

GENERAL TERMS AND CONDITIONS OF PURCHASE SUDHOFF TECHNIK GMBH
Date 01/2018

I Contents of the contract and conclusion of the contract

1. The present General Terms and Conditions of Purchase shall apply to all orders of goods and services and their handling - also in the future. Contradictory terms and conditions of Supplier or those deviating from these Terms and Conditions of Purchase shall only be acknowledged by us if this has been determined in the present General Terms and Conditions of Purchase or in the contract with the supplier. If we accept the commodities without express contradiction, it shall under no circumstances be possible to derive that we have acknowledged the supplier's terms and conditions from this.
2. These general conditions of purchase shall only apply vis à vis entrepreneurs, governmental entities, or special governmental estates in the meaning of sec. 310 para. 1 BGB (Civil Code).
3. If specific terms deviating from the present ones are agreed for a specific order, the present General Terms and Conditions of Purchase shall apply as a subsidiary and as a supplement.
4. The production of quotations shall be free of charge and without obligation for us.

II Prices

1. The agreed prices shall be understood free destination stated by us inclusive of freight, packaging and subsidiary costs. In the event of delivery freight collect, we shall only take on the most favourable freight costs, unless we have prescribed a certain form of dispatch.
2. Any amendment of the price shall require our prior written approval.

III Payment

1. Unless agreed to the contrary, the following payment terms shall apply: we shall settle invoices either with deduction of 3% rebate within 14 days or without deduction within 30 days. If the supplier's terms and conditions of payment are more favourable for us, they shall apply.
2. Payment and rebate periods shall run from receipt of the invoice, albeit not before receipt of the commodities or, in the event of services, before their acceptance and, to the extent that documentations or similar materials form part of the scope of service, not before they have been provided to us according to the contract.
3. Payments shall be made by means of cheque or bank transfer. Payment shall be punctual if the cheque is posted on the date of maturity or the transfer has been commissioned with the bank on the date of maturity.
4. Right to offset and retention shall accrue to us to the statutory extent.
5. Interest after due date cannot be demanded. In any case, we shall be entitled to prove lower damage as a result of default than demanded by the vendor.

IV Delivery Deadlines

1. Agreed delivery dates and periods shall be binding. The delivery period shall commence upon receipt of the order or the call, as the case may be, on the part of Supplier.
2. Impending delay in delivery shall be notified to us without delay.
3. To the extent that the supplier fails to comply with the delivery date, the statutory claims shall accrue to us and the supplier shall indemnify us for the damage incurred as a result of the default.
4. In addition, we shall have the right to claim a contract penalty to the amount of 0.2% of the value of the quantity affected by default per day of default up to a maximum of 5%, the contract penalty being offset against any possible further claim to damages.
5. The unconditional acceptance of a delayed delivery or service does not constitute a waiver of claims (including any contractual penalties) to which we are entitled due to the delayed delivery or service; this applies until the complete payment of amounts owed by us for the delivery or service in question.
6. We shall be entitled to reject commodities delivered prematurely at the supplier's expense.

V Retention of title

1. With a view to the supplier's rights to retention of title, its terms and conditions shall apply with the proviso that title to the commodities passes to us upon payment and accordingly the forms of extension of the so-called current account and extended reservation of ownership shall not apply.
2. As a result of retention of title, the supplier can only demand return of commodities if it has withdrawn from the contract.

VI Performance of the deliveries and passage of risk

1. Delivery shall be according to Incoterm DDP or CIP as the case may be (latest version in each case), to the extent that nothing to the contrary has been agreed.
2. Supplier shall bear the risk of chance destruction and chance deterioration until hand-over of the commodities at the destination, even if the supplier delivers according to DDP or CIP.
3. The commodities must be supplied in a suitable packaging matching the form of transport, with all and any supplementary packaging instructions which have been agreed being taken into due account.
4. Part deliveries shall require our approval.
5. The Supplier carries the cost of packaging unless something else has been agreed to in text form. If we carry the cost of packaging in a specific case, this must be charged to us at the lowest cost possible. The requirements to take back packaging are according to the Packaging Regulation of 21.08.1998 resp. the Packaging Act of 05.07.2017.

VII Declarations concerning origin properties

In the event of the supplier making declarations concerning origin properties for the commodities sold, the following shall apply:

1. The supplier engages to make examination of the proofs of origin by the customs administration possible and both to give the information necessary for this and also to produce confirmations which are possibly necessary.
2. The supplier shall be obliged to reimburse the damage incurred by the fact that the declared origin is not acknowledged by the competent authority as a result of defective certification or a lack of possibility of verification, unless the supplier is not answerable for these consequences.

VIII Liability for defects and barring by limitation

1. The supplier shall procure the commodities for us free from defects in title and quality. In particular, it shall vouch for the fact that its deliveries and services fulfil the acknowledged rules of engineering and the contractually agreed properties, standards as well as the safety, work protection, accident prevention and other national or EU-directives (e.g. REACH, RoHS, POP,...).
2. The nominal property fulfils the agreed specification. To the extent that specifications are defective or missing, the property of the commodities last supplied without complaint before the commodities giving rise to complaint shall be deemed the agreed nominal property.
3. We shall limit the incoming inspection to shipping damage that is apparent externally and to determining that the volume and the part numbers of the ordered goods are correct, at least according to the shipping papers. Discrepancies shall be reported without delay. The Supplier must adapt the quality management system and the quality assurance activities to this limited incoming inspection.
4. The supplier shall be notified by us about any defects or errors in the commodities supplied within a suitable period. The period for the notification of defects shall commence at the time at which we - or our customers in the event of a drop shipment transaction - have or should have established the defect.

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5. If the commodities have a defect in quality, the statutory rights shall accrue to us at our choice. We can demand that the supplier reimburse the expenditure which we bear in the relationship to our customers if the defect already existed at the time of passage of risk to us. The Supplier shall have to refund any of our incurred costs of subsequent performance (Sec. 439 para. 2 of the German Civil Code), including costs for finding the defect and sorting costs.
6. In case of imminent danger we are entitled, after giving notice to the seller, to remedy the defects on the seller's cost.
7. Our claims of defects shall be time-barred after 36 month of the passage of risk. The deadline begins with the timely submission of the notice of defects in the sense of the previous § 4. The responsibility of the Supplier for defects ends, however, ten years after delivery of the goods. This limitation does not apply insofar as our claims result from occurrences which the Supplier knew about or which he must have known and did not inform us about.
8. The supplier here and now assigns to us all claims accruing to it against its downstream suppliers on the occasion of or in connection with the delivery of defective commodities or commodities of which the assured properties are missing by way of performance. It shall provide us with all the necessary documents in order to make such claims.

IX Product Liability and Recall

1. In the event a product liability claim is asserted against us, the Supplier agrees to hold us harmless from such claims if and to the extent the damage was caused by a defect of the supplies or services. The above indemnification shall not apply if the claim is based on our intentional or grossly negligent breach of duties. If the cause of the damage falls within the area of responsibility of the Supplier, the Supplier shall have the burden of proof to that extent. In the above cases the Supplier assumes all costs and expenses, including the costs for any legal action or a recall campaign. In addition the legal stipulations shall apply. Further damages shall remain unaffected.
2. The supplier shall be obliged to cover its third-party liability risk from the contract concluded with us by conclusion of sufficient insurance and to render proof in this regard by presentation of the insurance policy upon request.

X Indemnification

The supplier shall indemnify us against claims resulting from a breach of guarantees of the supplier, from defective services of the supplier, from a breach of third-party protective rights (e.g. patents, utility models and design patents, trademarks) and copyrights as well as from actions or omissions of agents, employees or sub-contractors of the supplier.

XI Moulds, models, drawings and other documents

1. Moulds, models, drawings and other documents provided by us or manufactured for us may exclusively be used for performance of our orders. They may not be made accessible to third parties without our approval and shall be kept properly until revocation and then handed over to us.
2. Production as well as processing and machining of such moulds, models, packaging, drawings and other documents produced by the supplier by order from us shall be done on our behalf as manufacturer with the consequence that we acquire ownership.
3. The parties agree that after the full payment for the manufacturing of the tool, the property of the tool passes to sudhoff technik. If the tool remains in the possession of the supplier, the transfer of the ownership is replaced in that way that the supplier stores the tool safe and free of charge for sudhoff technik.

XII Provision of parts by our company

1. We reserve title to all objects supplied to the supplier / plant operator.
2. Upon request, the supplier shall inform us at any time about the situation of the commodities.
3. The supplier shall store, protect, maintain, repair, attend to and sufficiently insure the commodities at its own expense.
4. Following the end or the termination of the order in question, the supplier shall send the objects and make them available to us at its own expense in accordance with our instructions without claiming any right of retention to them.

XIII Reservation

1. We can terminate an order or a part thereof with written notification to the supplier if the following reasons exist: impossibility of performance by the supplier, breach of essential subsidiary duties (e.g. breach of the duty to custody and notification by the supplier, failure to perform owed duties of cooperation).
2. Upon receipt of such a termination, the supplier shall cease all work for its performance of the order without delay and arrange for its suppliers or sub-contractors to act accordingly.
3. The supplier shall be reimbursed for all commodities which
 - are ready and available for delivery according to the delivery plan in this regard
 - fulfil all the order requirements
 - are free from all in rem encumbrances or other third-party rights.
4. The reimbursement shall correspond to the agreed purchase price and shall be due for payment upon delivery.
5. Under no circumstances shall we be liable for loss of profits, interest expenditure, other indemnifications for consequential damage or for expenditure which could reasonably have been avoided.

XIV Confidentiality

1. The supplier shall treat all the information received from us together with or in connection with the order (including diagrams, specifications or other documents) confidentially and not disclose such information to any other person without our prior written approval or use such information itself for a purpose other than that of performance of the order. The supplier shall not advertise with or publish the business relationship to our company without our prior written approval.
2. No information disclosed to us by the supplier shall be regarded as being confidential and the supplier shall have no rights against us in this regard to the extent that such rights do not exist on the basis of patent law.
3. All - in particular advertising - publications of objects connected with the performance of the order in word, writing, image or sound by the supplier or its vicarious agents shall require our prior written approval; the supplier shall bind its vicarious agents accordingly.

XV Place of performance, place of jurisdiction and applicable law

1. Unless otherwise agreed to, the place of our warehouse shall be the place of performance for the delivery and our payments.
2. The place of jurisdiction shall be the location of our headquarters. We can also sue the supplier at its place of jurisdiction and also at the place of jurisdiction of our branch establishment entered in the Register of Commerce with which the contract has been concluded.
3. All the legal relationships between ourselves and the supplier shall be governed as a supplement to these terms by German law of real and personal property, excluding the directives of the United Nations Convention of 11.04.1980 on the international sale of goods (CISG).

XVI Decisive version

In cases of doubt, the German version of the present General Terms and Conditions of Purchase shall be decisive.