

Conditions of Purchase (Status 01.04.2009)

1. Orders and acknowledgement of orders

(1) Research Instruments GmbH (purchaser) shall be entitled to cancel the order if the supplier fails to acknowledge the order in writing within two weeks from the time it was received (acknowledgement of order).

(2) If the acknowledgement of the order differs from the order, it shall be binding on the purchaser only if he has accepted such acknowledgement in writing. Any General Conditions of the supplier shall be binding on the purchaser only insofar as they agree with his own conditions or have been accepted by him in writing. The acceptance of supplies or services or the making of payments shall not imply acceptance of any conditions.

(3) Items changed or added to the order shall only be effective if confirmed by the purchaser in writing.

2. Right of use

(1) The supplier shall grant the purchaser the non-exclusive, transferable, worldwide and unlimited right to:

- a) use or authorize use of the software and his appropriate documentation (hereinafter jointly referred to as "Software");
- b) sublicense the right of use in accordance with No. 2 (1)a) to associated companies, other distributor and end customers as contemplated by § 15 AktG insofar as individual software is concerned;
- c) grant associated companies as contemplated by § 15 AktG and other distributors the right to license and grant end customers the right of use according No.2 (1)a);
- d) copy the software for the purpose of installing it in hardware or authorize copying of the same by associated companies or other distributors as contemplated by § 15 AktG.

(2) In addition to the right granted in section 1, the purchaser, associated companies as contemplated by § 15 AktG and other distributors shall be authorized to grant end customers the right to transfer the software licenses.

(3) All sublicenses granted by the purchaser shall provide the intellectual property of the supplier contained in the software with adequate protection by using the same contractual provisions as the purchaser uses to protect his own intellectual property.

3. Time of performance, contract penalty for default in performance

(1) The punctuality of deliveries or subsequent performance shall be determined based on (the time of their) receipt at the receiving location specified by the purchaser. The punctuality of deliveries involving installation or assembly and of services (provided) shall be determined based on their (time of) acceptance.

(2) As soon as a delay in delivery, of a service, or of subsequent performance becomes recognizable, the purchaser shall be informed immediately and asked for his decision.

(3) If the stipulated term is exceeded for reasons the supplier must answer for, the purchaser shall be entitled to invoice a penalty amounting to 0.3 % for each workday of said delay begun and not exceeding a total of 10 % of the total amount of the contract.

If no reservation is brought forth in connection with the acceptance of deliveries, services or subsequent performance, the penalty may nevertheless be claimed until the final payment.

4. Transfer of risk, shipment, place of performance

(1) The risk attaching to supplies only shall transfer to the purchaser at the time they are received at the point of destination specified by the purchaser. The risk attaching to supplies including installation or erection and to services shall transfer to the purchaser at the time they are successfully tested for acceptance.

(2) Unless agreed otherwise, shipping costs shall be charged to the supplier. Where the price is quoted ex works or ex supplier's stock, shipment shall be effected in the cheapest manner unless otherwise specified by the purchaser. Extra costs incurred due to failure to conform to a shipping specification shall be borne by the supplier.

Where the price is quoted free to recipient, the purchaser shall likewise be entitled to determine the mode of shipment. Any extra costs incurred for expediting shipment to meet delivery shall be borne by the supplier.

(3) Each shipment shall contain packing slips or despatch notes indicating contents and the complete order reference. The supplier shall immediately advise the purchaser of shipment indicating the same data.

5. Invoices

Invoices shall indicate the order reference and the numbers of every single item. Invoices shall not be payable until this information is complete. Copies of invoices shall be marked as such.

6. Payment

(1) Unless agreed otherwise, payment shall be effected
 within 14 days less 3 % discount
 or within 30 days less 2 % discount
 or within 90 days net.

(2) The term shall count from the time the supplies or services have been effected in their entirety and from receipt of the duly issued invoice. Insofar as the supplier is required to provide material tests, test certificates, quality-related or other documents, completeness of delivery and performance also takes receipt of all such documents for granted. Discount shall also be deductible if the purchaser offsets payments against receivables or because of deficiencies withholds payment of a reasonable amount, the term shall count from the time deficiencies are completely corrected.

(3) If the supplier is an entrepreneur (or enterprise), the purchaser shall fall into arrears only provided that it fails to pay in response to an arrears letter issued by the supplier when the purchaser price becomes due.

(4) The effecting of payments shall not imply acceptance of supplies or services as meeting contractual requirements.

7. Incoming inspection

(1) The purchaser shall inspect all incoming consignments upon receipt to determine whether they correspond to the quantity and type ordered and/or display any visible signs of transport damage or externally visible defects.

(2) If the purchaser discovers a defect while performing the aforementioned tests, he shall announce this to the supplier. This shall also apply if the purchaser discovers a defect at a later point in time.

(3) Complaints may be lodged within a month after delivery or performance, or, in case the defects are first noticed during processing or initial use, within a month after the point of time when they were first detected.

(4) The aforementioned tests and announcements are the duty of the purchaser towards the supplier.

8. Warranty

(1) The supplier shall guarantee his supplies and services for three years unless the relevant laws and regulations provide for a longer period of warranty. This period shall commence with the transfer of risk (no. 4). In the event that deliveries are made to locations where the purchaser executes orders outside of his own plants or workshops, the period of warranty shall commence upon acceptance by the purchaser's customer, and no later than one year after the transfer of risk.

(2) If defects are detected prior to or during the transfer of risk or occur during the period mentioned in Sect. (1) the supplier shall, at the purchaser's choice, either eliminate such defects at his own expense or once again deliver the goods. This shall also apply to deliveries where the tests were limited to random samples. The purchaser's choice shall be made at reasonable discretion.

(3) If the supplier fails to correct a deficiency, or to provide new supplies or services within a reasonable period of time to be set by the purchaser, the purchaser shall be entitled to:

- withdraw from all or part of the contract without paying compensation
- or demand a reduction of price
- or at the supplier's expense himself effect repairs or replacement
- or cause them to be effected
- and claim damages instead of performance.

§ 281 Sect. 2 and § 323 Sect. 2 of the German Civil Code will remain unaffected.

(4) The purchaser shall be entitled to carry out repairs or cause them to be carried out at the supplier's expense if delivery is effected after the reasonable period set.

(5) This shall also apply if the purchaser has a special interest in the immediate execution of subsequent performance in order to prevent a default or another exigency.

(6) The aforementioned claims shall be time-barred one year after announcement of the defect and no later than upon expiration of the period of limitation mentioned in Section (1).

(7) Any more far-reaching or other claims will remain unaffected.

(8) Insofar as the supplier executes redelivery or rectification within the scope of subsequent performance, the period specified in Art. 8, Sect. (1) shall apply again begin to elapse.

(9) The supplier shall bear the costs and risk involved in the return shipment of defective delivery items.

9. Liability for infringement of industrial property rights

The supplier guarantees that no industrial property rights including copyrights conflict with the use provided in the contract.

10. Subcontracting to third parties

Subcontracting to third parties shall not be permissible without the purchaser's written approval and shall entitle the purchaser to withdraw from all or part of the contract and to claim damages.

11. Material provided by the purchaser

(1) Materials provided by the purchaser shall remain his property and shall be stored separately, marked and kept at no cost to him. The material shall not be used other than for the purchaser's orders. The supplier shall compensate the purchaser for depreciation in value or loss.

This shall also apply to material provided for and on the supplier's account for a specific job.

(2) The supplier shall process or work the material for the purchaser who shall become the direct owner of the new or worked item. Where this is not lawfully possible, the purchaser and the supplier are agreed that purchaser shall at all times during processing or working become the owner of the new item. The supplier shall apply due and proper care in keeping the new item at no cost to the purchaser.

12. Tools, patterns, samples, secrecy etc.

Tools, patterns, samples, models, sections, drawings, standards, forms, documents and gauges, etc., provided by the purchaser, as well as items made with or to them, shall not without the purchaser's written approval be passed on the third parties nor used for purposes other than those specified in the contract. They shall be safeguarded against unauthorised inspection or use. Subject to any further rights, the purchaser shall be entitled to demand their return to him, if the supplier violates this clause.

The supplier shall not make any information which it has acquired from the purchaser accessible to third parties unless it is generally known or the supplier has otherwise lawfully gained knowledge of it. If the purchaser has consented to the subcontracting of orders to third parties, the latter shall be obligated to execute such orders in writing.

13. Transport Insurance

The supplier shall take out transport insurance for all deliveries and services performed.

14. Assignment of receivables

The assignment of receivables shall be permitted only with the advance written consent of the purchaser.

15. Special right of termination

If the supplier ceases payment, a provisional insolvency trustee is appointed, or insolvency proceedings concerning the assets of the supplier are opened, the purchaser shall be entitled to withdraw from the contract either in part or in full. In the event of his withdrawal, the purchaser shall be permitted to use the existing facilities or the deliveries and services previously performed by the supplier against adequate remuneration in order to continue work.

16. Additional provisions

Where points arise that are not covered by these conditions, the legal provisions shall apply.

17. Venue, applicable law

(1) If the supplier is listed in the commercial register, the venue shall be at Bergisch Gladbach, Germany.

(2) German substantive law shall apply to the exclusion of the United Nations Convention on Contracts for International Sale of Goods of 11 April, 1980.