



# General Terms and Conditions of Purchasing

## § 1 General – Scope of Application

- (1) The ordering of goods or services shall occur exclusively on the basis of these terms of purchase. Order confirmation shall always mean that acceptance of our general terms and conditions of purchase exists; acceptance of the goods or performance in the knowledge of opposing terms shall be no acknowledgement of the said opposing terms. Our terms of purchase shall also apply as agreed contractual contents in the event of subsequent orders.
- (2) Covenants agreed in individual cases with the vendor (including collateral agreements, supplements and amendments) shall in all events take priority over these terms and conditions of business. A written agreement or our written confirmation shall be definitive for the content of such an arrangement. Legally binding declarations must be provided in writing.
- (3) The Incoterms 2010 shall be used to interpret commercial clauses.
- (4) Our terms of purchase shall only apply vis-à-vis companies pursuant to § 14 BGB [German Civil Code].

## § 2 Tenders – Tender Documents

- (1) Only written orders shall be binding. We shall hold ourselves bound to our written orders for two weeks from the date of order. Order confirmations received after expiry of this period shall be regarded as a new tender requiring our written acceptance.
- (2) We shall retain title and copyright to illustrations, drawings, calculations and other documents. They may not be made accessible to third parties without our express written approval. They are to be used exclusively for manufacture on the basis of our order. After our order has been completed, they are to be returned to us without special reminder. They must be kept secret vis-à-vis third parties; in this respect the provision of § 7 (4) shall apply supplementary.
- (3) We shall not pay for tenders. All correspondence related to answering inquiries or submitting tenders is to be directed to the department of our company from which the inquiry originated. Our respective reference and the date of our inquiry must be stated in the correspondence. The tenders of the supplier must quote the goods and terms arising from our inquiry.

## § 3 Delivery Time

- (1) Agreed dates and periods shall be binding; they shall be termed delivery periods and begin from the date of the order. Arrival of the goods at the stated destination shall be definitive for compliance.
- (2) The supplier must dispatch a consignment note for each individual consignment, separately from the goods and invoice, on the day of dispatch. The consignment note must show the precise specification of the goods, especially the unit numbers to be delivered and our order number. The supplier shall have complied with its notification obligation if the message arrives before receipt of the goods. Transmission by e-mail shall be considered as sufficient in this respect; other forms of transmission shall be possible.
- (3) The supplier shall be obliged to notify us in writing immediately if circumstances arise or become apparent, which mean the agreed due date cannot be met.
- (4) In the event of delivery delay, we shall be entitled to the statutory claims. In particular after expiry of a reasonable period of grace without issue, we shall be entitled to demand damages instead of performance. Furthermore, we shall be entitled to rescind the agreement. Should we demand damages, the supplier shall be entitled to demonstrate that it is not responsible for the breach of duty.
- (5) Excess deliveries that were not agreed shall entitle us either to accept the additionally delivered goods with a corresponding valuation of the invoices, or to store the goods at the expense of the supplier until their collection by the supplier, or to send them back at its expense.
- (6) The supplier shall not be entitled to render performance to us before the agreed delivery date. Should it nevertheless deliver before the agreed date, we shall be entitled to store the consignment at the expense of the supplier until the agreed delivery date or to send it back at its expense.
- (7) We shall only accept partial deliveries by express arrangement.

## § 4 Transfer of Risk – Documents

- (1) At all events the risk of accidental loss and of accidental deterioration shall only be transferred to us upon transfer of the goods at the delivery location stated in the order.
- (2) The supplier shall be obliged to provide us with a written declaration of the origin of the goods in respect to customs law no later than two weeks before delivery. Suppliers with their registered office in Germany or other EU member states must provide us with a supplier's declaration pursuant to Council Regulation (EC) No. 1207/2001 for all goods which meet the origin regulations in EU preferential trade. For goods delivered on a regular basis and over a lengthy period with preferential origins a long-term supplier's declaration (as far as possible for one calendar year) may be provided. We must be notified

immediately and without special reminder by the supplier of a change in the place of origin. Upon request the supplier must affirm its statements on the origin of the respective goods by means of a confirmed customs information sheet.

- (3) The delivery note and packing slip must be enclosed in duplicate with the delivery. The supplier number, order number, material designation and material number, batch number, gross and net weight in kgs, number and nature of packaging (one-way/recyclable), unloading point, consignee and place of installation must be listed completely in all dispatch documents and on the outer packaging; should the supplier fail to do so, we shall not be responsible for delays in processing.
- (4) Individual containers must be identified with the material name, material number, serial number and net weight. If we request the supplier to do so in the order, the latter must use pallets which comply with the IPPC standard.
- (5) The supplier shall be liable for all inconvenience and costs arising to us by improper or belated supplier declaration unless it proves that it is not responsible for this.
- (6) On our request the supplier must immediately procure or provide the certificates of origin required for trade in the goods delivered.
- (7) The Supplier shall assume the responsibility for compliance with customs and foreign trade law regulations when it imports goods or brings them to Germany (internal market trade).

## § 5 Prices – Terms of Payment

- (1) The agreed prices shall be fixed prices. They shall be – unless otherwise agreed – DDP to place of destination stated by us in accordance with Incoterms in their current valid version including standard commercial packaging, carriage and warehouse charges and any customs duties. The supplier shall in all events bear the shipping costs even if we request a special shipping mode. The supplier must take back and dispose of the packaging at its expense if we call on it to do so up to payment of the delivery.
- (2) The price shall not include the statutory sales tax (VAT).
- (3) We can only process invoices if these – in accordance with the requirements in our order – state the order number shown there. Furthermore, the invoices must precisely specify the invoiced delivery according to unit numbers, dimensions and weight and in the event of photovoltaic modules their performance parameters. The supplier shall be responsible for all consequences arising from non-observance of this obligation unless it demonstrates that it is not responsible for them.
- (4) For the purposes of intra-[EU] commercial statistics and calculation of preferential rates invoices must quote the eight-digit goods number (pursuant to the current goods directory for foreign trade statistics) for all goods.
- (5) In addition, invoices can only be processed if the ordering department, the order number and the date of the invoice emerge from the invoice.
- (6) Invoices must be sent separately from the consignment directly to the invoice address stated in the order.
- (7) The supplier shall be obliged to submit invoices to us in duplicate immediately after delivery. The invoices must be auditable, copies must be identified separately. Furthermore, the supplier shall be obliged to submit invoices to us for monthly deliveries by the third day of the succeeding month. In the event of deviations from weights and performance parameters, solely weights and performance parameters measured by us shall be acknowledged. Offsetting shall occur taking as a basis the quantities, dimensions, performance parameters and unit numbers determined by us. The supplier shall be free to prove the quantities, dimensions, performance parameters and unit numbers it determined.
- (8) Unless otherwise agreed in writing, we shall pay the purchase price within 30 days, calculated from the receipt of goods and invoice receipt, with 3 % discount or net within 60 days after receipt of goods and invoice receipt. The 30-day period for discount deduction shall not begin before the day on which we receive the invoice of the supplier containing the information pursuant to Paragraph 3.
- (9) Our obligation to pay the price is subject to the goods arrive at our premises in full and free of defects.
- (10) In the event of premature receipt of deliveries, the payment period shall only begin from the delivery date in accordance with the order and receipt of an invoice complying with the above-mentioned requirements.
- (11) We shall not be obliged to take delivery of cash on delivery consignments. The supplier must bear costs arising in connection with cash on delivery consignments.
- (12) We shall be entitled to rights of offsetting and retention to the statutory degree.



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### § 6 Proprietary rights

- (1) The supplier shall pledge that no third party rights are infringed with its delivery, insofar as it is responsible for this.
- (2) Should a third party seek recourse against us, the supplier shall be obliged to indemnify us against these claims on our first written request; this claim shall presume fault on the part of the supplier. We shall not conclude any agreements with the third party, especially composition, without the approval of the supplier, in condition that the supplier deal with such claims and indemnify us timely.
- (3) The indemnification obligation of the supplier, which shall exist in the case of fault on the part of the supplier, refers to all expenses we necessarily incur from or in connection with the recourse by a third party.

### § 7 Retention of Title – Provision – Tools – Confidentiality

- (1) If we provide items to the supplier, we shall retain title thereto. Processing or conversion shall be carried out for us by the supplier. Should our goods subject to retention of title be processed with items not belonging to us, we shall acquire co-title to the new object in proportion to the value of our item (purchase price plus sales tax) to the other items processed at the time of processing.
- (2) Should the item we provided be inseparably combined with items not belonging to us, we shall acquire co-title to the new object in proportion to the value of our items (purchase price plus sales tax) to the other items combined at the time of combination. Should the combination occur in a manner that the item of the supplier is to be regarded as the main item, it shall be agreed that the supplier transfers co-title to us proportionally, the supplier shall preserve sole title or co-title for us.
- (3) We shall retain the title to our tools; the supplier shall be obliged to use the tools exclusively for the manufacture of the goods that we ordered. The supplier shall be obliged to insure the tools belonging to us at replacement value at its own expense against fire, water and theft. At the same time the supplier shall already assign all compensation claims from this insurance to us, while we hereby accept this assignment. The supplier must notify us immediately of any faults; should he culpably omit to do this, this shall not affect claims to damages.
- (4) The supplier shall be obliged to keep all illustrations, drawings, calculations and other documents and information strictly confidential. They may only be disclosed to third parties with our express written approval. The confidentiality obligation shall apply after completion of this Agreement for a period of another three years; it shall expire if and when the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents transferred has become general knowledge.
- (5) Should the liens to which we are entitled pursuant to Paragraph 1 and/or Paragraph 2 exceed the purchase price of all of our still unpaid for goods subject to retention of title by more than 20 %, we shall be obliged at the request of the supplier to surrender the liens of our choice.

### § 8 Quality Change – Quality Assurance – Audits

- (1) If starting materials changes, which are significant for the contractually assured quality in the case of the supplier during the transaction of an agreement or in the case of new delivery in relation to earlier deliveries of the same goods, it shall be obliged to notify us of this immediately.
- (2) Should the supplier infringe its duty pursuant to Paragraph 1, it shall be obliged to compensate us for damage arising as a result. Furthermore, we shall in this case be entitled to rescission.
- (3) The supplier shall perform and maintain effective quality assurance and demonstrate it to us on demand. On our request the supplier shall apply a quality assurance system pursuant to DIN ISO 9000 ff or of a similar nature.
- (4) The supplier shall be obliged to keep records of the material quality assurance measures. It shall in addition be obliged to keep corresponding records of all tests carried out as part of this quality assurance. The documents must be preserved for ten years after their creation. The supplier shall grant us access to these records.
- (5) We shall be entitled to carry out quality audits at the supplier during normal business and operation times after prior announcement. These shall serve the purpose of proving the efficiency and precision of the quality assurance system. The conduct of such audits shall not result in the contractually agreed or statutory responsibility of the supplier with regard to the quality of the products produced and delivered being in any way impaired unless the impairment of quality is attributable to a requirement of ours.
- (6) The supplier shall be obliged to agree a corresponding quality assurance system with its suppliers as well.
- (7) If quality problems have occurred in the past, we shall also be entitled to make occasional unannounced checks.
- (8) Checks shall be carried out by members of our department responsible for quality assurance, who shall be bound to confidentiality vis-à-vis third parties.

(9) In the event of a secret manufacturing or monitoring process, the test must be confined to inspecting the results of a sufficiently large unit number if our control rights are hereby preserved. Should an adequate check only be guaranteed through acquisition of secret information, the observance of the quality standard shall be checked by a TÜV (German standards organization) expert, who is to be nominated by its management. The result of the audit shall be conveyed to both parties.

(10) Should particular audits have been agreed, the supplier shall give notice of the audit readiness at least a week in advance and fix an audit date with us. Should the contractual item not be ready for audit on the agreed audit date for reasons for which the supplier is responsible or should defects of the subject matter of the agreement require repeated or additional audits, the supplier must compensate us for the expenses arising as a result.

(11) Should the supplier have to provide material or audit proofs, it shall bear the costs involved. The material and/or audit proofs must be available at the time of delivery.

(12) Audits and the submission of proofs shall not affect our contractual or statutory acceptance and guarantee rights.

### § 9 Defect Inspection – Defect Liability

- (1) The payment of the agreed or invoiced price shall not represent any acknowledgement of the delivery as contractually appropriate or free of defects.
- (2) We shall be entitled to the statutory defect claims in full; at all events, we shall be entitled to demand defect elimination or delivery of a new item at our sole discretion from the supplier. We shall expressly reserve the right to damages, especially to damages instead of performance.
- (3) We shall be entitled to carry out defect elimination ourselves at the expense of the supplier if there is an imminent risk or a special need for haste exists. This shall presume that it is no longer possible for us on account of the particular urgency to inform the supplier of the defect and imminent damage and to set it an appropriate period for its own remedy.
- (4) Modifications implemented in connection with our orders to the goods shall in each case apply exclusively to the particular individual order. Unless otherwise agreed in writing, such modifications shall not lead to a change in the product characteristic underlying the other agreements.
- (5) The limitation period for defect claims shall be 36 months, calculated from the passage of risk.

### § 10 Product Liability – Indemnity – Liability Insurance Cover

- (1) Should the supplier be responsible for product damage, it shall be obliged to indemnify us with respect to damages claims of third parties at first request, since the cause is in its sphere of control and organization and it is liable itself vis-à-vis third parties.
- (2) In the context of its liability for claims in the meaning of Paragraph 1 the supplier shall also be obliged to reimburse any expenses pursuant to §§ 683, 670 BGB or pursuant to §§ 830, 340, 426 BGB arising from or in connection with a recall program carried out by us. We shall inform the supplier regarding the content and scope of the recall measures to be carried out – if possible and reasonable – and provide it with an opportunity to state its case. Other statutory rights claims shall be unaffected.
- (3) The supplier shall undertake to maintain a product liability insurance cover with a value of € 10 million per case of damage to persons/objects; should we be entitled to additional claims to damages, these shall be unaffected.

### § 11 Place of Jurisdiction – Choice of Law – Place of Performance

- (1) If the supplier is a merchant, our registered office shall be the place of jurisdiction; however, we shall be entitled to bring an action against the supplier at its registered office.
- (2) The law of the Federal Republic of Germany shall apply including the provisions of the UN Sales Convention (CISG).
- (3) Provided nothing to the contrary emerges from the order, our registered office shall be the place of performance.

### § 12 Energy Management System

(1) The efficient use of energy is an essential part of the corporate policy of the purchaser. In the case of the sourcing of products, services and facilities which will or might have an effect on the essential use of energy, the evaluation of the sourcing amongst others is based on the energy-related performance (energy input, energy consumption, energy efficiency).

(2) If more energy efficient alternatives are available, we generally ask you to extend quotations by such alternatives or provide information about such alternatives.



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(3) Any upstream suppliers of the vendor must also be instructed of the need to meet these requirements.