

# Conditions of Purchasing

## filtertechnik.Europe GmbH & Co. KG

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### § 1 general

(1) Our conditions of purchasing apply exclusively. We also do not accept differing general business terms or conditions of the supplier, even if we did not formally disagree with them/their validity. We only accept differing terms and conditions of suppliers, if we have formally agreed to them in writing. This also applies, if we are aware of differing sales and delivery terms of the supplier accept products without reservation.

(2) Upon the first delivery in accordance with these purchase terms the supplier accepts that they apply exclusively as well as to all future orders.

### § 2 purchase orders

(1) Only those orders given in written form have validity. All oral agreements require a confirmation in written form. This also applies to additional agreements and changes.

(2) The supplier is obliged to confirm our order (offer) within a one week period in written or execute the order without reservation. A late acceptance is considered as a new offer and requires our acceptance.

### § 3 prices

(1) Prices stated in our order are fixed prices excluding value added taxes regulated by law, unless they are based on an obvious mistake.

(2) Price settings have to be free works respectively to the given delivery address.

(3) Any price change requires a prior written agreement. Additional and / or changes of deliveries/services will only be paid if this was agreed on in written prior to the delivery /service.

(4) Prices agreed on are due to be paid by us within 30 days after complete performance of services. If we pay within 14 calendar days the supplier grants a discount/price reduction of 3% off the gross price. Relevant for the timeliness of payment is the transfer of the remittance order to the financial institute respectively the dispatch of the cheque.

(5) Cheque payments and payments by note are explicitly reserved.

(6) Rights of charging and retention are entitled to us at the extent of law.

(7) Reminders have to be issued in writing.

### § 4 termination and cancellation

We are entitled to terminate a contract for significant reasons or withdraw from contract, especially if the supplier has requested a disclosure for insolvency proceedings or if the supplier not only temporarily has terminated payments or if insolvency proceedings were disclosed over/due to the supplier's assets respectively the disclosure was dismissed due for want of cover, unless the contract is a continuing obligation which serves the 'going concern'.

### § 5 delivery time, force majeure, delay in delivery, penalty

(1) The delivery deadlines and dates stated in the purchase order are binding for the supplier. If the supplier does not deliver goods or perform service within the delivery period agreed on or defaults, we are entitled to withdraw from the contract, receive compensation and take all other measures provided by law.

(2) Delivery has to be effected 'DDP' (delivered duty paid) and including packaging, unless otherwise agreed on in writing.

(3) The supplier has to inform us in written immediately, if circumstances take place or become recognisable, which may result in the supplier's inability to meet the delivery deadlines or dates agreed on.

(4) In the event of execution deadlines expiring due to force majeure we are entitled to demand the delivery at a later date at the conditions originally agreed on from the supplier or after expiration of an adequate additional respite completely or partially withdraw from the contract respectively terminate it.

(5) In the event of missing of essential documents, datas and suchlike which had to be provided by us only justifies the delivery falling behind, if the supplier has sent a written reminder and has not received the missing documents, data and suchlike within an adequate period.

(6) If the supplier defaults, we are entitled to demand a contract penalty of 0.25% of the net price agreed on per working day. The overall maximum contract penalty is 5.0% of the set net price. We are entitled to demand the contract penalty and the minimum of compensation which the supplier owes us by law. The assertion of other damages remains unaffected. If we accept the delayed delivery, we only can demand the contract penalty, if we have expressed a corresponding caveat within 10 working days starting at the date of acceptance of the delayed delivery to the supplier.

(7) Partial delivery demands an explicit affirmation. Over and under deliveries are only permitted after previous affirmation by the purchaser.

### § 6 invoice and payment

(1) Invoices and goods have to be sent separately to the purchaser. If invoice and goods are not delivered simultaneously, the payment period will take effect from the day the invoice was delivered.

(2) The assignment of pecuniary claims to a third party demands a prior authorisation by the orderer.

(3) The payment date does not affect the warranty of the supplier.

(4) At the existence of warranty covered damage we are entitled to deny payment until the defect is properly eliminated.

(5) If we have paid a deposit or provided material for production processes, the ownership is passed over to us from the start of production of the ordered goods. The delivery of goods is replaced by the agreement that the goods for processing remain in possession of the supplier and is stored for us until the delivery date agreed on.

### § 7 warranty, rights in the event of defects and neglect of duty

(1) The supplier guarantees that the delivered goods show no defects which affect their value or capability and have the assured properties.

(2) The supplier explicitly guarantees the complete accordance of the sold goods with the samples and description delivered.

(3) The supplier of raw materials and supplies is going to inform us timely about changes in/of suppliers, recipes or production methods, so that we can obtain enough inventory of 'old' or other established raw materials and supplies, to continue business until we have acquired another supplier in the event of the 'new' raw materials and supplies not meeting our standards.

(4) The supplier is obligated to deliver those goods which are in accordance with all binding laws, regulations, norms and specifications and which enable us to meet our obligatory regularisations without processing further measures.

(5) The supplier is to be held responsible for his deliveries of goods / services for being free of defects and faults, even if we have approved to the supplier's plans, graphs, drawings, calculations and other documents informing about production.

(6) The acceptance of the deliveries and services does not affect the warranty services/duty of the supplier.

(7) All regulations provided by law apply for our rights in the event of defects of material and title of the delivered goods as well as other neglects of duty by the supplier, if not established differently in any of the following.

(8) Our notice of defect in the context of the duty of inspection, notification, and rejection according to §§377, 381 HGB is considered as immediate and timely, if it reaches the supplier/the supplier receives it within two weeks.

(9) If the supplementary performance by eliminating the defects or by the delivery of goods that are free of defect by the supplier fails, the supplementary performance has been unjustifiably denied or failed to meet an additional respite set by us, we are entitled to remove the defects ourselves or have it removed by a third party and demand the supplier to cover the expenses and an adequate advance payment. The right of withdrawal and compensation for further defects remains unaffected. This right to take measures of our own does not apply, if the supplier is entitled to refuse supplementary performance according to law.

(10) If immediate rectification of deficiencies is not possible, the supplier has to promptly take care of provisional improvements, unless the expenses for this purpose do vastly disaccord with our interest in provisional improvement. As soon as our operating conditions allow it, the final rectification of deficiencies has to be executed. At special urgency and/or imminence of danger we can, if the *appointment of date* is unacceptable to us, remove the deficiencies applying measures of our own and demand compensation for the incidental expenses. Suchlike cases of warranty as well as kind and extend of the executed urgent measures will immediately be reported to the supplier.

(11) Our right of recourse (which is regulated by law) within a delivery chain (§§ 478, 479 BGB) also applies, if the object at the end of the supply chain were delivered to an entrepreneur. The possibilities of recourse of §§ 478, 479 BGB will also apply, if the supplier has not delivered an adequate good, but accessories or commodities which were deficient.

(12) In the event of a subsequent delivery or/and withdrawal we can set an adequate respite for the supplier to remove a deficient thing. After the expiration of the deadline we can utilise the contractual performance ensuring the economic interests of the supplier at its expense, i.e. by sales in the open market and payout the amount received matching the payback of purchase price respectively subsequent delivery.

#### **§ 8 manufacturer's liability**

(1) As long as the supplier is responsible for any damage of the product, he is obligated to release us from claim for damages damages of third parties at first demand, if the cause has its origin in his domain or organisation and he has legal relationship with third parties.

(2) In the context of his indemnification the supplier also has to compensate possible expenses according to §§ 683, 670 BGB which result or in connection with a product recall executed by us. If possible and reasonable we have to inform the supplier about content and extend of the product recall that has to be executed and give him the chance to comment on it. Any further legal claims shall remain unaffected.

(3) The supplier has to contract and maintain a product liability insurance of a minimum flat limit of indemnity of € 2,5 million per person/product damage. The supplier has to prove the existence of the insurance coverage, if asked for by us.

#### **§ 9 privacy/secretcy / confidentiality**

(1) Graphs, figures, calculations, models, and all other data or documents which have been in the supplier's possession for production, as well as graphs, figures, calculations, etc. made by the supplier according to our data may not be exposed to or used by a third party, unless agreed on otherwise before.

(2) All graphs, figures, calculations, models, and other data or documents which we have handed to the supplier for execution of contract remain our property. All graphs, figures, calculations, etc. made by the supplier have to be marked with the annotation 'filtertechnik.Europe'. We now already come to the agreement with the supplier that the ownership of all graphs, figures, calculations, models, and all other data or documents marked suchlike are transferred to us and the supplier assures all the possession of all graphs, figures, calculations, models, and all other data or documents to us as depository. All graphs, figures, calculations, etc. are only to be used for production

according to our order and if demanded they have to be handed over together with all transcriptions or duplications, also in electronic and/or digital form, such as floppy-disc or CD-ROM data- memories, at all times and immediately. After the execution of the order they have to be returned without explicit demand.

(3) To third parties all graphs, figures, calculations, models, and all other data or documents have to be kept in confidence and secret, unless the disclosure is legitimised by our prior explicit request in writing. The non-disclosure agreement also applies after the contract is executed to full extend.

(4) A third party may only be informed about existing business relations with us with our approval.

(5) The supplier is liable for delivery and use of offered goods not violating patents or trademark rights of a third party. He is obliged to release the orderer and his customer from possible claims which the orderer or his customers were charged with due to violations of such kind.

#### **§ 10 right of retention and charging**

(1) A right of retention of the supplier due to possible demands is excluded, unless the right of retention is based on the same exact contractual relationship.

(2) Charging by the supplier against claims granted to us are only admissible, if a claim is charged which is undoubted, meaning accepted in writing or legally asserted.

#### **§ 11 place of execution, choice of law, court of jurisdiction**

(1) If order does not show differently, the provided delivery address is also the place of execution.

(2) For the general conditions of purchase and all privities of contract between the supplier and us the jurisdiction of the Bundesrepublik Deutschland applies exclusively.

(3) The court of jurisdiction for all existing privities of contract between our suppliers and us is determined by our company's domicile. Although we are entitled to initiate legal procedures at the supplier's domicile.

Conditions of Purchasing as valid from January 1<sup>st</sup> 2007. All prior versions are invalid.