

§ 1 General provisions, scope of application

No terms and conditions other than the terms and conditions of purchase set forth hereafter shall be binding for this order and for future orders, unless otherwise agreed in writing. We shall accept supplier's terms and conditions only if we agree to them in writing.

§ 2 Ordering

- (1) Supply contracts and call-offs, including the amendments and modifications thereto, shall be binding only if they are laid down in writing. They can also be transmitted by remote data transmission or on machine-readable data carrier.
- (2) It is not permitted to pass on the purchase orders to third parties, unless we agreed to it in writing.

§ 3 Prices, invoicing and payment

- (1) If not specifically otherwise agreed, prices shall include free delivery to the purchaser's place of receipt and packaging.
- (2) We may select at our discretion the medium of payment and one of the following ways of payment: 14 days with 3% discount or 30 days net. The time-limit for payment shall start running upon receipt of the complete delivery according to contract and receipt of the invoice and, if applicable, of all documents to be provided with the delivery, however, not prior to the agreed date of delivery.

§ 4 Assignment of claims

An assignment of claims shall be admitted only if agreed by us in writing.

§ 5 Dispatch, delivery dates and deadlines

- (1) The risk shall pass to us once the delivery arrives at or works or at the purchaser's place of delivery specified by us – even if delivery ex works is agreed or carriage is paid by us.
- (2) The delivery dates and periods agreed-upon are binding. Relevant for compliance with a delivery date or delivery period shall be the purchaser's receipt of the goods at our works or at the place of delivery specified by us.
- (3) If the supplier realizes that an agreed deadline cannot be maintained, for whatever circumstances that arise or that indicate that the deadline will not be met, he shall immediately inform us about this fact in writing. The supplier shall undertake at his expense everything to comply with the delivery date agreed.
- (4) In the event of an anticipated delivery of the goods, we may, at our discretion, either return the goods to the supplier at the supplier's expense or put them in storage at the supplier's risk and expense.
- (5) A delay in delivery shall entitle us to demand a fine of 0.2% of the delayed delivery value per calendar day, however not more than 10% of the value. The supplier has the right to prove that no damage or essentially less damage has occurred as a result of the delay. Penalties can be claimed up to when the final payment has been received. Sander GmbH & Co.KG reserves the right for further legal claims, in particular for contractual penalties applied by our customers.
- (6) Unless otherwise expressly accepted by us in writing, partial delivery shall not be permitted.

§ 6 Force majeure

In the event of force majeure, industrial disputes, official measures and all other unforeseeable, unavoidable and serious events, the partners to the contract shall be released from their contractual obligations for the duration of the disturbance and to the extent of its effect. This also applies if these events occur at a point in time when the contracting partner concerned is in default. The contracting partners are obliged, so far as is reasonable, to provide the necessary information immediately, and in good faith to adjust their obligations to the changed conditions.

§ 7 Return of packaging and empties

Packaging and empties provided are returned at supplier's expense.

§ 8 Quality, acceptance and warranty

- (1) Upon receipt, we will inspect the goods for apparent defects, identity of the items, missing parts and damages occurred in transit. There is no further obligation for inspection of the goods. We will notify the supplier on any defects within a reasonable period of time after detection. In so far, the supplier waives the objection for delayed notice of defects.
- (2) The goods supplied shall be free of defects, correspond to our specifications, be conceived and produced according to current standards and without any limitations applicable for the use specified in the contract. They shall correspond to the relevant statutory and administrative protective regulations applicable in the Federal Republic of Germany and in the country of destination and origin.
- (3) The warranty period is **36 months**. For buildings and building materials the statutory warranty period shall be applied. The period of warranty shall start upon acceptance (contract for work and labor - 'Werkvertrag') by us or upon delivery (purchase contract) to us; in case of machines or machine components upon execution of the final acceptance certificate.
- (4) After expiry of a reasonable additional respite or if an additional respite cannot be granted because of particular urgency – and after the supplier has been notified - we shall be entitled to repair a defective item ourselves, to have it repaired by a third party or to otherwise procure a replacement at the supplier's expense.
- (5) All costs occurring for the purpose of repair or replacement of the defective item at the respective place of use of the goods shall be at the supplier's expense. Upon request, we shall tell the supplier the place of use.
- (6) In case of a series of defects with the same origin (serial defects) the supplier shall be obliged to supply as fast as possible new parts free of defects for the series, and for the purpose of rectification or additional supply. The supplier shall be liable for

- any damage-prevention measures, in particular for preventive substitution, if the parts are replaced because of a defect at the goods produced or delivered by the supplier, unless he is not responsible for this defect. In these cases, the supplier shall bear all costs and expenses including the costs arising for callback.
- (7) If in the case of serial defects the defect occurs for the first time within the warranty period, the following serial defects shall be considered to have occurred within the warranty period; declarations and legal acts made for the first event of damage shall always apply for all serial damages.

§ 9 Product liability

- (1) In case that a claim is made on us by a customer or other third parties due to product liability, the supplier shall be obliged to release us, at our first request in writing, from all such claims as far as and to the extent the defective nature of an item delivered by the supplier caused the damage or was contributory to it. In cases of liability with fault ("verschuldensabhängige Haftung"), however, this shall apply only if the supplier is at fault.
- (2) If the cause of the damage lies within the area of responsibility of the supplier, it is sufficient that evidence is brought for the fact that the defect caused the damage; for the rest, the supplier bears the burden of proof in this respect.
- (3) The supplier shall pay the costs and expenditure corresponding to his part of fault, including the costs of possible legal proceedings or callbacks, as far as he is bound by law to do so; this shall also apply for identifiable or imminent serial defects. The statutory provisions shall apply for the rest.
- (4) In order to provide security for the above described risks, the supplier shall be obliged to take out and maintain a public and products liability insurance providing appropriate cover also for the extended product liability exposure. The same applies to the insurance of the liability for callback of motor vehicles. Upon our request, the supplier must present a corresponding confirmation by his insurance company.

§ 10 Third party property rights

The supplier ensures that the contractual use of the goods supplied does not infringe the property rights of a third party. In the event of an infringement, the supplier shall release us insofar from any claims which a third party may rise against us for infringement of its property rights in Germany and in the country of origin and application.

§ 11 Secrecy and legal title

- (1) The supplier is obliged to keep strictly secret from third parties all details of our orders, such as numbers, technical specifications, conditions etc. as well as any other information requiring secrecy, which he receives intentionally or accidentally. It is not permitted to register our company in a reference list or to use our order for advertising purposes, unless we have given our consent in writing.
- (2) The obligation for confidentiality is still binding after termination of the contractual relationship; it expires when and in so far as the manufacturing knowledge contained in the drawings, pictures, calculations and other documents has become general knowledge.
- (3) All material provided in addition remains our property. It shall be stored systematically and clearly marked our property. The supplier shall be liable for any damage or loss of this additional material, even if he is not responsible for it. He shall take out, at his own expense, an insurance providing sufficient cover against fire loss, water damage and burglary.
- (4) The material provided shall be used only for the intended purpose and must be returned to us when it is not needed for the order.
- (5) When the material provided is processed, we acquire co-ownership according to the proportion of the material in the value of the produced item.
- (6) Tools and other facilities ("tools") of which we pay the total cost of manufacturing or acquisition or part of it, shall become our sole property or partial property when the tool is made or made by third parties and paid by the supplier. The transfer of title is independent of whether the cost of the tools has already been paid or to what extent. For the duration of the production we provide the tools to the supplier as a loan. The supplier shall mark the tools accordingly and insure them against accidental deterioration and breakdown (including fire, and commercial burglary). The supplier shall keep the specified tools in a ready-for-use condition. He shall pay the cost of storage, repair and maintenance and shall indemnify us at his own expense for all damages occurring at the tools from usage. We shall pay all costs arising for design modifications and the costs of overall replacements as a result of natural tool wear. In case of co-ownership, we shall be entitled to acquire full ownership of a tool by payment of the residual production or acquisition cost.
- (7) Empties, in particular lattice boxes, plastic inlays, covers and bottoms that we provide for usage to our suppliers, remain our property. We provide these empties to the supplier as a loan. The supplier shall be responsible for the proper handling of the material. He shall mark it our property and shall insure it against accidental deterioration or loss (including fire, burglary and robbery insurance). The supplier shall only make use of these empties for the purpose of the supply relationship with our company and shall not leave it to third parties.

§ 12 Miscellaneous

- (1) Unless otherwise stated in our order, the place of performance shall be the purchaser's place of business, which will also determine the place of venue. We shall be entitled to bring action the supplier also at his place of business.
- (2) The partial or total ineffectiveness of single provisions of these terms and conditions does not touch the effectiveness of the other conditions.
- (3) Only the law of the Federal Republic of Germany is applicable. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) of April 11, 1980, shall not apply.