

General Terms & Conditions of c-m-p gmbh

Purchasing:

1.0 Validity of these General Terms & Conditions of Purchase

- 1.1 Our General Terms & Conditions of Purchase apply to all transactions with companies and present and future contracts with suppliers. Additional duties taken over from our suppliers will not affect the validity of these General Terms & Conditions of Purchase.
- 1.2 Our General Terms & Conditions of Purchase apply exclusively; we do not recognise statutory provisions or conditions which contradict or differ from our General Terms & Conditions of Purchase, even if we do not expressly object to them or if we unconditionally accept or pay for services.
- 1.3 Any limitation of our statutory rights or those set out in our General Terms & Conditions of Purchase, in particular any restriction or exclusion relating to the goods or the implementation of the contract, requires our express written confirmation in each case.

2.0 Concluding the Contract

- 2.1 The supplier will confirm our orders with a written order confirmation. If the supplier's order confirmation differs from our order or broadens or restricts it, the supplier will specifically highlight the changes. All amendments to our orders require our written confirmation in order to be valid.
- 2.2 If the supplier makes us an offer, this will be free of charge. We may submit our written confirmation of the order within 7 calendar days. Until the expiry of this period, the supplier's offer is irrevocable. If the supplier receives our offer later, he will immediately advise us thereof. The actual receipt of the delivery, payment therefore or our silence, will not permit the supplier to assume that a contract has been concluded.
- 2.3 Correspondence must be carried on with the ordering department. Any amendment of our order or the concluded contract requires the written confirmation of that department in order to be valid.
- 2.4 Delivery requests under an existing master agreement or quantity contract become binding if not rejected by the supplier within 2 working days of receipt.
- 2.5 Following conclusion of the contract, we shall have the right, at any time, to amend or to partially or completely terminate the contract by reimbursing the supplier for his reasonable outgoings, including any pro-rata share of profits, to change construction guidelines or the design of the goods.

3.0 Prices and Payment Conditions

- 3.1 The agreed prices are fixed prices and include – plus the currently valid VAT – free delivery, which includes all ancillary costs, such as, packing, transport, unloading and insurance. If a price is expressly agreed as "ex works", we will only accept the cheapest freight costs, insofar as we do not expressly prescribe the type of transport; in cases of doubt the supplier will bear all accrued costs, including loading and carriage, up to the handover to the forwarder.
- 3.2 Payment to the supplier will be due, with 3% discount, within 14 days or net within 30 days, following complete delivery of the goods and receipt of the correct invoice, without the waiver of any further statutory rights.
- 3.3 One copy of each invoice is to be sent to us – separately for each order – and must, in particular, contain the order number, our article number, each particular item and supplier's tax number. Copies must be marked as such.
- 3.4 Payments by us do not signify any recognition of the invoice, freedom of defect or timely delivery, and are made, at our option, by bank transfer. Fees and charges are to be borne by the supplier.
- 3.5 We are entitled to set-offs and liens to the extent permitted by law, also in cases of a cash only agreement.

4.0 Deliveries

- 4.1 The supplier is obligated to deliver goods which comply in all respects with the contractually agreed quality and suitability, as well as the product law provisions ruling from time to time and latest scientific and technological developments. Insofar as demanded by us, a work's test certificate (CoC) must be submitted to us with the goods, free of charge. The goods must be securely packed for shipping.
- 4.2 The supplier is obligated to notify us in writing if his goods are not unrestrictedly suitable for the use foreseen in the contract, if special safety measures must be observed in handling the goods, or if there could be dangers to health, safety or the environment.
- 4.3 Partial, over- or under deliveries are only permissible with our prior written consent. As regards quantities, weights and dimensions, those ascertained by our Goods Inwards department are binding.
- 4.4 Deliveries are at the supplier's risk and cost (free delivery).
- 4.5 Every delivery must be accompanied by a packing slip and delivery note, with details of our order and article numbers and the unit quantities.
- 4.6 Where appropriate, the goods must be accompanied by an EU Declaration of Conformity and an EU Manufacturer's Declaration. Proofs of origin (e.g. Certificate of Origin, Supplier's declaration per EU Ordinance No. 1207/2001), containing all necessary details will be made available to us by the supplier and duly signed.
- 4.7 Upon delivery, the goods will become our unfettered property. If a lien in favour of the supplier is agreed, this has the effect of a simple lien; regardless of the lien however, we have the right, at any time and without restriction, to use, process and/or sell the goods, as well as to transfer their ownership to a third party, even if this means the destruction of the lien.

5.0 Delivery Dates and Delivery Delays

- 5.1 Agreed delivery dates and deadlines are binding. Precise compliance is a material obligation of the supplier. Definitive for compliance with the agreed delivery dates and deadlines is our receipt of the goods. If "free delivery" is not agreed, the supplier must take the normal time required for loading and shipping into account. Delivery earlier than agreed is only permissible with our prior written consent.
- 5.2 The supplier must notify us, in writing, of delivery delays, in particular arising from production problems or availability of primary materials, immediately after they become apparent, providing details of the reasons and the anticipated length of the delay; our claims arising from the delivery delay will remain unaffected thereby.
- 5.3 In cases of delivery delays, we will be entitled to the statutory rights and claims. We will have the right, in particular, after the fruitless expiry of a reasonable period of grace, to demand compensation instead of performance and to withdraw from the contract. If we demand compensation, the supplier will have the right to prove that he is not answerable for the delayed delivery.
- 5.4 The supplier only has a right of lien if a counterclaim is undisputed and due, is legally enforceable or his claim stems from the same contractual relationship as our claim and is reasonably proportional in relation to our claim.

6.0 Confidentiality

The supplier is obligated to maintain strict confidentiality with regard to all drawings, models, calculations and other documentation and information received from us, whether in physical or electronic form. They may only be disclosed to third parties with our express consent. The confidentiality obligation will continue after the ending of the supply relationship or the contract; it ceases if and to the extent that the drawings, models, calculations and other production knowledge contained in the documentation, as well as information passed on, becomes generally known.

7.0 Quality Assurance

- 7.1 The supplier will independently check our drawings, calculations, specifications and other requirements within the framework of his general and special professional expertise for any errors or contradictions. If appropriate, the supplier will immediately notify us of his concerns, also with regard to suitability, so that a joint investigation can then be undertaken.
- 7.2 The supplier must maintain a quality security system which complies with the latest relevant supply industry standards. The supplier will implement the quality security system measures, including the documentation, independently. He must make this documentation available to us upon demand. The documentation must be kept by the supplier in accordance with statutory and other legal requirements, but for a minimum of 10 years.
- 7.3 Prior to delivery, the supplier will undertake a careful monitoring of outgoing goods. Goods which do not pass may not be delivered. We will only inspect the goods after delivery as regards type (identity check), quantity, as well as for any transport damage and any obvious defects; we are not obliged to undertake any further inspection. To that extent, the supplier waives his right to object based on breach of the obligation to inspect under § 377 of the German Commercial Code (HGB).

8.0 Defects in Goods and Title

- 8.1 In the case of a defect in the goods or their title, we shall be entitled, without limitation, to exercise the legal rights relating to defects, and to assert claims arising therefrom. We shall, in any event, have the right to demand, from the supplier, at our option, immediate cure of the defect or delivery of a defect-free replacement. All costs and expenses which may accrue to us in connection with the non-fulfilment are to be borne by the supplier. Our rights to compensation, in particular to damages instead of performance remain unaffected.
- 8.2 We shall have the right, at the supplier's cost, and regardless of his responsibility, to undertake the cure ourselves if there is danger in the delay or there is a particular need for speed. In such a case, we will –

insofar as possible and reasonable – inform the supplier about the defect in advance. A need for speed may arise, in particular, from an interruption in a production line.

- 8.3 The time limit for claims regarding defects is 36 months after delivery of the goods, insofar as there is no longer statutory limitation period. The cure of a defect with respect to new or repaired goods is subject to a new limitation period of 24 months; if the remainder of the originally applicable limitation period is longer, that will apply.
- 8.4 A complaint by us regarding a defect within the limitation period suspends the limitation period between us and the supplier until agreement is reached on the cure of the defect and any consequences; however, the suspension will, in any event, end six months after the final rejection of the complaint with regard to the defect by the supplier. The limitation period regarding a defect begins no earlier than 3 months after the end of the suspension, but under no circumstances before the end of the limitation period referred to in 8.3 above.
- 8.5 If customers further down the production chain assert their legal claims against us for defective delivery, and the defective delivery includes goods from the supplier, we shall have the right of recourse under Paragraphs 478 and 479 BGB (German Civil Code) against the supplier, without the special requirements dealing with the sale of consumer goods needing to be fulfilled. The recourse applies mutatis mutandis for payments of compensation by us to a customer.

9.0 Withdrawal, Liability and Indemnity

- 9.1 Regardless of other withdrawal rights, we shall have the right to withdraw from the contract, wholly or partially, without compensation (I) if an application is made for the opening of insolvency proceedings against the supplier's assets; or (II) the supplier, without justification, fails to fulfil material obligations towards us; or (III) if unforeseen circumstances arise, for which we are not answerable, which materially alter the basis for the contract concluded with the supplier.
- 9.2 The supplier will be liable to us, in particular for compensation, without limitation, in accordance with the statutory provisions.
- 9.3 Notwithstanding any other claims we may have, the supplier will indemnify us, at our first request, against all third party compensation claims, in particular those with respect to Product and Producer Liability, insofar as these have their origins in the supplier's domain and organisational area, and which the third party, for that reason, could assert, not only against us, but also against the supplier. The indemnity also includes, in particular, the defence against unjustified claims, and the reimbursement of our expenses and costs in connection with recalls. We will – insofar as possible and reasonable – give the supplier prior notice of recall measures.

10.0 Property Rights

- 10.1 The supplier warrants that no third party rights will be breached in connection with his delivery, and that there are no third party proprietary or intellectual property rights attached to the goods which could restrict or preclude our freedom of use.
- 10.2 If a third party should assert a claim against us for breach of a property right, then the supplier is obligated to ensure the usability of the products to be produced by us for our customer, if appropriate, in such a way that, at the supplier's option, the parts in breach of the intellectual property rights will be altered, or replaced by property rights-free parts. The supplier will be liable for all damage, in particular against customers' or third parties' claims for compensation which may accrue as a result of the breach of property rights by the intended user of the goods.
- 10.3 The supplier will indemnify us, upon first request, against any claims by third parties due to a breach of property rights, or against which we must indemnify our customers. The supplier will not have the right to arrive at any agreement with such third party – without our consent – such as a composition. The supplier's indemnity obligation covers all necessary costs incurred by us arising from, or in connection with, the recourse by a third party.
- 10.4 The limitation period is 10 years from the assertion of each claim.
- 10.5 We reserve all ownership, user, registered design, patent, trademark, copyright, personality and other related rights, in particular to drawings, samples, images and other documentation, designs, design suggestions, templates, worksheets, moulds, copyrights, know-how and calculations, as well as software, made available to us in physical or electronic form. The reserved rights referred to in the first sentence of this paragraph include, in particular, all documents from us which are marked "confidential".
- 10.6 All physical or electronic drawings, images, samples, etc., must be returned to us immediately after the ending of the supply relationship or the contract. In that respect, a lien is excluded.

11.0 Contractual Penalty

- 11.1 In the event of a culpable failure to meet the agreed delivery date, the supplier will pay us a contractual penalty of 0.5% of the net price of the delivery for each week or part of a week of failure to meet the agreed delivery date week, but with a maximum of 5% of the net price of the delivery, for each late (partial) delivery.
- 11.2 We may also assert our claim to the contractual penalty referred to in 11.1 above if a reservation regarding a delivery remains unclarified. However, we may only demand the contractual penalty in addition to the final payment for the delivery if we reserve our rights thereto when making the final payment.
- 11.3 Any forfeited contractual penalties as per 11.1 above may be demanded as the minimum amount of damage owed resulting from the same breach of duty. The assertion of further damages claims is not debared. However, we shall offset any contractual penalties paid.

12.0 General Contractual Principles

- 12.1 The place of performance and fulfilment for all deliveries and payments is Heinsberg.
- 12.2 In the event of the invalidity of individual contractual provisions, the remaining contractual provisions will remain unaffected. The invalid provision is to be replaced by a legal regulation which comes closest to fulfilling the commercial sense and purpose of the invalid provision. The same will apply to lacunae in the regulations.
- 12.3 Compliance with the written form will require neither a personal nor an electronic signature. Fax or email messages, as also other text forms, will also comply with the written form.
- 12.4 If the contracting parties are business people, then Heinsberg is the exclusive jurisdiction for all disputes; however, we shall have the right to sue the supplier in his general place of jurisdiction.
- 12.5 The law of the Federal Republic of Germany shall apply exclusively to all legal relationships between us and the supplier, but excluding the UN Convention on Contracts for the International Sale of Goods (CISG) of 1 April, 1980.

Sales:

13.0 General

- 13.1 Offers, orders and deliveries are subject to the following sales contract conditions of the seller, insofar as differing or additional conditions and agreements have not been confirmed in writing. Orders will only become binding by way of the seller's written confirmation, also with a printed signature. The application of other conditions of the buyer is also excluded, even if these have not been specifically contradicted by us upon receipt.
- 13.2 The sales conditions also apply for all future transactions with the buyer.
- 13.3 In the event of changes to these sales conditions, the amended conditions are deemed approved after being sent, if no written objection is received within one month of receipt. As regards the time limit, the postmark is definitive.
- 13.4 The buyer acknowledges that many of the seller's products are subject to export controls. He is obligated to observe the requirements relating to foreign trade with regard to the export of the seller's products. Obstacles to delivery whose origins lie in the observance of the relevant regulations, are not the seller's responsibility.

14.0 Offer

- 14.1 Our offers are valid for four weeks from the date of issue.
- 14.2 We reserve our ownership rights and copyright to all documentation passed on to the buyer in connection with the placing of the order; e.g. calculations, drawings, etc. Third parties may not be permitted access to this documentation, unless we grant the buyer our express written consent thereto.

15.0 Implementation

- 15.1 Excess or short deliveries to the buyer are permitted insofar as they do not exceed 10% of the quantity ordered. This applies to partial deliveries, as well as to the balance and total of the quantity ordered. Alterations to the quantity tolerance require the written consent of the seller.
- 15.2 Unless otherwise agreed, a particular roll length will not be due.

16.0 Delivery

- 16.1 Unless otherwise agreed, delivery deadlines and dates are only approximate.
- 16.2 The beginning of a delivery period specified by us will assume that all technical questions, as well as the buyers timely and proper fulfilment of his obligations have been dealt with. The delivery period will be deemed to have been complied with if the goods leave the factory before its expiry or, if the goods are not to be shipped by the seller, readiness for shipment has been advised.

General Terms & Conditions of c-m-p gmbh

- 16.3 Force majeure, shortage of raw materials, strikes, unforeseen operational and shipping problems, or other hurdles for which the seller is not answerable, relieve him from his timely delivery obligation for the duration of the disruption and its consequences. If the agreed delivery deadline is missed by more than two months, then the buyer and the seller may withdraw from the unfulfilled portion of the contract.
- 16.4 If commercial life in the buyer's country is seriously restricted by war, civil war or similar events, then the seller shall have the right to withdraw from any unfulfilled portion of the contract.
- 16.5 If the delivery date has been surpassed, then the buyer must set a reasonable period of grace unless, due to the delay, continuance of the contract is unreasonable for him.
- 16.6 Claims for compensation due to delivery delays are limited to the net invoice value of the delayed delivery.
- 16.7 The goods delivered may only be sold on in unprocessed condition with the prior written consent of the seller.

17.0 Transfer of Risk and Acceptance

- 17.1 As soon as the goods leave the seller's factory or warehouse or, in case of the buyer's acceptance delay their availability for shipment, all risks, including the shipping risk will pass to the buyer. This shall apply, regardless of whether the shipment of the goods follows from the place of performance or whoever is responsible for the shipping costs.
- 17.2 The buyer, regardless of his rights under a warranty, will be obligated to accept the goods, even if they show minor defects.
- 17.3 Partial deliveries will be permissible.

18.0 Payment

- 18.1 In addition to the agreed prices, the buyer must pay VAT at the ruling statutory rate.
- 18.2 Payments will only be deemed completed to the extent that the seller can freely dispose over the amount at a bank in his own country. The acceptance of cheques or promissory notes is subject to performance.
- 18.3 If the buyer is more than one week late with a due payment, or a promissory note is protested, or cheque is not presented, then all the seller's claims arising from the business relationship with the buyer shall become due immediately.
- 18.4 The seller is also entitled to accrual of the rights under 18.3 above if a justified doubt arises as to the buyer's ability to pay.
- 18.5 A holding back of due payments or a set-off are only possible in cases of legally established claims or claims expressly recognised by the seller.
- 18.6 All costs arising in connection with the contract in the buyer's country, including fees and taxes which were not known upon conclusion of the contract, shall be for the account of the buyer.
- 18.7 The buyer must compensate the seller for any foreign exchange losses suffered as a result of late payment.

19.0 Lien

- 19.1 The seller will retain title to the goods delivered by him (the "reserved goods"), until the buyer has settled all claims arising from the mutual business relationship, including any current account balance.
- 19.2 The title also covers the full value of new products created by the processing of the reserved goods. These are deemed reserved goods within the meaning of these conditions. If the third party retains its title to its goods contained in the processed goods, then the seller acquires joint title pro-rata to the respective invoice values of the goods supplied by the seller and that third party.
- 19.3 All receivables from the sale of the reserved goods, together with all ancillary and security rights, including promissory notes and checks securing the claims as per 19.1 above are already hereby assigned by the buyer to the seller. To the extent that, in the processing of the reserved goods, any third party title remains, then the assignment of the receivables from the sale will amount to the proportion of the value of the share acquired per 19.2 above. The buyer already hereby assigns the same amount of any current account balance claims, including the final balance, to the seller, in case the receivables from a sell-on are incorporated in an existing current account relationship with a customer of the buyer.
- 19.4 If the buyer does not pay the debt, despite it having fallen due, within a reasonable period of grace, then the buyer must, upon demand, return the reserved goods to the seller, for the latter's free disposition; whereby the taking back of the goods shall not represent a withdrawal from the contract.
- 19.5 If the value of the security exceeds the value of the debt being secured by more than 20%, then the seller, upon the buyer's demand, is obligated to release securities of his choice, to that extent.

20.0 Warranty

- 20.1 The seller warrants freedom from material and processing defects in accordance with state-of-the-art technology.
- 20.2 Consultations, information and suggestions for the use, processing and application possibilities of our products, as well as the provision of sample rolls or the like, only include a characteristics warranty and guarantee if this is expressly agreed.
- 20.3 Unless otherwise expressly agreed, normal commercial or material variations will not be considered defects. The same applies to differences in raw and colour tones of the goods supplied, unless the latter leads to a substantial limitation on the usability of the products.
- 20.4 The buyer's warranties require that he has complied with his inspection and complaint obligations under § 377 of the Commercial Code (HGB) without delay, otherwise the goods will be deemed approved. The right to complain lapses, in any event, 12 months after delivery of the goods, insofar as the seller has not fraudulently concealed the defect complained of.
- 20.5 If goods previously subjected to a complaint, or recognisably defective goods are processed in some way, or sold, without the seller's written approval, the goods will be deemed approved and all defect claims lapse. This will apply, in particular, to the passing on of the warranty claims to the seller which accrue to the buyer from the sale of the processed goods to a third party.
- 20.6 The claims under the warranty are limited, at the seller's option, to reworking the defective goods or replacing them with defect-free goods. If this should be delayed to an extent which is unreasonable for the buyer, or fails, or is impossible, he may demand a price reduction or, in cases of material breach of duty, the rescission of the contract, as well as compensation in accordance with 21 below.

21.0 Claims for Compensation

- 21.1 A buyer's claims for compensation – also extra-contractual types – are debarred in cases of minor negligent breaches of duty by the seller, his executive staff and his other agents or representatives, unless it involves a breach of duty which is of fundamental importance in achieving the contractual purpose.
- 21.2 The seller will only be liable for direct, as well as unforeseen damages at the time the contract is concluded, in the event of gross negligence on his part, or that of one of his executive staff, or the cover against such damages is an express object of a specific warranty or guarantee.
- 21.3 To the extent that the liability of the seller is excluded, this shall also apply equally to his employees in cases of the buyer's direct recourse thereto.
- 21.4 The aforementioned limitations do not apply to personal injury. The mandatory statutory liability of the seller; e.g. under the Civil Liability and Product Liability Acts, remains unaffected by these conditions.

22.0 Applicable Law and Jurisdiction

- 22.1 This purchase contract is subject to the law of the Federal Republic of Germany applicable at the seller's Head/Registered Office. The application of the uniform laws relating to the international sale of goods and services, as well as the entering into international sale contracts for goods – both dated 17 July, 1973 – as well as the UN Convention on the International Sale of Goods dated 11 April, 1980 is excluded.
- 22.2 If individual provisions of the contract or these General Conditions shall be invalid, the remaining provisions will remain unaffected thereby.
- 22.3 Place of performance and jurisdiction for all claims under the business relationship is the seller's Head/Registered Office. However, the latter also has the right to assert his claims within the buyer's general place of jurisdiction.