

General Conditions of Business for PURCHASING of KGW Schweriner Maschinen- und Anlagenbau GmbH (Last updated: 04/2015)

1 Scope

- (1) Our General Conditions of Business for PURCHASING exclusively form the basis of the contract insofar as our order does not contain deviations in writing.

They apply in the current valid version for future purchase contracts and business relations even if they are not expressly included again.

- (2) Conditions of Business of our business partners which are not concordant with our Conditions of Business are only binding if they are recognised by us in writing at the time the contract is concluded.
- (3) Contradictory acknowledgements by the vendor with a corresponding reference to his Conditions of Business are herewith expressly contradicted.

2 Prices

- (1) The agreed price is valid carriage paid and includes all ancillary costs including normal packaging and despatch.
- (2) Additional goods and services are to be invoiced separately if they are required by the contract.
- (3) VAT must be shown separately on invoices.

3 Delivery deadlines, delivery and delivery notes

- (1) The contractually stated dates and deadlines are binding in the absence of an express written change.
- (2) In case of exceedance of the agreed dates or deadlines we are entitled to withdraw insofar as a reasonable period of grace set by us is not complied with.
- (3) The vendor is obliged to compensate us for any loss we incur through non-adherence to the delivery date through damages claimed for late delivery and/or the price difference of a coverage action. This entitlement to compensation excluded regardless of our rights under



(2) insofar as the exceedance of the delivery time is caused by an unavoidable event. We advise the vendor that the loss caused by delayed delivery can be considerable because we are in danger of having to pay large compensation claims and contractual penalties in case of exceedance of delivery dates we have undertaken to honour.

- (4) Ownership of the delivery item passes to us when it is paid for.
- (5) Goods are to be despatched to the address stated in the contract taking into account the following regulations:

All wagonloads sent to us are to be despatched in accordance with German Federal Railways regulations. A packing slip or delivery note stating the precise contents and also our order number is to be enclosed with all deliveries. The weights determined by our weighers are decisive for payment of the invoice. Insofar as delivery is not carriage paid, the vendor is to select the cheapest means of shipment making use of all special tariffs, the most favourable means of transport and the expedient information on the waybill. Separate advice of despatch and invoices in triplicate for each order should be sent to us on the day the goods are despatched. Collective billing is not permitted. Brands, numbers and other precise descriptions of the shipments are to be included on all invoices and in all correspondence whilst also stating our order and supplier number. The invoice must also contain the following information:

- a) The day of delivery or the period for the miscellaneous performance
- b) The fee for delivery or other performance
- c) The tax due on the fee. The invoice may only contain one tax rate.

If the goods go to a recipient other than ourselves, notification of despatch is also to be sent to this recipient in the same way.

- (6) We are entitled to reject goods and services for not being as provided for in the contract if they do not correspond to our regulations. Even if we accept delivery we can invoice the vendor for costs which we incur through non-observance of the regulations.
- (7) If the price is calculated by weight, the weight determined by our weigher on regularly tested scales is regarded as having been supplied.



- (8) If papers are to be submitted in accordance with the contract – test results, carrier’s receipt etc. – the delivery is regarded as having been made if these papers are in our possession in the quantities we desired.

4 Contractual penalty

- (1) Should the contractually agreed delivery dates or deadlines not be adhered to and the vendor is responsible for the delay, the vendor is obliged to pay us a contractual penalty to the value of 1% of the total order value for each calendar week of part thereof by which the delivery deadline is exceeded.
- (2) Even without reservations on receipt, the contractual penalty can still be demanded within two months after delivery and at least up to the final payment.
- (3) The contractual penalty is at most 5% of the order value.

5 Warranty and liability for defects

- (1) The vendor guarantees that the products are free of manufacturing and material defects.
- 2) The warranty begins on the day of delivery.
- (3) Insofar as nothing contradictory has been agreed, the warranty deadline is one year subject to subsequent regulation. It begins with receipt of the delivery item and ends on expiry of the warranty period for the final product in which the delivery item was installed and at the end of two years after receipt at the latest.
- (4) Obvious deficiencies in quality and quantity as well as obviously incorrect deliveries will be reported to the vendor without delay.
- (5) Defects of the aforementioned kind which are not obvious and deliveries which are not obviously incorrect will be reported to the vendor as soon as they become apparent.
- (6) The warranty period is suspended for the period between when a defect is reported and when it is rectified.
- (7) In case the product supplied does not correspond to the warranty, we may do any of the following at our discretion regardless of any legal rights:
- a) demand replacement delivery free of charge



- b) declare redhibitory action
 - c) rectify the defect ourselves or have it rectified by a third party at the vendor's expense, in urgent cases without informing the vendor beforehand
 - d) demand a price reduction.
- (8) The vendor must rectify the reported defects without delay, or within an appropriate deadline in the case of complicated defects, but in any case within three weeks at the most.

6 Payments

- (1) The purchase price becomes due as follows after delivery according to the contract and receipt of the invoice in accordance with the contract.
- with a discount of 2% if payment is made within 14 days after receipt of the invoice according to the contract.
 - Net if payment is made within 30 days after receipt of the invoice according to the contract.
- (2) Payment is made in cash or with bills of exchange or own accepted bills at our discretion.
- (3) In case of premature delivery, which is permitted only with our express agreement, we reserve the right to make payment by the agreed deadline.
- (4) Exclusion of setoff against us is legally void.
- (5) Assignment of claims against us is only permissible with our written consent.

7 Proprietary rights

- (1) The vendor is liable for all losses and penalties we incur because the use, installation or sale of the delivered item infringes third-party proprietary rights. We can obtain licences from the owner of the proprietary rights to minimise the loss.
- (2) Deliveries to third parties may not be made on the basis of our specifications, drawings, samples, models or other documents even if moulds, templates etc. have been obtained by the vendor. The vendor may no longer use these specific appliances to manufacture identical goods or allocate them to others. He shall destroy the appliances at our request.



- (3) All documents must be kept confidential. They remain our property and must be returned to us at any time on demand. Copies may not be made without our agreement.

8 Withdrawal

- (1) We are entitled to withdraw from the contract if the order for which the delivery was intended is not performed for whatever reason.
- (2) In case of withdrawal, we shall pay the vendor that portion of the price which corresponds to the degree of completion at the time of withdrawal and also appropriate compensation for miscellaneous expenses. The vendor is, however, obliged to dispose of output he has already completed elsewhere insofar as he is able and insofar as we do not demand that it be handed over in its current state of manufacture.

9 Choice of law and place of jurisdiction

- (1) German law applies to this contractual relationship. The UN Convention on Contracts for the International Sale of Goods does not apply.
- (2) Insofar as no other agreements are made, the place of fulfilment and the place of jurisdiction for both parties to the contract is Schwerin or the vendor's domicile at our discretion.

