suspect that a repair by the supplier would entail a greater expense than a repair by us, or if a repair by the supplier would cause delays which would make it more difficult for us to meet our obligations towards our contractual partner.

We may return to the supplier, at his own cost and his own risk, goods not delivered according to contract.

The supplier commits himself to sign and maintain an appropriate operating and product liability insurance and to submit an insurance confirmation to us.

The supplier undertakes to carry out a careful check when the goods leave his premises. He thus waives the fulfilment of the commercial duty to examine and give notice of defects (§§ 377 ff. HGB).

The warranty period runs for two years if not a longer period is required by law.

## 9. Liability of the Supplier

We have a claim to compensation for all damage caused us by the supplier in connection with the delivery. This applies in particular to material employed uselessly and to wages paid as the result of concealed defects and to increased costs for meeting the supplier's own delivery dates and other damage resulting from defects. This obligation to render compensation lapses if the supplier shows that the supplier is not at fault (insofar as he is not responsible under provisions of the law even when the supplier is not at fault).

If, owing to a defect in the series, it is not possible or not reasonable to exchange a whole series of contracted items, or if our products in which contracted items have been incorporated (e.g., because error analysis in the individual case is uneconomical, not possible or not reasonable), the supplier shall reimburse the cost, even in respect of that part of the series in question which is technically without defect.

If a defect in the service provided by the supplier gives rise to product liability for us, the supplier releases us from such liability. The supplier shall take over all costs, including costs of recall, arising from product liability.

The supplier is also responsible for damage which is ascribable to inadequate or defective safety measures.

If the supplier is granted the use, processing or treatment of installations or parts of installations, his responsibility for damage to such installations or parts of such installations remains unaffected.

The supplier is obliged, to deliver the ordered products free of rights of third parties. In case of any claims, domestic or foreign, by third parties regarding the infringement of patents, copyrights or other intellectual property, the supplier will indemnify or reimburse us of any costs thereof. This includes legal fees, liquidated damages as well as costs for repair or rework.

## 10. Environment, Safety, Health

The supplier is required to comply with the in each case valid legal regulations of the European Union and Federal Republic of Germany, e.g. the REACH regulation (regulation EC no. 1907/2006), the law of retraction and environmental friendly disposal of electric and electronic units (ElektroG) as a national implementation of the regulations 2002/95/EC (RoHS) and 2002/96/EC (WEEE) and of the Altfahrzeuggesetz (used car law) as a national implementation of the EU regulation 2000/52/EC.

The supplier will directly inform us about relevant changes on the goods, its ability to deliver; use or quality caused by legal regulations, in particularly by the REACH regulation and in individual cases agree to adequate measures with us. This is valid as soon as and as far as the supplier identifies such changes, accordingly.

The German motor vehicle manufacturers have listed forbidden and undesirable materials and materials requiring to be declared in catalogue VDA 232-101. The requirements specified therein are to be observed by the supplier and to be carried out on his own responsibility.

Where required by law, the CE symbol must be clearly visibly attached, as well as the conformity statement/manufacturer declaration and a risk assessment has to be transferred to us.

The supplier agrees to an investigation of the environment, given an appropriate period of notice, by us and/or by our customers.

## **11. Material additionally provided, Means of Production, Drawings, etc.**

Material additionally provided and means of production, drawings, models, samples, tools, patterns and the like remain our property. The supplier is liable for loss, mislaying, deterioration or damage, insofar as he is responsible for these. Material and means of production made available to the supplier may not be made available to third parties, transferred, pledged or otherwise utilised without our permission. Goods produced with these materials or means of production are to be delivered only to us.

This also applies to means of production and to tools where the costs of production have been taken over by us, in whole or in part, by agreement.

If the production costs for means of production and tools have been taken over in total by us, then these become our property. Until they have been transferred to us, they are stored for us by the supplier with proper care.

In the case of pro rata costs paid by us, ownership is transferred to us only pro rata, unless we undertake an adjustment of payment between the pro rata and the full cost.

## **12. References**

The supplier may mention a business connection with us in his publicity literature only if the supplier has express authorisation from us to do so.

## **13. Severability Clause**

If any provision in these conditions of purchase or within the scope of other agreements should be or should become invalid, the validity of all other provisions or agreements is not affected thereby.

## **14. Applicable Law, Place of Performance and Legal Venue**

The law of the Federal Republic of Germany applies, with the exception of all international contracts relating to the sale of goods.

The place of performance for all deliveries and services is the address for shipments specified by us. If such an address is lacking and cannot be determined from the situation, the place of performance is our acceptance of the goods.

The place of performance for all payments is our business address and all localities where we maintain a bank account.

The legal venue is Giessen. We are entitled, however, to also file a suit at the supplier's place of business.