



## General Terms & Conditions of Purchase 11/2021

### 1. Order placement

We purchase and order subject only to the terms & conditions of purchase below. By executing the order, the supplier accepts the terms & conditions as applicable to all business transactions, including subsequent deliveries, even if the supplier has different terms & conditions. Failure by us to respond to supplier's terms & conditions of different content and of which we are informed or to uniform terms & conditions cannot be construed as acceptance thereof. In particular, failure by us to respond to order confirmations of conflicting content shall not be deemed agreement thereto. Any and every deviation in an order confirmation from our terms & conditions will be considered by us to be a rejection of our order. If delivery is nevertheless made, this shall be deemed incontrovertible agreement to our terms & conditions of purchase.

The supplier's order confirmation must reach our company within five days, at most, of the order date.

Supplementary agreements concluded before or at the time of conclusion of the contract shall in every case only be effective with our written consent. If, during the execution of the order, additional services which are not covered by the contractually agreed scope of the order prove to be necessary for the proper manufacture of the work, the contractor shall be required to obtain an additional order prior to order execution.

### 2. Prices, scope of delivery or service

The agreed prices shall, except where expressly agreed otherwise, be fixed prices, with carriage paid to our works or to the point of receipt designated by us, including packing and all ancillary costs. The railway and express station shall be Hildesheim. The prices shall be quoted in euros. Input VAT shall be shown separately on the invoice. In the case of travel expenses, the deductible amounts of input tax contained therein must be shown separately. In the case of prepayments or payments on account the input VAT must be shown separately. Services not liable to input VAT must likewise be designated as such in the invoice.

All the services necessary for flawless manufacturing and assembly processes shall be included within the scope of the contractor's services even if these services are not expressly listed in the contract.

If the material necessary for the performance of the contractor's service in the case of installation and assembly processes is delivered or provided by us, the contractor's service shall also comprise the unloading of the delivery vehicle and the transport from the storage area of the plant components to the point of assembly.

### 3. Delivery dates

The dates stated in our order shall be dates for the receipt of goods and must be adhered to without fail. Partial deliveries shall only be permissible with our written consent. In case of delays in delivery we shall be entitled, after giving the supplier prior written warning, to require payment of a contractual penalty in the amount of 0.2%, and a maximum of 5%, of the order value in question for each day, or part thereof, of the delay in delivery. The contractual penalty shall be set off against the default loss to be made good by the supplier.

### 4. Delivery and transfer of risk; compliance with accident prevention and works regulations

A delivery note form shall be attached to each and every delivery. In the case of shipping direct to our customers you shall use a neutral delivery note and send us a dispatch advice signed by the forwarder as a check on the invoice.

The risk, including in the case of purchase contracts, shall only be transferred to us as of acceptance of the shipment at the point of receipt.

In the case of installation and assembly work, the contractor shall be responsible for compliance with all the accident prevention regulations of the German federation of institutions for accident prevention and insurance (HVBG) and any works regulations of our end customer at the construction site that may be known to the contractor.

### 5. Invoicing, terms of payment

The invoice shall be sent to us, after dispatch, in duplicate. It may in no circumstances be attached to the shipment. The invoice must state all the order data. Part-shipment invoices shall only be possible if the corresponding partial deliveries have been expressly ordered.

Except where agreed otherwise, the terms shall be 3% cash discount for payment within 14 days or net within 60 days. The payment period shall start as from the date of receipt of invoice, but not before receipt of goods.

In case of complaints of defects, we shall be entitled to defer payment of the invoice at an appropriate level until the matter has been clarified in full. If part payment has been agreed, the supplier must, together with the request for payment, submit a bank guarantee for the partial amounts that are paid prior to delivery.

### 6. Warranty

The supplier shall warrant that the objects and services to be delivered conform to the samples approved by us, the pertinent standards (DIN, EU standards etc.) and all safety regulations. This shall also apply to the service data and other features/characteristics contained in the supplier's order confirmation.

Where we provide the supplier with plans, drawings, material and/or accessories, stipulate technical data or material qualities or state execution requirements, the suppliers shall be obliged to check on whether these are complete, correct and appropriate to the purpose intended. If the supplier does not raise any objections, it shall be obliged to provide an unrestricted warranty.

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Where delivery items are defective or promised characteristics are not present, we may also, in addition to our statutory rights under warranty, exercise the option of requiring rectification and setting a deadline of three working days. In the case of delivery of replacements (section 430 BGB, German Civil Code), the supplier shall be obliged to reimburse us for expenses incurred in connection with the exchange. In urgent cases we shall be entitled to remedy defects in the delivery item at the supplier's expense or to obtain replacements from a third party.

The warranty obligation shall exist for 12 months as from the acceptance of the HAW work item by our customer, but not for more than 18 months after delivery by the supplier, except where longer warranty periods are laid down in law or have been agreed in an individual contract. If items or important parts of a plant are redelivered, the warranty periods shall re-start in each such case.

The period of limitation for all claims under warranty shall be interrupted in the event of our written complaint of defect. The period set for inspection and filing complaints regarding manifest defects (sections 277 and 381 (II) HGB, German Commercial Code) shall be 1 week as from receipt of the goods at the point of receipt, and for hidden defects 3 years as from detection of the defect. A longer period shall however apply where such is appropriate. These provisions shall also apply to excess and short deliveries (section 378 HGB)

**7. Warranty and security retention amounts**

Until the expiry of the warranty period we shall be entitled to a warranty retention amount to the value of 10% of the contract price, which may be redeemed by the contractor at any time after acceptance of delivery by means of a bank guarantee. In the event that the supplier becomes insolvent before our final payment, we shall – without prejudice to rights of greater scope – be entitled, for the duration of the obligatory warranty, to an additional security retention amount in order to secure our claims under warranty to the value of another 20% of our contract price.

**8. Assigning of accounts receivable**

Trade receivables may only be assigned to third parties with our written consent. The contractor must in principle fulfil its obligations under contracts with us by way of its own company. It shall only be permissible to use the services of subcontractors with our consent.

**9. Producer liability**

If claims are asserted against us on grounds of producer liability under domestic or foreign law, the supplier shall have to reimburse us for the loss thereby incurred by us (including the costs of a necessary product recall) if it (the supplier) is responsible for the error generating such liability. The supplier shall in such case waive any defence under the statute of limitations unless we can for our part invoke said statute against the claimant.

**10. Provided materials**

Materials provided by us shall remain our property; they must be stored separately by the supplier and used only for our order. The supplier shall be liable, even where not at fault, for damage or loss thereto. The provided parts must all be insured by the supplier to our benefit against damage and theft.

Processing or remodelling of the material shall be subject to instruction by us. We shall in every case be the owner of the newly created object. We shall acquire co-ownership when use is also made of third-party material.

**11. Transfer of risk / acceptance / property rights.**

Risk shall be transferred as of receipt of shipment in flawless condition at the place of performance or as of successful acceptance of the service. In the case of services, a written record must be made of the result of the joint acceptance. Title to the goods delivered shall pass to us after payment. It shall not be possible to extend or expand retention of title.

**12. Compliance with regulations / Third-party IP rights / Production accessories**

The contractor undertakes to perform its deliveries/services at the level of technology effective at the time of performance of the contract and in compliance with all the relevant statutory and official regulations, in particular the provisions regulating safety at work, protection of the environment and handling of hazardous substances. The contractor vouches for the fact that third-party patents and intellectual property rights are not infringed by the delivery/service and the use thereof. If claims are made against us by a third party on grounds of such infringement, the contractor shall be obliged to indemnify us against such claims. The right is reserved to assert claims for damages against the contractor. Production accessories such as models, samples, drawings etc. which are provided by us or have been made by the contractor according to our specifications may, without our consent, neither be passed on to third parties nor used for or by third parties. The production accessories shall be our property. After use they must be forwarded to us, on our request, free of charge.

**13. Compliance with minimum wage act / Special right of termination**

The contractor undertakes to pay its staff at least the statutory minimum wage laid down in section 1 MiLoG (German minimum wage act) and to fulfil the other obligations arising from the said act, in particular the record-keeping requirements. For the full term of the contract and for a period of six months after the ending of the present contractual relationship, the contractor shall be required, on request, to provide us, within 14 days, with evidence of the fulfilment of this obligation by submitting appropriate documentation (in particular the documents specified in section 17 (1) MiLoG). The contractor shall be obliged to indemnify us, on first written request, against all claims by third parties which result from a breach of its obligations under the minimum wage act or a breach of the obligation, under the said act, by subcontractors engaged by the

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contractor. The obligation to indemnify shall also apply to all sanctions, fines or other measures under public law which are taken on grounds of possible violations of the minimum wage act by the contractor or its subcontractors, and also to all the costs of taking or defending against legal action which are incurred in this connection. The contractor shall be obliged to ensure that subcontractors which it engages in the context of the contractual relationship with us are also obliged to verifiably pay the minimum wage prescribed by statute law. If such a subcontractor uses the services of further subcontractors, the contractor shall be obliged to ensure that all subcontractors are placed under the pertinent obligation. The contractor shall be liable in the case of all claims by third parties which arise from a breach by its subcontractors of the obligation to pay the statutory minimum wage. If the contractor and/or its subcontractors are in culpable violation of the minimum wage act and/or breach of the obligations agreed in this connection, we shall be entitled to terminate the contract without notice.

**14. Assigning / offsetting / right to withhold payment**

Notwithstanding the provisions of section 354a of the German Commercial Code, claims under the concluded contract may not be assigned to third parties, or transferred to third parties for collection purposes, without our express written consent. The contractor may only set off with claims that are undisputed or established at law. The contractor may only assert a right to withhold payment if the claim on grounds of which the right to withhold is asserted arises from the same contractual relationship.

**15. Data protection / Confidentiality**

The data necessary for the execution of the contractual relationship will – insofar as is permissible under the German data protection act or the GDPR – be stored and processed by us. The contractor expressly consents thereto. We represent and warrant that we will handle these data with the diligence of a prudent business person. The contractor undertakes to keep absolutely confidential all information and transactions not in the public domain, knowledge of which it gains in the performance of its deliveries and services, and not to make same accessible to third parties. The contractor shall have liability for all damage or loss arising from a breach of this obligation.

**16. Property rights (exclusive rights)**

All the objects, samples, drawings, films, models, tools, technical instructions etc. which have been supplied to the supplier shall remain our property. The supplier must keep such items secret and surrender them to us free of charge at any time we so request. It shall not be permissible to pass them on to third parties or use them for private purposes. The same shall apply to items which were made wholly or partly at our expense (e.g. moulds, tools, devices). Modifications thereto may only be made with our written consent. These parts too must be insured by the supplier. The supplier shall be liable in case of damage thereto or loss thereof.

If improvements are made at the supplier in connection with our order, we shall have a non-exclusive right of use thereof, free of charge, for the commercial exploitation of the improvement and any intellectual property rights thereto that may accrue.

**17. Infringement of patent**

If we inform the supplier to which country its shipment is to be exported, it (the supplier) shall be obliged to check on whether patents existing for that country are an impediment to unrestricted use. The supplier shall be liable for all claims for damages on grounds of infringement of patent.

**18. Place of performance, court with jurisdiction and governing law**

The place of performance shall be the place to which the goods are contractually required to be delivered. Where our suppliers are general merchants as defined in the German Commercial Code, the courts at Hildesheim are agreed to have jurisdiction. We shall however also be entitled to assert claims before any other court. The contractual relationship shall be governed by the law of the Federal Republic of Germany. The convention on contracts for the international sale of goods shall not be applicable.

**19. Severability clause**

Amendments to these terms & conditions of purchase or other contractual accords must be in written form. Should one or more than one provision of these terms & conditions of purchase be or become invalid or unenforceable, this shall not affect the contract as a whole and the validity of the other provisions. The contracting parties undertake to replace the invalid or unenforceable provision with a valid and enforceable provision which shall, as far as possible, achieve the same commercial effect. The same shall apply, with the necessary modifications, to any unintended omissions from the contract.

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