

General purchasing conditions Vogelsang & Benning Prozeßdatentechnik GmbH

§ 1 General

(1) The legal relationship between Supplier and Purchaser shall be governed by these Terms and Conditions of Purchase and any other agreements. After they have been received by the supplier once, these shall apply to all future transactions even without express reference to them.

The following Terms and Conditions of Purchase shall apply to business transactions with entrepreneurs, persons under public law and special funds under public law.

(2) Conflicting terms and conditions of the supplier shall not apply unless we have expressly agreed to their validity. Deviating terms and conditions of the supplier shall not apply even if they are not expressly rejected again upon conclusion of the contract, conflicting terms and conditions are hereby expressly rejected.

§ 2 Order

(1) Delivery contracts (order and acceptance) and delivery call-offs as well as amendments and supplements must be made in writing.

(2) If the Supplier does not accept the order within 3 weeks of receipt, the Purchaser shall be entitled to revoke the order.

(3) The Purchaser may, within the bounds of reasonableness for the Supplier, demand changes in the design and execution of the delivery item. The effects, in particular with regard to additional and reduced costs as well as delivery dates, shall be mutually agreed.

§ 3 Confidentiality

(1) The contracting parties undertake to treat all non-public commercial and technical details which become known to them through the business relationship as business secrets.

(2) Drawings, models, templates, samples and similar objects may not be transferred or otherwise made accessible to unauthorised third parties, used only for the purposes of the respective contract between the supplier and the customer and not for any other purposes of the supplier. The reproduction of such objects is only permitted within the framework of operational requirements and copyright regulations.

(3) Subcontractors shall be obligated accordingly.

§ 4 Delivery and conformity

(1) Agreed delivery dates are binding. The date of receipt of the goods by the customer shall be decisive for compliance with the delivery date or delivery period. The supplier must make the goods available in good time, taking into account the usual time for loading and dispatch.

(2) When carrying out the delivery, the German Packaging Ordinance (VerpackV) in its currently valid version must be observed. The supplier shall ensure that the transport packaging is safe and adapted to the type of shipment.

(3) Unless otherwise agreed, delivery and dispatch shall be effected at the expense and risk of the Supplier. Additional costs for accelerated transport necessary to meet delivery dates are to be borne by the customer.

(4) When processing an order, it is necessary to enclose an EC declaration of conformity in accordance with the EC directives applicable to the product. For electrotechnical products the CE marking according to directive 2014/30/EU in its current version (EMC directive) is required.

§ 5 Delay in delivery

(1) If the supplier is responsible for exceeding a delivery period determined according to the calendar, the supplier shall be in default without a reminder. The Supplier shall inform the Purchaser immediately of any foreseeable delays in delivery.

(2) In the event of a delay in delivery, the customer shall be entitled to the statutory claims, in particular to compensation for any damage incurred by the customer as a result of the delay. For example, additional costs, in particular in the case of necessary covering purchases, shall be borne by the supplier.

(3) The unconditional acceptance of the delayed delivery does not mean a waiver of claims for compensation.

§ 6 Force majeure

Force majeure, labour disputes, unrest, official measures and other unforeseeable, unavoidable and serious events shall release the contracting parties for the duration of the disruption and to the extent of the effect of their performance obligations. This shall also apply if the events occur at a time when the affected contractual partner is in default. The contracting parties shall be obliged to provide the necessary information immediately within the bounds of what is reasonable and to adapt their obligations to the changed circumstances in good faith.

§ 7 Notification of defects and warranty

(1) The purchaser is entitled to inspect the goods in the ordinary course of business and to subject them to a quality inspection. The supplier waives the objection of late notification of defects if the defects discovered in the aforementioned procedure are reported immediately or the hidden defects are reported immediately after their discovery. The purchaser is entitled to the statutory warranty claims in full.

(2) The purchaser may optionally demand that the supplier remedy the defect or supply a replacement. In urgent cases or if the Supplier is in default, the Purchaser may arrange for the defect to be remedied at the Supplier's expense.

(3) Unless otherwise agreed in writing, the warranty period shall be 24 months from the date of delivery or commissioning, unless the law provides for a longer warranty period.

§ 8 Product Liability and Recall

(1) In the event that claims are asserted against the Purchaser on the basis of product liability, the Supplier shall indemnify the Purchaser against all claims and bear all necessary expenses in connection with the assertion of such claims, provided and to the extent that the damage was caused by a defect in the contractual item supplied by the Supplier. In cases of strict liability, however, this shall only apply if the supplier is at fault. Insofar as the cause of the damage lies within the Supplier's area of responsibility, the Supplier shall bear the burden of proof in this respect.

(2) In such cases, the supplier shall bear all costs and expenses, including the costs of any legal proceedings or recall action. Otherwise, the statutory provisions shall apply.

§ 9 Execution of work

(1) Persons who carry out work on the Customer's premises in fulfilment of the contract shall observe the provisions of the relevant works regulations.

(2) Liability for accidents occurring to these persons on the factory premises is excluded unless caused by intentional or grossly negligent breach of duty on the part of the legal representatives or vicarious agents of the Purchaser or unless the liability is based on the Product Liability Act or the breach of material contractual obligations. Essential contractual obligations are those whose fulfilment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely.

§ 10 Property rights

(1) The supplier guarantees that no industrial property rights of third parties are infringed in connection with his delivery. If a claim is asserted against the Purchaser on account of such an infringement, the Supplier shall indemnify the Purchaser against all claims and bear all necessary expenses in connection with the claim.

(2) Insofar as the Supplier holds industrial property rights which relate to the application of the products delivered by him and created for special use, he shall grant the Purchaser a right of joint use free of charge to the extent of the products delivered.

§ 11 Transferability

Rights and obligations arising from the contractual relationship may only be transferred to third parties with our written consent. The supplier shall inform the customer immediately in advance if the assignment of the claim arising against us becomes necessary due to extended ownership rights of any upstream suppliers.

§ 12 Withdrawal

Notwithstanding other rights of termination and withdrawal, the Purchaser shall be entitled to terminate the contract or to withdraw from the contract in whole or in part if the Supplier's creditworthiness or ability to deliver deteriorates to such an extent that performance of the contract appears endangered, the Supplier suspends its payments and/or initiates insolvency proceedings against it or the opening of insolvency proceedings is rejected for lack of assets.

§ 13 Additional agreements, applicable law

(1) There are no verbal agreements, contract amendments or other subsidiary agreements between the customer and the supplier. These require the written form to be effective. This also applies to the waiver of the written form requirement.

(2) All legal relationships between Supplier and Purchaser shall be governed exclusively by the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 does not apply.

§ 14 Place of Performance, Jurisdiction, Partial Invalidity

Place of performance and jurisdiction is Bochum.

§ 15 Delivery address

Vogelsang & Benning Prozeßdatentechnik GmbH,
Hansastr. 92, 44866 Bochum, Germany

Status July 2015