

Terms and Conditions of Purchase

1. General – Scope

(a) The legal relations between a vendor and us shall solely conform to these General Terms and Conditions as amended unless expressly agreed otherwise.

(b) Any opposing or deviating conditions of vendor or a third party shall not apply even if we do not expressly contradict the application of such conditions in a given case. The unconditional acceptance of order confirmations or deliveries as well as payments shall not imply an acknowledgement of said conditions.

(c) Our General Terms and Conditions shall also apply to all future deliveries, services or offers even if not expressly agreed again.

2. Purchase orders and alterations of contract

(a) Vendor shall confirm our purchase order promptly in writing (also by email or telefax). We shall be bound to our offer for a period of five (5) working days.

(b) We reserve the right to request from vendor reasonable changes of the delivery item or the date of delivery. Any impact in particular in terms of costs will be taken care of by us in an appropriate and amicable manner.

(c) Any alteration of the contract by vendor shall be subject to our prior, express approval.

3. Prices/Terms of payment/Invoice details

(a) The prices agreed upon shall be understood net prices.

(b) Payments on our part shall be made under reserve of a proper delivery and correctness in price.

(c) Unless agreed otherwise, the purchase price will be paid within four (4) weeks from the date of delivery and receipt of invoice at a 2% discount or within sixty (60) days net.

(d) All order confirmations, delivery documents and invoices shall show the order number, item number, quantity delivered and delivery address. Sales tax shall be stated separately.

4. Dates of delivery/Delivery/Transfer of risk

(a) The delivery time (date or period of delivery) indicated in our purchase order shall be binding.

(b) Vendor shall notify us forthwith in writing if circumstances occur or become recognizable with the consequence that the delivery time cannot be adhered to.

(c) In case of default in delivery we shall be entitled unrestrictedly to raise statutory claims.

(d) In absence of our prior express approval vendor shall not be entitled to make part or early deliveries.

(e) Even if dispatch has been agreed the risk shall be transferred to us not before the goods have been handed over to us at the agreed place of destination.

5. Alteration of delivery items

(a) Any alteration of the delivery items (in particular specification, material composition, design, manufacturing process and place of manufacture) shall be subject to our prior express approval.

6. Quality, Incoming inspections, Notice of defect

(a) Vendor shall ensure that the delivery items are in compliance with the agreed specifications, in particular the data sheets or performance specs, the applicable norms and state-of-the art.

(b) The delivery items will be checked immediately upon receipt for compliance with the ordered quantity and type and any obvious and visible defects.

(c) For defects of any kind the period of notice shall be 10 working days from the date of detection.

7. Ownership protection

(a) We reserve the ownership or copyright in purchase orders, orders placed, and the drawings, illustrations, calculations, descriptions and other documents made available to vendor. Without our express consent vendor shall neither disclose the same to any third party nor make use of them itself or through third parties and shall not reproduce such material. Vendor shall return all documents at our request if they are no longer required for the ordinary course of business or negotiations fail to end up in a contract. Any copies made by vendor shall be destroyed except those required to be retained according to the relevant statutory provisions and storage of data for the purpose of the usual backup.

(b) Tools, equipment and models made available to vendor or made for the contractual purposes and charged separately by vendor shall remain or become our property and be marked by vendor as our property, kept safe, protected against any kind of damage and used solely for the contractual purposes.

(c) Vendor's retention of title shall only apply if it relates to our obligation to pay for the relevant product(s) in which vendor retains title. In particular no prolonged or extended retentions of title shall be permitted.

8. Warranty

(a) Vendor's warranties shall be based on the relevant statutory provisions unless otherwise agreed in these general terms and conditions of purchase.

(b) The warranty period shall be 24 months from the date of delivery to the place of destination.

(c) In case of defective performance vendor shall at our option provide either free replacement, grant a price discount in accordance with the statutory provisions for reduction or remedy the defect free of charge.

(d) In cases of urgency, in particular to avoid major damage or avert imminent danger we shall be entitled to eliminate defects at vendor's expense or have the same eliminated by a third party. The latter shall also apply if vendor fails to start remedial action immediately after request to do so, delays in defect remedy or the first attempt of defect remedy fails.

(e) For replacements or defect elimination the warranty period for replaced goods or rework shall start anew, i.e. on the date of arrival at the place of destination.

(f) Other claims on our part for breach of contract or breach of any other duties shall remain unaffected.

9. Product liability and third-party liability insurance

(a) Vendor shall be responsible for all claims as to damage to persons or property raised by third parties that are attributable to a product supplied by vendor, and keep us indemnified against any resulting liability.

(b) In the above framework vendor shall also reimburse all costs and expenses incurred by us including legal costs or recalls if any.

(c) Vendor undertakes to maintain a product liability insurance with a reasonable coverage per damage to person/property and shall present a copy of the policy on request.

10. Intellectual property rights

(a) Vendor shall warrant that the goods supplied do not infringe any third party's rights. Vendor agrees to indemnify and hold us harmless against all claims raised by third parties for infringement of their industrial property rights and refund all necessary expenses incurred by us in connection with such claims. No such claim can be raised as far as vendor can prove that it is neither responsible for the infringement nor should have recognised it at the time of delivery since reasonable care of a prudent businessman had been applied.

(b) Further statutory claims on our part for legal defects of the products supplied shall remain unaffected.

11. Spare parts and stock up of residual amounts

(a) Vendor shall have spare parts available for the products supplied to us for a period of minimum five (5) years after delivery.

(b) If vendor intends to discontinue the production of spare parts for the products supplied to us, it shall notify the same forthwith. Subject to paragraph 1, such decision shall be made not less than 12 months prior to the phase-out.

12. Non-disclosure

(a) Vendor undertakes to keep confidential all information (e.g. technical, commercial documents, manufacturing instructions, tools, patterns) made available by us or becoming known to it through the business relationship with us (except information in the public domain). Such information shall be solely used for the performance of a purchase order and must be treated and kept by vendor at least with the same care as its own business secrets. It shall be returned without delay on request.

(b) The non-disclosure obligation shall survive the contractual relationship by 36 months.

(c) In absence of our prior written approval vendor shall make no reference to the business relationship for advertising purposes and abstain from exhibiting products developed for us or together with us.

(d) Vendor shall bind its agents accordingly.

13. Offsetting and assignment

(a) We shall be entitled to set off and retain to the extent provided by law.

(b) Vendor shall only be entitled to set off for claims that are undisputed and determined without further legal recourse.

(c) Vendor shall not be entitled to assign to any third party its claims arising from the contractual relationship. It shall not apply if and when claims for money are concerned.

14. Choice of law/Place of jurisdiction/Miscellaneous

(a) All current and future business relations between vendor and us shall solely be subject to German law excluding the UN Convention on Contracts for the International Sale of Goods and the Hague Conventions relating to a Uniform Law on the International Sale of Goods when it comes to the conclusion of sales contracts.

(b) Sole place of jurisdiction shall be Gera.

(c) If a provision of these terms and conditions is or becomes invalid or unenforceable, the validity of the other provisions shall not be affected by it.

(d) The contractual relationship shall be subject to the written form. Any change and supplement of the contractual agreements and these terms and conditions shall be subject to our written confirmation.