

# General Purchasing Terms and Conditions

Gesellschaft für Oeltechnik mbH

Version 07/2018

## 1. Scope

1.1 These general purchasing terms and conditions apply to goods and services supplied to the Gesellschaft für Oeltechnik mbH, unless any other agreements have been made.

1.2 Other general terms and conditions shall not apply even if these were not explicitly contradicted in individual cases or if ordered goods have been accepted without any reservation.

## 2. Terms used

2.1 The Gesellschaft für Oeltechnik mbH is hereinafter referred to as the Customer.

2.2 The respective contractual partner of the Gesellschaft für Oeltechnik mbH is referred to as the Supplier.

## 3. Orders

3.1 Orders and acceptance must be made in writing. Additional verbal agreements made before and after the conclusion of the contract shall only be legally binding if confirmed by the Customer in writing.

3.2 If the Supplier does not accept the order within 14 days, the Customer shall be entitled to revoke the order free of charge.

## 4. Consequences of failure to meet deadlines

4.1 Advance deliveries shall only be permissible with the Customer's approval. The place of performance for the delivery of the Supplier's goods and services shall be the destination specified in the order. If no destination has been specified, the Customer's business address in Waghäusel shall be considered the place of performance. In the event that any delays on the part of the Supplier are to be expected or have occurred, the Customer shall be notified immediately so that a decision about the further course of action can be taken.

4.2 If the Supplier fails to deliver within a period of grace set by the Customer, the Customer shall be entitled without further warning to reject subsequent acceptance, to repudiate the contract or demand compensation for nonperformance. The Customer shall also be entitled to repudiate the contract if the Supplier is not responsible for the delay.

4.3 If the Supplier defaults on delivery, the Customer shall be entitled to claim a penalty totaling 1% of the value of the delayed goods or services per commenced week. The Customer may claim no more than 10% of the value of the delayed goods or services as such penalty.

## 5. Prices

The prices shall be maximum prices. They shall include all expenses and costs relating to the goods and services to be provided by the Supplier.

## 6. Fulfillment and delivery

6.1 The Supplier shall be entitled to have the delivery of goods or services performed by third parties only with the Customer's prior written approval. Partial deliveries shall require the Customer's approval.

6.2 Every delivery must be accompanied by a delivery note indicating the order number, the item number, the material number and, if requested, the pertaining serial numbers and other identifications requested by the Customer in the order. A shipping advice must be sent to the Customer no later than the day of delivery. Additional costs incurred by the Customer through non-compliance with the above stipulations shall be borne by the Supplier.

6.3 Supplied technical goods must be accompanied by a technical description and a user manual free of charge. For all goods and services, the delivery agreement is only fulfilled if the complete documentation has been provided. Where software programs are written specially for the Customer, the program must also be supplied with the source code.

6.4 The Supplier shall be obliged to notify the Customer immediately if its goods or services are not suitable for

the intended purpose. This shall be inapplicable only in cases where the Customer did not inform the Supplier about the intended use of the goods or services or if this use was not recognizable for the Supplier in any other way.

6.5 The Supplier must inform the Customer immediately about changes to the composition of the processed material or the design of goods or services. The Customer must approve the changes in writing.

6.6 If the Supplier converts documentation provided by the Customer to its own documentation, he must bear the appropriate costs and make sure that the documentation created by him complies with the contractual stipulations and the Customer's documentation. The Supplier shall immediately notify the Customer of any deficiencies or discrepancies in the documentation provided. The Customer has no obligation to check and approve the documentation created by the Supplier. The Supplier shall grant the Customer the right to inspect and comment on the documentation created by the Supplier. However, such inspection or comments shall by no means exempt the Supplier from the obligation to comply with the scope of the goods and services in accordance with the contract.

## 7. Invoices, payments

7.1 Invoices must be submitted to the Customer by separate mail.

7.2 The day on which the Customer's bank has received the remittance order shall be considered the date of payment. Unless other agreements have been made between the Customer and the Supplier, payment term shall be 60 calendar days from delivery of all goods and services and invoicing. The supplier shall grant a 3% discount on the net price if the Customer pays the invoice within 14 calendar days after delivery and invoicing.

7.3 Payments shall not be construed as acceptance that the goods or services conform to the contract. If the goods or services are found to be faulty or incomplete, the Customer shall be entitled, notwithstanding any other rights, to withhold payments until the Supplier has properly fulfilled its obligations.

7.4 The Supplier shall not be entitled to assign its claims vis-à-vis the Customer to a third party or to have them collected by a third party without the Customer's written consent.

## 8. Import and export regulations

8.1 For goods and services provided by a country within the European Union (EU) outside the Federal Republic of Germany, the Supplier must specify its EU-value added tax identification number.

8.2 The Supplier is obliged to provide at its own expense the information about its supplier's declaration required in accordance with the Union Customs Code (Implementing Act), to permit inspections by the customs authorities and to obtain and provide the necessary official approvals.

## 9. Acceptance test, ownership rights

9.1 Goods and services must be acceptance-tested by the Customer. Commissioning or use shall not replace the acceptance test.

9.2 The delivered goods shall become the Customer's property no later than on delivery. Prolonged or extended reservation of ownership shall be excluded.

## 10. Duty of inspection and complaint, inspection requirements

The Customer shall check random samples of the incoming goods and services; a detailed examination shall not be made before the goods and services are used. In this respect, the Supplier waives the objection of delay in lodging a complaint.

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## 11. Liability for defects in quality and defects in title

- 11.1 The Supplier shall grant a warranty that the goods and services shall remain free from defects for a period of 36 months after delivery. The Supplier also warrants that all deliveries and services are free of third party intellectual property rights.
- 11.2 The warranty shall be suspended for the period beginning with the date on which the Customer dispatches a notice of defect and ending on the date when defect-free goods or services are received.
- 11.3 At the Customer's option, defects shall be remedied by repair or the supply of a replacement at the Supplier's risk.
- 11.4 The Supplier shall bear all expenses and costs incurred in connection with the identification and correction of any defects.
- 11.5 In the case of delay, failure or refusal of the repair or replacement, or in urgent cases, the Customer shall also be entitled to replacement at the Supplier's expense. The Customer may consider the repair or replacement as failed if the first attempt at remedying the defect has not been successful.
- 11.6 The Supplier shall indemnify the Customer from all claims by third parties made on the Customer because of material defects or defects in title - regardless of the legal reason - and reimburse the costs required for the respective legal action.

## 12. Technical documentation, tools, supplies

- 12.1 Technical documents, tools, factory standards, production supplies, special operating material, etc. provided by the Customer shall remain the Customer's property; all trademark, copyright and other industrial property rights shall remain with the Customer. The objects specified above, including all duplicates, must be returned to the Customer without explicitly being requested immediately after execution of the order. Therefore, the Supplier shall not be entitled to enforce the right of retention. The Supplier may use the objects specified above only for the execution of the order; it is not entitled to make these objects available to unauthorized third parties in any way. Duplication of the objects is only permitted to the extent required to execute the order.
- 12.2 If the Supplier produces the objects specified in sentence 1 of clause 12.1 for the Customer partly or fully at the Customer's expense, clause 12.1 shall apply accordingly. On production of the objects, the Customer shall become the (co-)owner in proportion to its share in the production costs. The Supplier shall store the objects for the Customer free of charge. The Customer can acquire the Supplier's rights to the object at any time by paying the Supplier's share in the costs and demand that the objects be surrendered to him.

## 13. Provision of materials

- 13.1 Any material provided by the Customer shall remain the Customer's property and shall be kept by the Supplier free of charge and with due commercial diligence separate from other goods and marked as the Customer's property. The material may only be used for the execution of the order. Damage to the provided material must be replaced. The Supplier shall be obliged to perform any required maintenance and repair work at its own expense. Furthermore, it must insure the objects sufficiently and verify this insurance vis-à-vis the Customer on its request.
- 13.2 If the Supplier processes or transforms the material provided, this activity shall be deemed to be performed for the Customer. The Customer shall immediately become the owner of the new objects thus created. If the material provided only makes up a part of the new objects, the Customer shall be the co-owner of the new objects in proportion to the value of the provided material incorporated in them. The Supplier shall store the co-owned material for the Customer free of charge.

## 14. Confidentiality

14.1 The Supplier shall be obliged to treat as confidential all non-public information and data (particularly that of a commercial or technical nature) which it gains knowledge of within the context of the business relationship and not to pass them on to third parties. The same obligation applies to any sub-suppliers or other third parties whom the Supplier involves in contract performance.

14.2 The Supplier shall not be entitled to publicly exhibit products specially made for the Customer unless the Customer has given its written consent. The same applies to the publication of orders and services as well as reference to orders vis-à-vis third parties.

14.3 When supplying references or publishing and exhibiting products, the Supplier may use the company name or trademark of the Customer only with the Customer's prior written approval.

## 15. Open Source Software

The Supplier shall inform the Customer - the latest with the quotation - whether the deliveries and services to be delivered contain "open source software". If the Supplier only indicates that after receipt of the order, then the Customer is entitled to cancel the order within 14 days of receipt of this information.

## 16. Insurance

16.1 The Supplier shall conclude and maintain with insurers of recognized reputation and security adequate insurance policies to cover its liabilities under the purchase orders issued by the Customer. At a minimum, Supplier shall maintain a General Third Party liability Insurance for an amount of no less than 5.000.000 EUR per occurrence and in the yearly aggregate. The Supplier shall also conclude and maintain Product Liability Insurance. The limit of coverage of such insurance shall be not less than 5.000.000 EUR per occurrence and 10.000.000 EUR in the yearly aggregate.

16.2 The Supplier shall provide certificates of such insurances on request of the Customer at any time.

## 17. Place of jurisdiction, applicable law, validity of the terms

17.1 The place of jurisdiction for any legal action against the Customer under this contract shall be the Customer's domicile. However, the Customer shall be entitled to bring matters before the court at the Supplier's domicile or any other competent court.

17.2 The law of the Federal Republic of Germany shall apply, but excluding the provisions referring to the CISG and any reference clause of German private international law.

17.3 Should any individual clauses of these general purchasing terms be invalid either in whole or in part, this shall have no influence on the effectiveness of the other clauses.