

## Conditions of Purchase

### Standard Conditions of Purchase of Hornung GmbH

#### I. Validity

We order and appoint exclusively based on the following purchase conditions. The exceptional validity of other conditions - especially sales conditions of the suppliers - has as a prerequisite an explicit written confirmation from us. The inclusion of general business conditions of the contract partner for the remaining cases is herewith explicitly opposed and invalid. Any further agreements, alterations or supplementary clauses must be done in writing.

#### II. Conclusion of, fulfilment of and termination of the contract

A Contract is considered as concluded, if

- a) on the basis of an order a corresponding written confirmation has followed, or
- b) a delivery follows on the basis of an order, or
- c) a Contract in writing has been signed by both contract partners.

Depictions, drawings, weight and dimension details are valid as legally binding. If later we established that only deliveries with deviations are possible, we can withdraw from the contract.

In case of delay in delivery for more than one month, which arises because of faults of the deliverer or of one of his subcontractors, we are allowed without any further end date fixation to withdraw from the contract.

#### III. Delivery / Transport risk

- a) The agreed delivery dates and -timetable are valid as legally binding. The decisive factor for the keeping of the delivery deadlines is the entrance of the ordered goods to the agreed place of delivery.
- b) In case there are any delivery delays, the supplier is obliged to provide a compensation for the damage occurred due to these delays.
- c) The acceptance of a delayed delivery or service does not constitute a waiver of any rights or claims.
- d) In case of early delivery or service we can refuse the delivery/service at the supplier's cost and risk, if an acceptance is unreasonable for us. If we accept the delivery or service, the supplier, if made aware of such additional costs before an acceptance, shall bear all additional costs (for example storage or insurance costs).
- e) Partial deliveries are permissible only if such deliveries have been explicitly agreed upon.
- f) Deliveries occur principally free of charge until the place of the receiver (Incoterm: DDP (place of delivery)), as long as no other conditions of delivery have been agreed upon. Costs of delivery and packaging as well as any further costs have to be considered in the offer of the supplier. If these conditions have not been explicitly indicated, they are thought to be included in the purchase price. The danger of loss or respectively of damage of goods during transportation is borne by the supplier.

#### IV. Secrecy

- a) The supplier is obliged to treat all our commercial and technical details, which become known to him during the business relationship as a business secret.
- b) Drawings, models, samples and similar objects may not be handed out or in any other way made accessible to ineligible third parties. The multiplication of such objects is only allowed in the course of the functional necessity of the business and the copy right regulations.
- c) Subcontractors to the supplier are to be bound to these obligations accordingly.
- d) Suppliers can only advertise their business relationship with us only after receiving a written confirmation from us.

#### V. Prices

Sales prices of the supplier are to be stated always net in EUR with the addition of the legally valid VAT. Delivery- and packaging costs are to be considered in the offer of the supplier. If deviations of delivery costs occur, we reserve the right to reduce the amount of the invoice.

#### VI. Due dates / Payment / Invoice / Delivery note

- a) Unless otherwise agreed in writing, we shall make payments with 3 % discount if made within 20 days of supply and receipt of invoice, or net (without deductions) within 30 days of supply and receipt of invoice. The payment is made by money transfer.
- b) If deliveries arrive before a particular set date, the payment shall be directed according to the initially agreed due date of delivery.
- c) In case of deliveries of defect goods, we are entitled, to retain the payment corresponding to the value of these defect goods until the regular replacement thereof is made.
- d) A supplier is not permitted without a written confirmation, to transfer claims against us or to let them be collected by third parties. If a supplier transfers his demands against us, in contradiction with sentence 1, without our approval, we may withdraw from the contract. We may at our own discretion make payments to any third party that the claims have been transferred to without our approval. The additional costs arising from such an activity may be set off from any claims.
- e) Delivery notes and invoices are to be provided always in a 2-ply copy, to the receiver stated in the order note. Invoices and delivery notes must include, apart from the legal requirements, the following data: Supplier number, our order number, our article number, tax number of the supplier, delivery note number (on the invoice).

#### VII. Claims for defects, Warranty provision, liability, protection rights

- a) Defects must be immediately indicated by us to the supplier, as soon as they are detected in the course of a regular business conduct. The Parties are in agreement that a claim, which is brought forth within 7 days after delivery, will be deemed to be reported in a timely manner. Depending on the kind of the defect and the requirements to detect such defect we may be entitled to report defects later than the period detailed above.

- b) For deliveries of defective goods the supplier has the opportunity to assort and improve the delivered goods, provided this is not unreasonable for us. If the supplier is not able to carry this out or he does not carry the replacement immediately, we can withdraw from the contract and send the goods back to the supplier at the suppliers own risk. In urgent cases we may after a consultation with the supplier carry out the improvement itself or let it be carried out by third parties. The costs thereof are borne by the supplier. In case of a repeated delivery of defective goods we are entitled, to withdraw from the contract even for the not executed deliveries.
- c) If, as a result of a defective delivery, we incur costs beyond the normal costs of reviewing the delivery and claiming remedy, particularly transport, travel, labour, material and other costs, the supplier must bear these costs.
- d) The guarantee runs out 24 months after the end delivery of the end products to the end customer, however at the latest 36 months after delivery to us. Claims for indemnification against the Supplier due to material defects according to §§ 478 and 479 BGB (German Civil Code) remain unaffected. We may also assert such claims if the end customer is not a consumer, but rather an entrepreneur.
- e) During the warranty period the supplier shall be fully liable for any damage control measures (e.g. call-back campaign) by us due to defective components.
- f) The supplier is liable for claims, which arise from the usage of the delivered goods due to the infringement of intellectual property rights and. The Supplier will indemnify us and our customers from all these claims resulting from the breach of such protection rights. This clause does not apply, provided the Supplier has manufactured the delivered objects based on our drawings, models or any other regulations and had no knowledge of a breach of protection rights.
- g) The supplier represents and warrants that he has obtained all mandatory designations and certificates required to distribute the products within the European Union, including but not limited to the Act on the Security of Equipment and Goods (Geräte- und Produktsicherheitsgesetz) and the Act concerning the Distribution, Return and ecological Disposal of Electro- or Electronical Devices (Gesetz über das Inverkehrbringen, die Rücknahme und die umweltverträgliche Entsorgung von Elektro- und Elektronikgeräten).

#### VIII. Force majeure

Force majeure, worker strikes, riots, governmental measures and any other unpredictable, unavoidable and grave events release the contract partners for the duration of the impairment and in the amount of their influence, from the contract obligations. This applies also, if the events occur, while one contract partner is in arrears with its obligations. The contract partners are obliged, within reasonable limits to provide the required information immediately and to adapt their obligations to the altered circumstances in good faith.

#### IX. Place of performance, Jurisdiction

1. Place of performance for deliveries and services is Neu-Isenburg/ Germany. The court of jurisdiction for businessmen, legal entities under public law and public - legal special equities is Offenbach am Main/ Germany.
2. German legislation is exclusively applied. The application of CISG (UN-Merchant Law) is excluded.
3. Should any of the above clauses be or become ineffective, the remaining clauses and the agreement as a whole shall remain valid and in force.

*These Standard Terms and Conditions are a translation of Hornung's Germanlanguage Standard Terms and Conditions and are provided as a service for our English-speaking customers. Only the German version, however, is authoritative.*