

## **General Conditions of Purchase**

As of: 23 Apr. 2013

### **1. Validity of the General Conditions of Purchase**

1.1 The following terms and conditions apply to all orders made by us in the relationship with the supplier. Should the Supplier use opposing or supplementary conditions, their validity towards us is excluded even if we have not expressly rejected their contents.

1.2 With the acceptance of an order and at the latest with the delivery of the goods ordered by us, the supplier recognises our conditions; its deviating or supplementary conditions will not become subject of the contract.

### **2. Orders**

2.1 The order made by us is to be accepted by the supplier in writing. Changes and modifications are only binding for us if they are agreed in writing, contain the express notice that this order is hereby changed, and they are signed or electronically confirmed by an authorised representative of the Purchasing department. Our silence is not considered recognition of an order confirmation with deviating contents in any case.

2.2 We reserve the right to withdraw the order if the order confirmation is not received within a reasonable period of time.

2.3 All commercial matters are negotiated solely with an authorised representative of the Purchasing department.

### **3. Date of delivery**

The goods to be delivered must be delivered to the shipping address and/or the ordered work performance must be ready for acceptance by us on the agreed delivery date. The supplier is obligated to notify us without delay if it cannot adhere to the delivery or manufacturing date; such a notification does not release the supplier from its obligation to deliver in a timely manner.

### **4. Shipping, Transfer of Ownership**

4.1 The shipment is to take place free to buyer's address with exact adherence to our respective shipping address unless something else is agreed. The delivery times are limited to workdays from Monday to Thursday 6:30 - 16:30 and Fridays from 6:30 to 15:30. Two copies of a delivery slip on which our order number and order consignment are noted are to be included with every shipment.

4.2 The ownership of the goods delivered by the supplier and of the objects and products (referred to in the following as the subject of delivery) manufactured for us is transferred to us when the subject of the delivery arrives at the shipping address. Any retention of title declared by the Supplier is invalid.

## 5. Manufacturing and Execution of Performance

5.1 The delivery of the subject of delivery and the execution of performance are to occur exactly pursuant to our information, calculations, drawings, plans, or models or those approved by us. The supplier is to inform us without delay should observance of a relevant legal or official provision make a deviation from our information, calculations, drawings, plans or models or those approved by us necessary.

5.2 If the supplier is to assemble the ordered subject of delivery, then it is obligated to inform itself about the location and characteristics of the installation site.

## 6. Price

6.1 The Supplier shall deliver the goods at the prices indicated on the order. Should no prices be indicated on the order, then supplier shall offer its lowest price, which, however, requires our written confirmation.

6.2 Neither obvious nor hidden cost accounting errors found a right to a subsequent claim. Subsequent additional claims require a confirmation that must be preceded by a written subsequent order. Verbal agreements about additional performances are invalid.

## 7. Invoicing

The supplier shall send an invoice after every delivery or service with a description of the delivered goods, the amount, the unit of measure, the time used, the price per unit, the total price, and the order number and order consignment named by us. The invoice is to be sent to the respective company of our group that made the order and also delivered separately. In the event of an improper invoice, its due date is postponed until it is corrected.

## 8. Set Off

We are entitled to deduct the amount owed by us to the supplier from amounts owed by the supplier to us or pursuant to this order.

## 9. Assignment of claims and other

Individual or all rights, in particular the supplier's claim to payment, may not be assigned or pledged in whole or in part without our express agreement. Our agreement can only be refused if an interest that can be recognised is at hand.

## 10. Documents, Confidentiality

All calculations, drawings, plans, models, and other documents handed over by us to the supplier for processing our order remain our property; they may only be used for the contractually agreed purposes, are to be protected especially well as operational secrets, and may only be made available to third parties with our prior written authorisation. They are to be returned along with all copies and reproductions after processing of the contract without any particular request.

## 11. Copyrights of Third Parties

With regard to the goods made available in the scope of this agreement, the supplier will reimburse at its own expense those entitled to compensation for all losses, expenses, expenditures, damages, claims, demands, and liability obligations including lawyer's expenses, fees, and the expenses for settlements, compromises, judgments, or verdicts which arise for a party entitled to compensation as a result of or in conjunction with allegations on the kind described in the following in more detail: (a) Infringement of patent, copyright, or trade mark, (b) unlawful disclosure, use, or illegal appropriation of a trade secret, or (c) infringement of the intellectual property rights of a third party as well as for all expenses that arise for the parties entitled to compensation during the defence against such a process, suit,

or procedure. Upon issuance of a court order or injunction, the supplier shall, at its own expense, either obtain the right to continue manufacture, to use, to offer to sell, to sell or to import the goods, or it will change or replace the goods in such a manner that they no longer infringe on the rights of third parties.

## 12. Warranty

12.1 With regard to the subject of delivery, the supplier warrants for the use of materials that are best suited for the subject of delivery, and furthermore for execution pursuant to or appropriate to the drawing, sample, and type and functional design. Furthermore, the supplier shall warrant that the subject of delivery does not have any defects that reduce its value or functionality, that it corresponds to the conditions and specifications in the order, other promised characteristics, as well as the relevant statutory and official regulations and that it has no defects of title.

12.2 The warranty corresponds to the conditions typical of the industry but lasts for at least 24 months and begins with the delivery. In the case of the manufacturing of capital goods with their acceptance. Notice of defects can be made within 2 weeks after receipt of the goods at the named shipping address for obvious defects and within 2 weeks of discovery for hidden defects.

12.3 Payment and acceptance are not considered recognition of a defect-free delivery.

12.4 With regard to defects for which notification of defects occurred in a timely manner, we can reduce the price in a reasonable amount; declare rescission, or demand free replacement delivery or replacement partial performance; return the defective subject of delivery to the supplier at its expense and demand the delivery of a defect-free replacement at its expense; repair the defective subject of delivery ourselves at the expense of the seller or exchange it for a replacement obtained in another manner insofar as the supplier itself does not comply with our corresponding request within a reasonable period; demand reimbursement for all expenses that arise on account of exchange of defective parts. The rights above can be claimed as desired or, insofar as not legally excluded, together.

12.5 The warranty period does not run for the duration of a subsequent improvement. A new warranty period begins with the delivery of replacement goods. The time barring of warranty claims is interrupted as long as the seller has not rejected our timely notice of defects in writing.

## **13. Technical Document**

13.1 The delivery of the technical documentation and all required protocols must be a part of every main delivery.

13.2 The technical documentation must be prepared in a manner that conforms to current EC directives and DIN ISO standards and comply with generally accepted engineering standards. Should a manufacturer's declaration or a declaration of conformity (CE) in the meaning of the EC machinery directive be necessary then the supplier must also include this with the documentation.

13.3 The delivery of the technical documentation is to occur as follows: Two printed copies and one digital copy insofar as nothing else is agreed. If the documentation is missing, then the delivery is considered incomplete.

13.4 On account of the complexity of some documentation, defects can only be found a while after the equipment has been put into service. The supplier is to correct the documentation without delay even in the event of such late notifications of defects.

13.5 The technical inclusion of the supplied documentation into the total documentation does not release the supplier from its liability for the completeness and correctness of its documents.

13.6 For subjects of delivery for which the method of operation is not generally known, two copies of assembly and operation instructions are to be submitted to us without being requested at the latest 2 weeks before delivery. Otherwise, the supplier is also liable for those damages that arise on account of improper use or operation.

#### **14. Building Works**

For all contractual relationships focused on building works, these General Conditions of Purchase have sole applicability along with the German Tendering and Contract Regulations for Building Works, Part B [VOB/B] and Part C [VOB/C] in their respective current version.

#### **15. Contracts for Work**

Should unforeseeable circumstances arise during the execution that make additional effort necessary beyond the original scope of delivery and services then the additional effort is to be authorised by us in writing.

#### **16. Final Provisions**

16.1 Should individual provisions of the above conditions or parts thereof be invalid then this shall not affect the validity of the remaining provisions. Any invalid provision is to be replaced by a valid provision by the contractual parties that comes as close as possible to

the economic results of the invalid provision.

16.2 Insofar as the supplier is a business person or moves his residence after conclusion of the contract or his regular place of abode is not known at the time suit is filed, then the legal venue of Hamm is agreed for each of these cases.