



# General Terms and Conditions

01.09.2015

## Terms and conditions of purchasing:

### 1. Applicability, other agreements:

The following purchasing conditions apply to all orders or contracts placed by us. We do not accept the contractor's terms and conditions contrary to or differing from our terms and conditions of purchasing unless we have given our express consent to the differing contractor's terms and conditions in writing.

Our terms and conditions of purchasing shall apply even if we - upon knowledge of the contrary and differing contractor's terms and conditions - unconditionally accept the deliveries.

### 2. Orders and other declarations

Orders shall be binding only if we have placed or confirmed them in writing.

Incidentally, all agreements made in connection with the placement of orders – especially later amendments and additional agreements of all kinds – shall require our written confirmation to become effective. Only our written order shall be conclusive for the scope of delivery and/or performance.

In case of declarations made in several languages it shall be the German text which in case of doubt will determine the type and scope of the delivery and/or the performance.

### 3. Prices

The prices shown on our order are fixed prices. Interim price increases shall be not be binding for us. However, should the contractor reduce his prices until the delivery date we shall benefit from this reduction as well.



Unless otherwise agreed the agreed prices shall include the packaging.

Regardless of fluctuations in the exchange rate we shall always pay the invoice amount resulting from the order in the currency specified. Any other provisions regarding the rates in the order confirmation or in any other letters written by the contractor shall not be binding to us.

#### 4. Delivery times and delivery dates

The delivery time specified in our order shall be binding. The supplier shall be obligated to inform us immediately should circumstances occur or should he notice any circumstances that would not allow him to comply with the agreed delivery time.

In case of a delayed delivery we shall be entitled to the legal claims. In particular, we shall have the right to demand compensation after an unsuccessful expiry of the deadline instead of the performance and a withdrawal. In case we ask for compensation the supplier shall have the right to prove that he is not responsible for the neglect of duty.

#### 5. Terms of payment and prohibition of assignment

The invoices of the contractor have to show the sales tax (value added tax) separately.

Our payments shall be made – unless agreed otherwise – at our discretion 14 days after the receipt of the goods minus 3% discount (should the invoice be received later than the goods then the day of receipt of the invoice instead of the date of receipt of the goods shall apply for the calculation of the discount period) or without discount until the end of the month following the receipt of the goods.

We reserve the right to make payments also in cash or by cheques.

An assignment of the claim against us shall be prohibited. Exceptions require special agreements.

We shall be entitled to the full extent of set-off rights and rights of retention as stipulated by law.



## 6. Shipping and transfer of risk

The goods are to be shipped to the address indicated in the order. The shipping advice is to be sent to us no later than the dispatching of the goods. The goods are shipped at the risk of the contractor until they have arrived at our place or at the destination named by us.

The contractor shall be obligated to process the goods that are shipped to us in such a way that the Bundesbahn or the shipping companies do not have the right to refuse the responsibilities for transport damage.

## 7. Warranty

Our contractor shall warrant that his deliveries/performances comply with the contractually guaranteed characteristics and do not contain any defects that will annul or reduce the value or the suitability for the normal use or use stipulated in the contract.

The warranty period shall be twenty-four months. It starts with the delivery or, if an acceptance has been agreed on, with the acceptance of the delivery item.

A notice of defects shall be deemed on time if it is disclosed immediately after learning of the defect by the authorized representative who is responsible for the order.

The contractor has to immediately eliminate all defects that are reported within the warranty period. If this is not possible or unacceptable to us then we shall be entitled to the delivery of an item free of defects. The cost for the elimination or the replacement including all additional costs (for example shipping) shall be paid by the contractor.

In case the contractor does not comply with the before mentioned warranty obligations or the stipulations of the contract or in case of urgency, then we shall be entitled to carry out ourselves the required measures at the expense of the contractor.

In particular, we shall have the right to eliminate the defect ourselves or through a third party or to obtain the replacement through a third party and to demand compensation for the required efforts or to withdraw from the contract and demand compensation.



Should the defect be the result of an intentionally or grossly negligent behaviour of the contractor or due to the lack of an assured characteristic, which the contractor cannot fulfil, then he also has to replace any damage not affecting the item itself.

If due to a defect of the item under product liability delivered by the supplier we are the subject to a claim then the supplier shall have to indemnify us from the product liability resulting from the defect – especially from the claim for damages of a third party - upon the first request.

#### 8. Applicable law, place of jurisdiction, place of performance

These terms and conditions and the entire legal relations between us and the contractor shall be exclusively governed by the laws of the Federal Republic of Germany without applying the CISG. Insofar as the law of the Federal Republic of Germany refers to the law of another country or to international law on the international purchase of goods, for example, the previously mentioned CISG, such reference is then expressly waived.

Insofar as the contractor is a registered trader in the sense of the German Commercial Code, a legal person of public law or special public funds, Duisburg shall be the exclusive place of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship. However, we shall have the right to sue the contractor even at his place of general jurisdiction.

The place of performance for all deliveries of the contractor shall be the ship-to location specified by us.

Insofar as the contract concluded with the contractor or the terms and conditions of purchasing contain any loopholes, then in order to fill those loopholes the legally effective regulation shall apply, which the contractual partners would have agreed on based on the economic objectives of the contract and the purpose of these terms and conditions of purchasing if they had known the loophole.