

# **General Terms and Conditions of Purchase**

## **Euscher GmbH & Co.KG**

Applicable in business transactions with companies, legal entities under public law and special funds under public law.

### **1. General provisions**

Our Conditions of Purchase apply exclusively; we will only recognize General Terms and Conditions of the Supplier which conflict with, or deviate from, our Conditions of Purchase to the extent that we have provided our express, written consent thereto. The acceptance of goods or deliveries from the Supplier (hereinafter referred to as the contractual object) or payment for these does not signify consent.

### **2. Conclusion of the contract and contractual amendments**

- 2.1. Orders, acceptances, call-off contracts, supply contracts and other legal transactions to be concluded between ourselves and the Supplier as well as all amendments and supplements require the written form. Orders, acceptances and call-off contracts can, however, be effected by remote data transmission.
- 2.2. Our enquiries of the Supplier are only invitations to the Supplier to issue an offer.
- 2.3. Quotations are binding and are provided free of charge, unless expressly agreed otherwise.
- 2.4. The Supplier must confirm our order promptly and in writing, at the latest, within 3 days of receipt, otherwise we will be entitled to cancel our order.
- 2.5. Within the scope of what is reasonable for the Supplier, we may request amendments to the contractual object in construction and design. Any effects of such amendments, in particular, in respect of increased or reduced costs and changes to delivery deadlines, are to be regulated appropriately and by mutual agreement. Amendments by the Supplier require prior, written consent by us in order to be effective.
- 2.6. The Supplier undertakes personally to review drawings, calculations, specifications and other instructions from us, within the scope of its general and particular, specialist knowledge, for errors and inconsistencies and, where appropriate, to notify us without delay and in writing of any concerns so that these can be clarified.
- 2.7. The Supplier bears the procurement risk for the goods.

### **3. Delivery deadlines, transfer of risk and shipping**

- 3.1. Delivery deadlines and periods specified in the order or call-off are binding.
- 3.2. The delivery must, unless otherwise agreed, be made to us or to a place of delivery specified by us DDP in accordance with Incoterms 2010.

- 3.3. For compliance with the delivery deadline or delivery period, receipt of the contractual object and the shipping documents by ourselves or by the receiving point is determinative.
- 3.4. Where agreed deadlines are not upheld, statutory provisions will apply. Insofar as the Supplier experiences difficulties with respect to manufacturing, obtaining the primary materials, compliance with delivery deadlines or there are similar circumstances, which prevent the Supplier from delivering on time or with the level of quality agreed, the Supplier must inform us immediately.
- 3.5. Unconditional acceptance of a delayed delivery or service does not represent a waiver by us of any entitlement to compensation as a result of the delayed delivery or services, this will apply until complete payment owed by us for the relevant delivery or services.
- 3.6. Partial deliveries are generally not permissible, unless we have agreed to them in advance and in writing.
- 3.7. Where the Supplier has agreed to carry out installation or assembly and unless otherwise agreed, subject to deviating provisions, the Supplier will bear all necessary ancillary expenses such as, for example, travel expenses, provision of tools.
- 3.8. In the case of deliveries deviating from the ordered quantities and for deliveries ahead of schedule, we reserve the right to refuse acceptance of the delivery at the expense of the Supplier or to adjust the value of the invoice accordingly.
- 3.9. The Supplier must package the goods appropriately.
- 3.10. The Supplier warrants that the goods do not contain any materials, which fall within the scope of the prohibition on hazardous substances in EC Directive 2011/65/EU (RoHS). The Supplier further warrants that materials incorporated in the goods and their use(s) are either already registered or exempt from the registration duty according to (EC) Regulation No. 1907/2006 (REACH Regulation) The Supplier will also, if necessary, compile the Safety Data Sheet in accordance with Annex II of the REACH Regulation and provide this to us. Where the goods delivered are classified as dangerous goods under international regulations, the Supplier will inform us of this, at the latest upon confirmation of the order.
- 3.11. The Supplier must provide us with appropriate assistance in obtaining customs and other public benefits and will provide evidence and documentation that we request in this regard, in particular, certificates of origin.

#### **4. Force majeure**

Force majeure, riots, official interventions or other unavoidable events release us and the Supplier, for the duration of the disruption and in the scope of its effects, from our performance obligations.

#### **5. Pricing and payment terms**

- 5.1. Prices are fixed prices. All additional delivery costs (customs duties, packaging, transportation, insurance) must be indicated separately by the Supplier in its offer and, with the exception of statutory VAT and in the absence of contrary, written agreement, must be borne by the Supplier. Increases in the price of the contractual object, including increased additional delivery costs, require our prior, written consent in order to be effective.

- 5.2. Insofar as no other agreement has been reached, invoices must be settled either within 14 days less 2% cash discount or within 30 days without a discount as of the payment due date and receipt of the invoice and goods or provision of the services. Payment is made subject to invoice verification.
- 5.3. We hold rights of set-off, rights of retention and the right to plead non-performance of the Contract in accordance with statutory provisions. We are, in particular, entitled to retain payments due, so long as we are entitled to make claims against the Supplier arising from incomplete or defective services.

## **6. Notification of defects**

We must notify the Supplier of defects in the contractual object as soon as these are identified in the normal course of business, within 10 working days. In this respect, the Supplier shall waive any plea for late notification of defects. Our obligation to examine for defects and to notify defects is limited to examination of quantitative details on the relevant delivery note and to visually discernable shipping damage upon delivery (visual defects). Any further obligation to examine for defects and to notify defects does not form part of these Conditions and the Supplier expressly waives its right to object to notification of defects carried out improperly according to § 377 German Commercial Code.

Our payment does not represent recognition that the delivery is free from defects.

## **7. Warranty**

- 7.1. The Supplier is responsible for the defect-free condition of the contractual objects. In particular, it warrants that the contractual objects reflect the current state of the art, comply with generally-recognized technical safety regulations issued by competent authorities and professional associations and are in accordance with relevant legislation.
- 7.2. Statutory provisions in relation to material defects and defects in title will apply, unless otherwise agreed hereinafter.
- 7.3. As a matter of principle, we have the right to choose the kind of subsequent performance. The Supplier can reject the kind of subsequent performance that we choose if this is only possible at unreasonable costs for the Supplier.
- 7.4. In the event that the Supplier fails to begin to rectify defects promptly following our request for rectification, we are entitled, in urgent cases, in particular to avert danger or major damage, to carry out rectification work ourselves or to contract third parties to do so.
- 7.5. In the event of defects in title, the Supplier will indemnify us against any third party claims, unless it is not responsible for the defects in title.
- 7.6. Claims for defects become statute-barred - except in cases of fraudulent intent - in 3 years, unless the item has been used for a building structure according to its usual purpose and has caused defects in that structure. The limitation period commences upon delivery of the contractual object (transfer of risk).

- 7.7 For contractual objects, which cannot continue in operation during examination for defects and/or removal of defects, the warranty period already commenced will extend by the period of operational interruption.
- 7.8 In the event of exchange, or in cases where the rectified contractual object displays the same defect or where a defect occurs as a consequence of rectification, the limitation period will begin to run again.
- 7.9 Where we incur costs as a result of the defective delivery of the contractual object, in particular, shipping, travel, labour, installation, dismantling or materials costs or where the costs of an incoming goods inspection exceed the customary costs, the Supplier must bear these costs.
- 7.10 Other claims by us as a result of breach of contract or violation of other obligations remain unaffected.

## **8. Product liability**

- 8.1. In the event that a claim is made against us on the basis of product liability, the Supplier undertakes to indemnify us against such claims by third parties, if and to the extent that a fault is caused by the contractual object delivered by the Supplier. This will only apply in cases of fault-based liability where the Supplier is at fault.
- 8.2. In the instances at Article 8.1, the Supplier will cover all costs and expenses, including any costs of taking legal action.
- 8.3. Statutory provisions will also apply.
- 8.4. Prior to a recall campaign, which results, in whole or in part, from a defect in the contractual object delivered by the Supplier, we will inform the Supplier, providing it with the opportunity to collaborate and discuss with us how to implement the campaign effectively, unless notification of, or collaboration by, the Supplier is impossible on account of particular urgency. Insofar as a recall campaign results from a defect of the contractual object delivered by the Supplier, the Supplier will bear the costs of the recall campaign.
- 8.5. The Supplier undertakes to take out business and product liability insurance to cover all risks arising in connection with the supply of the contractual objects, which also includes recall measures with global coverage and a coverage amount of at least 5,000,000.00 euros per event of damage and shall maintain this insurance cover for the duration of the supply relationship and for five years following its expiry. Upon request, the Supplier will issue a corresponding certificate of insurance to us.

## **9. Execution of works**

The Supplier's personnel, who execute works in fulfilment of the Contract on works premises belonging to us or to third parties specified by us, must observe the provisions of the work regulations set down by us or by the third parties specified by us. Liability for accidents suffered by such personnel on these premises is excluded, insofar as such accidents are not caused by wilful or grossly negligent breach of obligations by our legal representatives or vicarious agents.

## **10. Provision/retention of title**

Materials, parts, containers and specialist packaging provided by us remain our property. These must only be used in accordance with their intended purpose. Processing of materials and assembly of parts is effected on our behalf. It is agreed that we will have co-ownership of the object produced at the ratio of the the value of the goods provided to the value of the object manufactured using materials and parts provided by us, which, to this extent, will be kept in safe custody for us by the Supplier.

## **11. Non-disclosure**

- 11.1. The Contracting Parties undertake to treat as trade secrets all business and technical details not in the public domain, which they become aware of in the course of their commercial relationship.
- 11.2. Drawings, specification sheets, models, templates, samples and other objects must not be provided nor otherwise made accessible to unauthorized third parties and must only be used for the purposes of the respective Contract between the Supplier and ourselves and not for any other purpose of the Supplier. Reproduction of such items is only permissible within the scope of operational requirements and copyright provisions.
- 11.3. Subcontractors must be bound by the same obligations.
- 11.4. The Contracting Partners may only advertise their business ties with prior, written permission.

## **12. Compliance**

- 12.1. The Supplier undertakes to comply with statutory regulations covering employment rights, environmental protection and health and safety and to strive to reduce the adverse effects of its activities on people and the environment. In this respect, the Supplier will at least operate a QM system certified by an accredited certification body in accordance with ISO 9001, as amended, and will seek to establish a management system in accordance with ISO 14001. Suppliers of serial parts are asked to develop their QM system with the goal of fulfilling the requirements of ISO/TS 16949, as amended. Further, the Supplier will observe the basic principles of the UN Global Compact Initiative. These relate primarily to the protection of international human rights, collective bargaining rights, the elimination of forced labour and child labour, the elimination of discrimination in respect of employment and occupation, responsibility for the environment and anti-corruption.
- 12.2. In the event that the Supplier acts unlawfully on repeated occasions and/or in spite of a corresponding warning, and fails to provide evidence that the infringement of the law was remedied as quickly as possible and appropriate measures were taken to avoid future infringements of the law, we reserve the right to withdraw from existing Contracts or to terminate these without notice.

### **13. Transfer and use of performance resources**

We will obtain title to appliances, models, tools, samples, drawings and other documentation prepared by the Supplier based on our instructions, against payment. From this point, such items will be on loan to the Supplier from us. Operating materials may only be used in the course of performance of the offer or to execute the contractual object or services ordered. Absent prior, written permission from us, these may not be made accessible to third parties nor used for deliveries to third parties. They must be kept in safe custody by the Supplier, for no charge and at its own risk, and returned to us upon our request at any time, without the Supplier being able to rely on a right of retention, unless the Supplier has a contractual right of ownership to the same.

### **14. Other provisions**

- 14.1. The place of performance for payments is our business headquarters as recorded in the Commercial Register.
- 14.2. The law of the Federal Republic of Germany shall apply to the exclusion of conflict-of-law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.3. Insofar as the Supplier is a merchant, a legal entity under public law or special fund under public law, the place of jurisdiction for all disputes arising from the contractual relationship shall be our business headquarters. We are also entitled to initiate claims at the Supplier's registered office.