

GENERAL TERMS AND CONDITIONS OF PURCHASING

A. Placing of orders

1. All orders are subject to the following terms of purchase, even if these are no longer expressly referred to once a lasting business relationship has been established. Alterations to these terms and in particular contradictory or supplementary terms of business are hereby rejected. A failure on our part to comment on acknowledgements of orders drawing attention to deviating or supplementary terms of business shall not be regarded as signifying assent. Neither shall such terms become valid vis-à-vis us as a result of the execution of an order placed. On the contrary, by executing an order the supplier signifies its acceptance of our terms.

Any amendment to our terms contained in a confirmation of order shall be construed by us as a rejection of our order. If goods/services are nevertheless supplied, this shall signify assent to our terms.

2. Our orders must be acknowledged by the Contractor without delay.

B. Prices, specification of goods/services to be supplied

1. Except where otherwise agreed the prices agreed are fixed and free to the Customer's factory or to the place of destination specified in the relevant order. They include packing and all subsidiary costs.
2. All services necessary to ensure faultless supply/provision shall be included in the goods/services to be supplied/provided by the Contractor even if they are not expressly mentioned in the relevant order.

C. Delivery/supply deadlines

1. The deadlines specified in orders apply to receipt of goods/successful provision of services and are binding. Part deliveries/part provision are only permitted with our approval.
2. If the supplier falls into arrears, the Customer shall be entitled, without prejudice to further claims for damages and except where otherwise agreed, to require the payment of a contractual penalty equivalent to 0.5% of order value for each week of arrears commenced, up to a maximum of 10% of order value. We reserve the right under § 341 Para. 3 German Civil Code to impose a contractual penalty with regard to the underlying contract until final payment is made, but at least until 14 days following acceptance of performance.
3. If doubt arises before a due date through the fault of the Contractor as to whether the latter is able or willing to fulfil the relevant contract, in particular because the supplier states before a due date that it is unable or unwilling to meet its contractual obligations on time, the Customer may set a deadline for it to state and provide evidence of its ability or willingness to meet them, failing which it shall refuse to accept performance.

D. Delivery and passing of risk

1. A delivery note giving full details of the relevant order must be enclosed with each consignment. In cases where delivery is made to a place other than the registered office of the Customer (Tübingen) a notification of dispatch signed by the carrier must be sent to the Customer so that the invoice can be checked.
2. In the case of contracts of sale the risk shall not pass until the goods are handed over to the Customer. In the case of contracts for services it shall not pass until acceptance.

E. Issuing of invoices, terms of payment

1. Invoices must be sent to the Customer with full details of the orders concerned after dispatch/successful provision. Part invoices shall only be possible if the relevant part deliveries have been agreed.
2. Unless otherwise agreed, payment shall be due within 14 days with a 3% discount or within 30 days net. Except where otherwise agreed, the period allowed for payment shall begin to run on receipt of the invoice but not before acceptance of delivery/supply.
3. Where a complaint is made in respect of defects, the Customer shall be entitled to retain a reasonable sum until final settlement of the matter and to deduct discount on the amount retained in accordance with Pt. 2 even after that.

F. Warranty, rectification of defects

1. According to its statutory guarantee rights the Customer is entitled to require the rectification of defects or the replacement of defective items under both contracts of sale and contracts for services. In such a case the Contractor must bear all costs arising in connection with the rectification or replacement. In urgent cases the Customer shall be entitled at the expense of the Contractor either to rectify defects itself, to have them rectified by third parties or to obtain replacements elsewhere. Section C No. 3 is applicable accordingly.
2. The guarantee period is 24 months from the date when the product concerned is put into service up to a maximum of 30 months after the date when the risk passed, unless otherwise provided by law or in individual contracts. If the Contractor carries out repairs or provides a replacement, the guarantee period for the item affected by the repair/replacement shall begin again. A written complaint shall interrupt the period of limitation of warranty claims for all defects to which the appearance of the notified defect is attributable.
3. The period for inspection and making a complaint is three weeks from delivery to the place of destination or for defects not apparent on inspection three weeks from the time when the defect is discovered.

G. Product liability

If third parties suffer personal injury or damage to property as a result of a defect for which the Contractor can be held responsible and if action is brought against the Customer under German or foreign law, the Contractor must indemnify the Customer against all claims. Here the Contractor shall also be under an obligation to reimburse expenses incurred in connection with any recall of products undertaken by us or any other measures designed to rectify or prevent damage/losses. The Contractor undertakes to maintain insurance providing appropriate cover throughout the term of contracts. The Contractor waives its right to any defence on the grounds of expiry of claims by the passage of time (statute of limitations), unless the Customer is also in a position to plead the defence of limitation.

H. Infringements of protected rights

1. The Contractor guarantees that its deliveries of goods and provision of services will not breach any rights of third parties.
2. If a claim is made against the Contractor by third parties contradictory to Para. 1, the Contractor must reimburse all expenses incurred by the Customer in connection with the claim. The limitation period for infringements of protected rights will be 30 years.

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I. Assignment of claims, subcontractors

1. Trade accounts receivable may only be assigned to third parties with the consent of the Customer.
2. The supplier must fulfil its obligations under contracts with the Customer using its own company and its own employees. The use of subcontractors is only permissible with the consent of the Customer.

J. Provision of materials

1. Materials/components provided by the Customer remain the property of the Customer and must be stored separately by the Contractor. The Contractor shall be liable for damage or loss, whether culpable or not.
2. If an item provided by the Customer is united with other items not belonging to the Customer, the Customer shall acquire part ownership of the new item created proportional to the ratio of the value of its item to the value of the whole item.
3. The Contractor must insure all items of which the Customer is sole or part owner against material damage, loss etc.

K. Rights of ownership/rights of use

1. All items, models, tools, patterns, drawings, plans and documents of whatever kind shall remain the property of the Customer. The Contractor must hand over such items without charge whenever requested to do so by the Customer. The same applies to moulds, tools and similar devices or aids for the production of the goods supplied which are prepared on the basis of such items or produced in whole or in part at the expense of the Customer. Alterations may only be made with the consent of the Customer. It is agreed that the above-mentioned items shall pass to the ownership of the Customer (if remuneration is agreed, upon payment) and that they shall be stored suitably and free of charge. If the Customer pays for items before completion, the Customer shall already acquire ownership of the semi-finished product.
2. Section J No. 3 applies by analogy.

L. Confidentiality/protection of know-how

1. The Customer has made know-how, particularly in the form of project and design drawings and advisory services, available to the Contractor. The Contractor confirms that this know-how represents intellectual property of the Customer.
2. The Contractor is under an obligation to keep strictly confidential all information of a technical or commercial nature relating to the other party, whether in oral, written or any other form, to which it obtains access in connection with this Agreement, in particular including information about business and operating secrets (e.g. inventions, technical processes, formulae, software codes, product designs, costs and other unpublished financial information and other marketing data), and to take all necessary measures in order to prevent its accessing or utilisation by third parties, particularly by current or potential competitors. Employees must be placed under an obligation to maintain secrecy if their contracts of employment do not already ensure this.
3. The Contractor undertakes not to exploit information supplied for its own purposes without the express written permission of the supplier of the information.
4. The obligations specified in Clause 2 and Clause 3 do not apply to information which can be shown
 - to have been generally accessible/state of the art at the time when knowledge of it was acquired or
 - to have already been known to the recipient of the information at the time when it was acquired or

- to be or to have been passed to the recipient of the information by a third party who acquired it legally and who was authorised to pass it on or

- to have been excluded from these obligations previously in writing by the supplier of the information.

5. The Contractor must return relevant documents and other materials which it has received from the Customer without delay on the request of the latter. Any computer files created and all copies must be deleted from all data recording media.
6. If the Contractor receives inquiries or orders relating to the construction of identical or similar equipment or equipment parts, the Contractor undertakes to notify the Customer of this. "Equipment parts" includes technical detail solutions containing know-how.
7. For each individual breach of any of the obligations in this declaration the Contractor shall pay the Customer a contractual penalty equivalent to 10% of order value. A contractual penalty shall not be offset against any claims of the Customer for damages. As compensation for damages the Customer may require at least the payment of a reasonable licence fee.

M. Cooperation agreement

If cooperation on an individual development project is agreed by the placement of separate individual orders in which the Contractor is made a partner in the Customer's development, the following shall apply:

1. The results/inventions produced jointly should wherever possible be protected by the registration of patents and designs. The parties undertake to agree in each individual case which party should effect the registration. In all cases the Customer shall be entitled to shared use without restriction and free of charge.
2. Inventions capable of protection and produced in the field of this cooperation which can be shown to have been made independently of the latter may be registered by the party concerned on its own initiative and independently of the other partner.
3. The parties undertake to reach separate, mutually acceptable agreements where this becomes necessary in connection with results or inventions produced within the cooperation.
4. The Contractor undertakes not to pass results arising out of the cooperation, in particular ones for which it was possible to obtain protected rights, to third parties in the form of licences or similar arrangements without the consent of the Customer.
5. The parties may only publish methods and results arising out of the cooperation by prior mutual agreement.
6. The Contractor undertakes not to advise any third party in the field of cooperation or to work for a third party in this field in any other way during the term of the cooperation without the prior written consent of the Customer.
7. The Contractor must return all documents and other materials made available to it in connection with this cooperation without delay on request. Any computer files created and all copies must be deleted from all data storage media.
8. Rights and obligations arising out of this Agreement may only be transferred to third parties with the prior written consent of the other party.
9. The agreement applies for the duration of a cooperation. The obligations specified in Clauses 1, 2, 7 and 8 shall, however, not cease to apply until three years after the end of the agreement.

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N. Quality assurance

This Agreement applies exclusively to products specified on the list enclosed with the relevant order which the Contractor supplies on the basis of orders it receives and accepts from the Customer during the term of this Agreement.

1. The products must correspond to the description agreed (e.g. specifications, data sheets, drawings) and/or to the agreed patterns. By the description of products and the submission of patterns the Contractor warrants these characteristics unless otherwise agreed. In each case the Contractor must check without delay whether any description submitted by the Customer is obviously defective, unclear or incomplete or obviously deviates from pattern. If the Contractor finds this to be the case, it must notify the Customer in writing without delay.
2. The Contractor must operate a quality management system which satisfies the requirements detailed in a separate appendix to this Agreement and manufacture and test products in accordance with the rules of this quality management system. The Contractor shall check without delay to make sure that its quality management system meets the above-mentioned requirements. Alterations to its quality management system or to that system's certification status must be notified without delay by the Contractor to the Customer.
3. If the Contractor obtains production or testing materials, software, services, materials or other prior supplies from sub-contractors for the manufacture or quality assurance of the products, it must integrate them by contract into its quality management system or assure the quality of such prior supplies itself.
4. The Contractor must keep records of the implementation of the above-mentioned quality assurance measures, including in particular readings and test results, and store these records together with any product samples systematically. It must permit the Customer access as necessary and supply copies of records and any samples. The nature and scope of and storage periods applicable to these records and samples are described in a separate appendix to this Agreement.
5. The Contractor shall at reasonable intervals make it possible for the Customer to assure itself that the quality assurance measures mentioned in Sections 2 - 4 have been implemented. For this purpose the Contractor shall allow the Customer reasonable access to its premises by prior agreement and during such access make a qualified specialist member of staff available to provide support. Permission to observe production methods which have to be kept secret and access to other operating secrets may be refused. In the case of supplies of medical products subject to Directive 93/42/EEC the Contractor shall grant the specified department of the Customer / the relevant public authorities access to its premises.
6. Before making changes to production methods or materials or components supplied for products, before relocating production units and before changing the procedures or equipment used to test products or other quality assurance procedures the Contractor shall notify the Customer in good time to enable the latter to determine whether the changes planned could be disadvantageous.

7. If the Contractor detects an increase in deviations of actual characteristics from the desired characteristics of products (quality deterioration), it shall notify the Customer of this and of the measures it proposes to implement to rectify the situation without delay.
8. The Contractor shall ensure by marking products or, if this is impossible or undesirable, by other suitable measures that if a defect is detected in products the Contractor is able to establish without delay what other products could be affected. Details shall be specified in an appendix to this Agreement. The Contractor shall provide the Customer with enough information about its marking system or other measures to enable the latter to draw its own conclusions as necessary.
9. Immediately on receipt of products the Customer shall check whether the quantity and type ordered have been delivered and whether transport damage or defects are externally visible. If the above-mentioned inspections by the Customer reveal damage or defects, it must notify the Contractor without delay. If the Customer discovers damage or defects later, it must also report these without delay. The Customer is under no obligation to the Contractor to make any inspections or notifications beyond the above.
10. Each partner shall appoint a quality assurance officer responsible for coordinating the implementation of this agreement and making the relevant decisions and shall inform the other party in writing of the identity of this officer. If a new officer is appointed this must be notified to the other party without delay.

O. Place of performance, legal venue and jurisdiction

1. The place of performance is the place to which an order requires goods ordered to be delivered. If nothing is agreed, the place of performance is the Customer's registered office in Tübingen.
2. The legal venue is Tübingen. The Customer is also entitled to enforce claims at any other legal venue.
3. The contractual relationship is subject to the laws of the Federal Republic of Germany.

P. Invalidity

Should one or more terms of this Agreement be or become invalid by law or by an individual contract, this shall not affect the validity of the remaining terms. A term rendered invalid by law shall be replaced as quickly as possible by another term which comes as close as possible to achieving the purpose of the invalid term.

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