

General Terms and Conditions of Company:



Inh. Peter Wendt
Johann-Dahmen-Str.7
40667 Meerbusch

General

Any terms and conditions stipulated by Supplier and divergent from or supplementary to these Terms and Conditions of Purchase will not be binding upon Purchaser, even if not expressly objected to or in cases where Supplier stipulates his terms and conditions as the exclusive basis for delivery. Order and their acceptance, as well as any additions or amendments thereto require to be made in writing. Verbal subsidiary agreements or subsequent contract amendments will not be binding unless confirmed in writing by Purchaser. Supplier's failure to accept the order within 14 days will entitle Purchaser to cancellation. Without first obtaining Purchaser's written approval, Supplier may not fully delegate or subcontract to a third party any of the goods or services ordered hereunder.

Delivery Date – Place of Performance

The agreed delivery date will be binding. Any early delivery will require Purchaser's consent. Deliveries not involving installation or erection are considered timely when received in due course at the delivery address indicated by Purchaser, while those requiring installation or erection, as well as services purchased, will be deemed made or rendered timely when provided ready for acceptance. Upon Supplier's default, Purchaser is entitled to claim a contractual penalty of 0.5% of the order value for each week of delay or fraction thereof, up to an aggregate maximum of 5% of the order value. Purchaser may claim such penalty if Purchaser has reserved the right to do so within one month after acceptance of the final part of any goods or services to be provided under the order. Within the agreed delivery period all documents have to be made available to the Supplier which are of importance for consignment checking of the goods, its use and its maintenance, e. g. but not limited to instructions for use, operating manuals, design drawings, connection diagrams, inspection reports, certificates. Upon Supplier's default, Purchaser is entitled to withhold 10% of the total value of the underlying order until these documents are made available to the Purchaser. Place of performance with respect to goods or services provided by Supplier shall be the delivery address specified in the underlying order. Where no delivery address is specified and if the place of performance does not result from the nature of the obligatory relation, Purchaser's address shall be deemed the place of performance.

Shipment - Pricing

Goods to be delivered hereunder shall be duly and properly packed and shipped. Pack(aging) and shipping specification shall be adhered to. Each consignment shall be accompanied by delivery slips or packing notes. All pertinent documents shall indicate the order numbers and other Purchaser data specified in the order. On or before dispatch, Purchaser shall be provided with a shipping advice. Any additional charges attributable to non-compliance with said instructions and specifications shall be borne by Supplier. Prices shall be based free place of performance.

Invoicing – Payment - Nonassignment

Invoices shall reflect the order number and other identification data specified in the order. Any delay in invoices handling process attributable to non-compliance with said instruction is excluded from Purchaser's responsibility. Payment will be made on the terms and conditions set forth in the order. If no terms and conditions for payment are set forth in the order, payment will be made within 14 days after delivery and receipt of the invoice with 3% cash discount or within 45 days after delivery and receipt of the invoice net. Cash discount may be deducted even where Purchaser offsets or withholds certain sums due to faults or defects. Supplier shall not be entitled, without first obtaining Purchaser's written approval, to assign, or collected through a third party, any account receivable from Purchaser. This provision will not apply to the extended reservation of ownership.

Warranty

Supplier represents and warrants that the goods delivered and services provided hereunder will be and remain free from faults and defects for a period of two years, buildings for a period of five years and at regular limitation for a period of four years, unless law or contract provide for a longer period. The statutory term of limitation shall commence for goods on the date of delivery and for services on the date of acceptance. These periods of limitation will be suspended as long as Supplier and Purchaser are negotiating on the claim on which the limitation is based until either party refuses to continue such negotiations. Any fault or defect shall promptly be communicated to Supplier in writing as and when detected or identified in the course of ordinary day-to-day business. Purchaser has the option to have faults or defects remedied or to demand replacement. All and any expenses incurred (whether by Purchaser or otherwise) in connection with the detection, identification, remedy and correction of such faults / defects shall be for Supplier's account. The same provision shall apply to the extent that expenses are increased by fact that the goods to be delivered are transported to any place other than that of performance and Supplier has known such fact when signing the contract. When and if defaulting delivery, Supplier is failing or denying to subsequently eliminate or correct faults or defects, Purchaser at defective work shall additionally have the right to have it replaced or corrected elsewhere at Supplier's cost and expense. Purchaser may deem the repair or remedy of a fault or defect to have failed when Purchaser fixed a reasonable deadline for the removal of the fault or defect and such deadline has elapsed. In urgent cases, Purchaser shall have the right, at Supplier's cost and expense which Supplier thus saved, to proceed to the elimination of any faults or defects. For any remedy, correction or replacement under the warranty, the warranty period shall be twelve months from the date the warranty obligation has been performed or after expiration of the warranty period applicable to the original goods or services, whichever is later.

Duties of Instruction, Information and Care

Provided that Purchaser has informed Supplier about the intended use of the goods or services or that such use is apparent to Supplier even without any express mention, Supplier is obligated forthwith to inform Purchaser if Supplier's goods or services are not suitable for such intended use. Any circumstances jeopardising compliance with agreed delivery dates shall promptly be communicated to Purchaser in writing to agree on further action. Supplier shall duly notify Purchaser in writing of any changes or modifications with respect to the composition of materials used or the underlying engineering design if different from similar or comparable goods or services previously provided by Supplier for Purchaser. Any such changes or modifications shall require Purchaser's written consent. Supplier shall ensure that the goods and services will conform with all applicable environmental protection, accident-prevention and other industrial safety regulations, as well as with generally accepted safety and occupational health provisions, which are current and in effect in the Federal Republic of Germany. For each shipment, Supplier shall advise Purchaser of any specific treatment and waste disposal requirements unless generally known.

Property Rights

Supplier is responsible for his supplies / services not violating a third party's property right. If Purchaser is therefore called upon for infringements by a third party, then Supplier is obligated to fully indemnify Purchaser for all damages, claims, expenses and attorneys fees as a result of the alleged infringement on first request; Purchaser is not entitled - without approval of Supplier - to reach any agreements with a third party, in particular to conclude an amicable settlement. Supplier's obligation for indemnification refers to all expenditures which arise for Purchaser from or in connection with the claim of a third party.

Provision of Material or Products

Materials or products of any kind whatsoever provided by Purchaser to Supplier shall remain Purchaser's property and be exclusively used in or for the performance of the goods or services ordered hereunder. Supplier is obligated, at his own cost and expense, to perform any maintenance and inspection work as needed and to adequately insure the items provided by, and to substantiate this on request to Purchaser. To the extent that any of the items provided by Purchaser are processed, converted or transformed by Supplier to form a new movable product, Purchaser shall be deemed such product's manufacturer. If combined with or inseparably integrated in other objects, Purchaser shall acquire joint title and ownership in said objects in the ratio of the value the provided items had at the time of combination or integration. If combined or integrated in such manner that Supplier's property is to be regarded as the primary products, it is understood and agreed that Supplier assigns and transfers to Purchaser prorated interest in and joint title to such products; Supplier shall hold the products subject to joint ownership in trust on Purchaser's behalf.

Confidentiality - Secrecy

Supplier undertakes and agrees to keep secret and confidential, as well as to exclusively use for the goods or services ordered, any such commercial or technical information and documents as are not known to the general public and which have been disclosed under the business relationship. Subcontractors or other vendors shall be committed hereto analogously. Any mention by Supplier of Purchaser's firm, corporate name or trademarks in references, credentials or publications shall require Purchaser's prior written consent.

Spare Parts - Availability

Supplier is obligated to supply and deliver, of reasonable conditions, the parts required for a period equivalent to the anticipated technical service life or for 10 years after the last delivery, whichever is longer. In the event that Supplier discontinues, after expiration of the period mentioned in clause 10.1 hereof, the delivery of the parts or during said period, the manufacture of any of the goods ordered, Purchaser shall be offered the opportunity to place a final order.

Place of Jurisdiction - Applicable Law

If Supplier is a merchant or entity registered in the Commercial Register and subject to all provisions of the German Commercial Code, exclusive place of jurisdiction shall be Düsseldorf, Germany; this provision shall also apply to any action for assertion of claims concerning payment of a check, draft or note / bill of exchange. However, Purchaser has also the right to bring an action before any court of law of competent jurisdiction. This contract shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980, shall not apply.

Should any individual provision of these conditions be ineffective or unenforceable, this will not affect the validity of the remaining provisions.