



# General Terms and Conditions of Purchase

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## 1. General terms and conditions

We order on the basis of our terms and conditions of purchase. Other terms and conditions shall not become part of the contract, even if we do not expressly object to them. If we accept the delivery/service without express objection, this shall not imply that we have accepted your terms of delivery.

These terms and conditions of purchase shall also apply to all future contractual relationships with you.

## 2. Orders, Order Confirmation, Contract Amendments

Only orders placed in writing shall be legally binding. Orders placed verbally or by telephone require subsequent written confirmation in order to be legally valid. The same applies to verbal ancillary agreements and amendments to the contract.

Orders, delivery calls, as well as changes and additions thereto may also be made by remote data transmission or by machine-readable data carriers, subject to prior written agreement.

Our order and article numbers must be clearly indicated in all correspondence relating to the order, such as order confirmation, dispatch and delivery notes, invoices, etc. Manufacturing parts according to our drawings shall be manufactured from the materials specified in the drawings. The use of other materials without our express confirmation is not permitted. Details of materials in your order confirmations which deviate from our drawing specifications require our written confirmation.

No compensation shall be granted for visits or the preparation of offers, projects, etc. You must treat the conclusion of the contract confidentially and may only refer to business relations with us in advertising material following our written consent.

The contracting parties undertake to treat as business secrets all commercial or technical details which are not in the public domain and which they become aware of through the business relationship. Subcontractors shall be obliged accordingly. Our orders must be confirmed within 5 working days, otherwise we reserve the right to revoke the order.

## 3. Prices

The agreed prices are fixed prices and exclude subsequent claims of any kind. If, by way of exception, orders are placed without a price, this shall be communicated with the order confirmation or as early as possible. We reserve the right to final acceptance in such cases.

Unless otherwise agreed, the agreed prices shall apply to deliveries free our works in Kiel, including packaging.

Your obligation to take back the packaging shall be governed by statutory provisions. The goods are to be packed and preserved in such a way that damage during transport is avoided. Packaging

materials shall only be used to the extent necessary for this purpose. Postal parcel dispatch is to be carried out without charging parcel fee and packaging.

#### **4. Shipping instructions**

The shipping address is: Walterwerk Kiel GmbH & Co. KG, Waren, Projensdorfer Straße 324, 24106 Kiel, Germany.

A delivery note must also be enclosed with each delivery of goods. Delivery notes must bear our order and article numbers.

#### **5. Delivery dates, delay in delivery**

The agreed delivery dates are binding. The date of receipt of the goods at the place of receipt or use specified by us or the timeliness of the successful acceptance shall be decisive for compliance with the delivery date or the delivery period.

If you realise that an agreed date cannot be met for any reason whatsoever, you must notify us immediately in writing, stating the reasons and the expected delay.

You shall be obliged to compensate us for all direct and indirect damage caused by the delay.

If the agreed delivery date is not met due to a circumstance attributable to you, we shall be entitled, after the fruitless expiry of a reasonable grace period set by us, at our discretion, to claim damages for non-performance or to procure replacement from a third party or to withdraw from the contract.

You may only invoke the absence of necessary documents to be supplied by us if you have sent a written reminder for the documents and have not received them immediately.

Force majeure and industrial disputes shall release the contracting parties from their performance obligations for the duration of the disruption and to the extent of their effect. The contractual partners are obliged to provide the necessary information immediately within reasonable grounds and to adapt their obligations to the changed circumstances in good faith.

We shall be released from the obligation to accept the ordered delivery/service in whole or in part and shall be entitled to withdraw from the contract if the delivery/service can no longer be used by us - taking into account economic aspects - due to the delay caused by force majeure or industrial dispute.

We accept partial deliveries only following express agreement. In the case of agreed partial shipments, the remaining quantity shall be listed.

#### **6. Warranty**

You guarantee and ensure that all deliveries/services comply with the latest state of the art, the relevant legal provisions, in particular also the EC directives, the regulations and guidelines of authorities, professional associations and trade associations.

If deviations from these regulations are necessary in individual cases, you must obtain our written consent. Your warranty obligation is not limited by this consent. If you have doubts about the type of execution requested by us, you must inform us immediately in writing.

We are free to have the ordered items accepted by our representatives in your factory; however, this acceptance does not release you from your warranty obligation.

We will immediately notify you in writing of any obvious defects in the delivery/service as soon as they are discovered in the ordinary course of business.

Defects in the delivery/service observed during the warranty period, including failure to provide guaranteed data and the lack of warranted properties, shall be remedied by you without delay and at no cost, including ancillary costs and at our discretion, either by repairing or exchanging the defective parts. Further legal claims, in particular claims for rescission, reduction, replacement delivery and/or damages shall remain unaffected.

If you culpably fail to meet your warranty obligation within a reasonable period set by us, we may implement the necessary measures ourselves or have them implemented by third parties at your expense and risk - notwithstanding your warranty obligation.

In urgent cases we may, following consultation with you, carry out the rectification ourselves or have it carried out by a third party.

Minor defects can be remedied by us - in fulfilment of our duty to minimise damage - without prior consultation and without affecting your warranty obligation. We may then charge you the necessary expenses. The same applies if unusually high damages are imminent.

The warranty period is two years, unless expressly agreed otherwise. It begins when the delivery item is handed over to us or to the third party designated by us at the place of receipt or use specified by us.

In the case of devices, machines and plants, the warranty period begins on the acceptance date stated in the written acceptance declaration of our purchasing department. If acceptance is delayed through no fault of your own, it shall be two years after the delivery item has been made available for acceptance.

The warranty period for spare parts is two years after installation/commissioning and ends at the latest three years after delivery.

For supplied parts which could not remain in use while the defect is being examined and/or eliminated, the current warranty period shall be extended by the shutdown period.

For repaired or newly delivered parts, the warranty period shall commence upon completion of the repair; or, if acceptance has been agreed, shall recommence upon acceptance. Acceptance must be requested from us in writing if necessary.

The warranty claim expires six months after the notice of defect has been lodged within the warranty period, but not before the end of the warranty period.

If claims are asserted against us due to a breach of official safety regulations or due to domestic or foreign product liability regulations or laws due to a defectiveness of our product attributable to your goods, we shall be entitled to demand compensation for this damage from you insofar as it is caused by the products delivered by you. This damage shall also include the costs of a precautionary recall action.

You shall carry out quality assurance which is suitable in type and scope and corresponds to the latest state of the art and provide us with proof of this upon request. You shall conclude a corresponding quality assurance agreement with us, if we consider this necessary.

In addition, you must be insured against all risks arising from product liability, including suitable cover for the risk of recall and shall submit the insurance policy to us for inspection upon request.

## **7. Copyrights and industrial property rights**

The use of our drawings, models, samples, etc. for purposes other than those required for the execution of the order and the notification thereof to others is not permitted and may result in criminal proceedings, if necessary.

You guarantee that all deliveries are free of third party industrial property rights and, in particular, that patents, licences or other third party industrial property rights are not infringed by the delivery and use of the delivery items. You shall indemnify us and our customers against claims by third parties arising from any infringements of industrial property rights and shall also bear all costs incurred by us in this respect. We are entitled to obtain permission from the entitled party to use the relevant delivery items and services at your expense.

## **8. Supplies**

Material or parts supplied by us, as well as tools, devices, gauges, etc. belonging to us that are located at your premises may only be used for the intended purpose.

You shall keep this material in safe custody with the diligence of a prudent businessman and are obliged to inform us immediately if a right of pledge of a third party is established or such a measure is imminent. You shall be liable for loss or damage. You shall effect appropriate insurance at your expense.

Processing of materials and assembly of parts shall be carried out on our behalf. It has been agreed that we shall be joint owners of the products manufactured using our materials and parts in proportion to the value of the total product which you hold in safe custody for us.

## **9. Invoicing and payment**

Invoices are to be submitted to us with inclusion of all documents and data upon completion of the delivery in an appropriate format, e.g. with respect to agreed pricing, quantities delivered. Incorrectly submitted invoices shall only be deemed to have been received by us when they have been corrected. Invoices without indication of the order number shall be deemed as not received.

Payments shall be made in accordance with the regulations laid down in our respective orders by means of payment of our choice. If the invoice is submitted late, no claim for timely payment can be made.

Insofar as material testing certificates have been agreed, they shall form an integral part of the delivery and shall be sent to us together with the invoices. However, they must be received by us no later than 10 calendar days after receipt of the invoice. The payment period for invoices shall commence upon receipt of the agreed certificate.

In the event of defective goods, we shall be entitled to withhold payment pro rata until proper performance. In derogation from the statutory regulation, default in payment shall only occur after receipt of your reminder. In the case of advance payments, you shall furnish appropriate security upon request, e.g. a bank guarantee.

## **10. Final provisions**

Should individual provisions of these terms and conditions of purchase be legally invalid, this shall not affect the validity of the remaining provisions.

You are not entitled to pass on the order to third parties without our prior written consent.

You shall not be entitled to assign your claims against us without our prior written consent, which shall not be unreasonably withheld.

We will treat your personal data in accordance with the Federal Data Protection Act.

Unless expressly agreed otherwise, the place of performance for the delivery obligation shall be the shipping address or place of use requested by us; for all other obligations of both parties, Kiel shall be the place of performance. Place of jurisdiction is Kiel

In addition, the law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980.

[As at: 1 June 2015]