

**1. Scope**

- 1.1 These general conditions of purchase apply to all of our purchasing transactions (contracts in which we are the purchaser) and the orders placed by us (contracts in which we are the customer). These conditions are not applicable for contracts with consumers.
- 1.2 Our general conditions are the basis of all future purchasing transactions and the orders placed by us according to paragraph 1.1 in their corresponding current version even if their inclusion is not expressively agreed upon once again.
- 1.3 Our terms and conditions are exclusively applicable. Any deviating opposing or supplementary conditions of the supplier only become a part of the contract insofar as we expressively agreed that they are applicable.

**2. Offers and conclusion of the contract**

- 2.1 Our order quotations are not binding. Conclusions of contracts and other agreements would only become binding upon our confirmation.
- 2.2 If the supplier does not accept the purchase order within two weeks, we will be entitled to withdraw from the order before receipt of the notice of acceptance of the supplier. The supplier expressively has to point out any variations from our request in his order quotation.
- 2.3 The supplier has to draw our attention to obvious errors and incompleteness of the purchase order including the order documents for the purpose of correcting or completion before acceptance.
- 2.4 The complete transfer or subcontracting of the ordered deliveries and services to third parties requires our prior consent.

**3. Delivery date and place of fulfilment**

- 3.1 The agreed delivery time is binding. If the supplier cannot comply with the agreed delivery time, he will be obliged to immediately inform us about the delay. The timeliness of deliveries shall be determined by receipt of goods at the address of shipment indicated by us.
- 3.2 We are not obliged to accept partial deliveries and/or advance deliveries or advance executions.
- 3.3 If the supplier does not render his service or does not render his service within the agreed delivery time or if he is in delay, then our rights shall be determined according to the legal requirements. The supplier must inform us immediately about the estimated duration of the delay by indicating the reasons if circumstances arise or become apparent which show that the agreed delivery or execution dates cannot be met.
- 3.4 Place of fulfilment for deliveries and services is the address of shipment indicated in the purchase order. If no address of shipment has been indicated and if the place of fulfilment does not result from the nature of the contractual obligation, our headquarters will be at the same time place of fulfilment.
- 3.5 Until the take over and delivery at our headquarters or at the place of delivery indicated by us, the supplier bears the risk and all cost in particular the transportation cost and the cost for the transportation insurance. If as an exception the delivery has not been agreed "free domicile", the supplier would have to make the goods available for loading and dispatch taking into consideration the usual times and has to inform us about the availability at an early point in time.

**4. Contractual penalty**

- 4.1 In case of a delay in delivery, we are entitled to demand a contractual penalty amounting to 0.5 % of the delivery value per completed week of the delay in delivery, however with a total of not more than 5 % of the total value of the delivery.
- 4.2 We are obliged to declare the reservation of the contractual penalty towards the contractor in writing latest within 10 working days starting from the acceptance of the delayed delivery.
- 4.3 Any further remedies and rights, in particular the claiming of a damage beyond the mentioned one (damages resulting from delay) remain unaffected. If we are entitled to claim compensation due to insufficient fulfilment, the forfeited penalty would be deemed as minimum amount of the damage.

**5. Prices and terms of payment**

- 5.1 The agreed prices are fixed prices. They include all services and additional services which are necessary for the complete production and delivery of the services to be rendered such as e.g. cost for tools, freight, customs, packaging material and its evacuation, transportation to the place of use indicated by us as; in addition all the expenses for the execution of the set-up and assembly works ready for operation. Any deviations such as e.g. special complications or delivery/rendering of services on Sundays and holidays which would result in a higher remuneration need to be specially agreed before accepting the order.
- 5.2 Invoices have to be issued indicating the order data (contract order number) and have to be sent to our address.
- 5.3 Unless otherwise agreed, we will pay within 30 days less 3 % discount or 60 days net.
- 5.4 The term of payment starts earliest with the receipt of invoice, however not before the receipt of good or assembly or installation. In case of accepting earlier deliveries, the term, however would start earliest on the agreed delivery dates.
- 5.5 In case of defective or incomplete delivery, we are irrespective of our other rights entitled to retain the payment in proportion to the value until the proper fulfilment. Payments do not mean any acceptance of the delivery or service according to the contract.
- 5.6 As far as legally permissible, the supplier needs our previous consent in writing to assign claims against us as well as to transfer the collection of such claims. In any case, we reserve the right to offset, also with the counter claims acquired after notice of the assignment.

**6. Right of set-off and retention**

- 6.1 We are entitled to the rights of set-off and detention as well as to the plea of non-fulfilment of contract. We are in particular entitled to retain due payments as long as we are entitled to claims against the supplier resulting of incomplete or inadequate services.
- 6.2 Rights of set-off and retention are only admissible for the supplier regarding undisputed or legally enforceable claims.
- 6.3 As far as legally permissible, the supplier needs our previous consent in writing in order to assign claims. § 354a HGB (German Commercial Code) remains unaffected. In any case, we are entitled to render or to set-off with counter claims after the notification of the assignment of counter claims including the discharge of liabilities towards the supplier.

**7. Duty of notification and of diligence**

- 7.1 If the supplier was informed about the intended use of the delivery or service or if this intended use is recognizable for the supplier even without expressive notice, the supplier is obliged to immediately inform us if the delivery or service of the supplier is not suitable to fulfil this intended purpose.
- 7.2 The supplier has to immediately inform us in writing about any changes in the type of composition of the processed material or the constructive type towards the similar or comparable supplies or services previously provided by the supplier.

**8. Secrecy and property**

- 8.1 We reserve our property right and copyright in illustrations, plans, drawings, calculations, executive instructions, product descriptions and other documents, raw materials which we make available to the supplier, tools, devices or other objects. Such documents and objects must only be used for the contractual service and need to be returned to us after the completion of the contract. The documents and objects must neither be used, nor copied or made available to third parties for any other purposes than the contractual purposes.
- 8.2 The supplier has to treat all details related to the contract regarding any technique and commerciality as business secrets, i.e. keep it as confidential.
- 8.3 All objects provided to the supplier remain our property. They must only be used to render the ordered deliveries and services.
- 8.4 As far as the objects provided to us by the supplier are processed or converted to a new mobile product we are deemed to be the manufacturer. In case of a composition or inseparable mixture with other objects, we would acquire a co-ownership in the new product; thereby arising in the ratio of the value which the objects had at the moment of

the composition or mixture. If the composition or mixture has been performed in a way that the products of the supplier are regarded the principal thing, it shall be understood that it has been agreed that the supplier assigns co-ownership to us on a pro rata basis.

8.5 The provided objects and components need to be treated with the required diligence. We should be immediately informed about damages, destructions and loss. For impairments or losses for which the supplier or his agent is responsible the supplier will be liable to the fullest extent.

## **9. Defective delivery, periods of limitation**

9.1 In case of defects as to quality and defects of the title of the goods and other breaches of duty by the supplier the statutory provisions are applicable unless otherwise agreed below.

9.2 The statutory guarantee obligation is applicable.

9.3 The supplier shall be liable according to the statutory provisions, in particular for the fact that the goods show the agreed quality when the risk is being transferred. If product descriptions, drawings, standard operating procedures or other documents are included in our purchase order or if we refer to them in our purchase order, they are deemed to be included in the contract and are regarded as agreement on legal and factual nature.

9.4 For the commercial obligation of examination and rejection, the statutory regulations are applicable provided that our obligation of investigation is limited to obvious defects, damages in transit, completeness and identity of the goods as well as obvious external deviations. We are entitled to proceed with our goods incoming control with external examination, including the examination of the delivery documents and methods of sampling in our quality control. In case of hidden defects the legal obligations of notification are applicable.

9.5 If the supplier does not fulfil his obligation of supplementary performance within a suitable term determined by us, we may remedy the deficiency ourselves and request compensation for the expenses necessary for this or an appropriate advance payment. If the supplementary performance by the supplier has failed or is unacceptable for us, it is not necessary to set any further deadline. Unreasonableness is given in particular in case of particular urgency, endangerment of the operating safety or imminent occurrence of disproportionate damages.

9.6 The supplier will also refund the necessary expenses of our customers or of us, which arise in advance of or in connection with events of liability for defects for early prevention, resistance or reduction of damages (e.g. recall). The supplier refunds the expenses, which we need to bear towards our customers and which may be traced back to the deficiencies of the delivered goods.

9.7 Apart from that, we are entitled to demand subsequent fulfilment, to reduce the purchase price or to withdraw from the contract according to the legal requirements in case of a defect as to quality or title. According to the legal requirements, we are entitled to claim for damages and reimbursement of expenditure. § 280 para. 1 S. 2 of the German Civil Code (BGB) is expressively pointed out.

## **10. Contract term and termination of the contract**

10.1 The contract term depends on the agreements of the individual orders.

10.2 If we commission the supplier to perform work services, we can terminate the contract at any time according to § 649 BGB (German Civil Code) until the completion of the work. If we terminate the contract according to § 649 BGB (German Civil Code), we refund the already performed necessary expenditure to the supplier. The supplier does not have any claim to the complete remuneration. If the supplier is responsible for the termination, he is not entitled to claim reimbursement.

10.3 The right to terminate for good cause remains unaffected.

## **11. Occupational safety and environmental protection**

11.1 The packaging as well as any other waste (consumables and auxiliary materials) need to be reusable or recyclable free of charge for us according to the applicable provisions of the German Packaging Ordinance.

11.2 All deliveries have to comply with the laws, regulations and other terms which are applicable for us. The supplier is obliged, to perform the order in a way, that the regulations for environmental protection, accident prevention and occupational safety (also rules and regulations of the trade union) as well as the generally accepted safety-related and occupational health rules are being observed. At our request, the supplier has to submit proofs about the compliance with the regulations at his own expenses.

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**Hack Formenbau GmbH**

11.3 The supplier is obliged to make available free of charge samples of the used materials/substances for inspection upon our request or upon the request of a third party which has been commissioned by us. The costs for this inspection will be borne by the supplier, if it reveals that the materials /substances which he used do not comply with the contract conditions. We reserve the right to make any further claims for compensation.

**12. Final provisions**

12.1 Place of jurisdiction of all disputes including claims for bill of exchange and cheque receivables is 73230 Kirchheim unter Teck. We are entitled to sue our supplier also at his place of general jurisdiction.

12.2 Solely the laws of the Federal Republic of Germany shall apply for these Terms and Conditions and all legal relationships between the parties. The application of the German conflict of law's provisions and the United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 are excluded.

Kirchheim unter Teck, November 2015

**Hack Formenbau GmbH**