

## General Terms and Conditions of Purchase

### **1. Conclusion of the contract**

- 1.1. We order on the basis of our General Terms and Conditions of Purchase. In addition, insofar as we refer to these, our Technical Terms and Conditions of Delivery shall apply with their supplements for active substances and supplies, building and other work and for printed products. No other terms and conditions shall be deemed contents of the contract, even if these are not expressly opposed by us. In the event that we accept the delivery /service without expressly objecting to said terms and conditions it shall in no way be derived from this acceptance that we had acknowledged your terms and conditions of delivery. These General Terms and Conditions of Purchase shall continue to apply for all future contractual relations with you.
- 1.2. In the event that you do not accept our order in writing within 10 working days after receipt we shall be entitled to revoke the order.
- 1.3. The written form shall principally apply for the conclusion of the contract (orders, order acceptance, etc.), for release orders, changes and addendums to the contract and for all other agreements. Orders placed orally or by telephone shall thus require our subsequent written confirmation to be legally valid. The same shall apply for verbal collateral agreements.  
Contractual declarations of both parties can, however, also be made by electronic means. Insofar as not otherwise agreed the issuer must in this case add his name to the declaration and the electronic document must bear a qualified signature according to signature law. In case of a contract both parties must respectively sign a document of the same tenor with a qualified signature in the manner as mentioned above. Until proof is provided of the contrary each party shall be bound to the declarations contained in such a digital document, if the document has been signed digitally according to the requirements of signature law.
- 1.4. No remunerations shall be allowed for visits or for drawing up offers, projects etc.
- 1.5. You undertake to treat the conclusion of the contract confidentially and our prior written consent must be obtained before making reference to the business relationship with us in advertising materials.
- 1.6. The contractual partners undertake to treat all commercial or technical details which are not public knowledge and of which they become aware through the business relationship as business secrets. Subcontractors shall be obliged accordingly.
- 1.7. We shall also be entitled to demand changes to the delivered object after conclusion of the contract insofar as this is deemed reasonable for you. The implications for both parties, in particular with regard to the additional or reduced costs and the delivery dates, are to be reasonably taken into account with this change to the contract
- 1.8. Customary trade clauses are to be interpreted according to the respective valid Incoterms
- 1.9. Condition for placing the order is,
  - 1.9.1. the strict observance of our specifications or standard description, if applicable, production exactly according to the description of the execution approved by us.
  - 1.9.2. the entitlement on our part to cancel the order insofar as there are principle changes in our sales pre-requisites due to unforeseeable market or economic circumstances. In this case we are prepared to purchase the goods delivered for us up to this date, or goods still to be produced from the raw material available especially for this.

- 1.9.3. You undertake to make suggestions to us concerning any changes which you may consider necessary or useful with regard to a successful performance of the contract. After we have given our approval in writing you shall also carry out these changes. Insofar as a change involves an increase or reduction in costs and/or overrun of the date you will be obliged to point this out at the same time when the suggestion for a change is made or immediately after receipt of the request for change and to submit a corresponding subsequent offer. The change shall in this case only then be deemed as binding when a supplementary written agreement has been reached between the parties concerning the remuneration of the additional costs or the consideration of the reduced costs and the time schedule.
- 1.10. Forwarding of orders  
Our express prior consent must be obtained before forwarding orders, this entitles us to cancel the order either in whole or in part and assert claims for damages.

## **2. Prices, despatch, packaging**

- 2.1. The agreed prices are fixed prices and exclude all subsequent claims. Costs for packaging and transport to the despatch address or point of use stated by us and for customs formalities and customs duties are included in these prices.  
If no prices are given in the order, their current list prices shall apply with the customary deductions.  
The agreement on the place of performance will not be affected by the type of the pricing.
- 2.2. Each delivery shall be reported to us immediately after execution by means of a notification of despatch, which will be exactly broken down according to type, quantity and weight. Despatch notifications, bills of lading, invoices and all correspondence must contain our order no. and if applicable material number.
- 2.3. A detailed delivery note is to be attached to each delivery, on which our order data such as order number and order date are to be listed.
- 2.4. Additional or short delivery  
Deviations with regard to the quantity units can only be accepted in case of timely notification or after coordination. The order quantities of bulk articles are to be observed with a leeway of +/- 3% insofar as not otherwise agreed.
- 2.5. Despatch  
The Supplier shall, independent of the type of despatch and of the invoicing, send detailed notification of despatch on the date the goods are despatched still, which must under no circumstances be attached with the goods, for each individual consignment of the order. Hazardous goods are to be marked in the accompanying documents in accordance with the internationally valid regulations and classification.  
The most favourable shipping and delivery options for us are to always be chosen for all consignments to us, insofar as the form of conveyance is not stipulated on our part.  
No risk shall be passed until the goods are directly handed over at the place of receipt. The hand over to the freight forwarder does not constitute a passing of risk.
- 2.6. Transport and breakage insurance is to be ensured by you.
- 2.7. Packaging  
The goods are to be packaged so that damages in transit are avoided. Pallet deliveries have as a rule to be carried out on Euro pallets.  
Packages shall bear the exact designation of contents, quantity if applicable according to our information. Hazardous goods are to be packaged and marked according to the internationally valid transport regulations.  
Your obligation to take back the packaging is oriented to the legal provisions.

Packaging materials are only to be used in the extent as deemed necessary for achieving this purpose. Only environmentally-friendly packaging materials may be used.

If as an exception packages are invoiced separately we shall be entitled to return packages, which are in a good condition, to you carriage paid against refund of 2/3 of the value stipulated for this in the invoice. No wooden boxes shall be used as outer packaging, but train or Collico containers. In the event that wooden boxes are used contrary to this condition these are to be taken back at the full value. The costs for the return despatch shall be for the account of the supplier.

### **3. Invoicing and payment**

- 3.1. Invoices are to be submitted with all relevant documents and data in the proper form. Invoices not properly submitted shall only be deemed as received by us on the date when they are corrected. Invoices are to be sent separately to us by post in duplicate by marking the second copy. Invoices may not be attached to the goods consignments.
- 3.2. Subject to the absence of immediately recognisable defects we shall make payments – subject to special agreements:  
14 days after invoicing and receipt of delivery minus 3 % cash discount and 30 days after receipt of invoice and delivery net cash and indeed under the condition that invoice and despatch correspond. We shall reserve the right to make use of legally admissible possibilities for setting off when settling invoices. Deliveries, made before the agreed delivery date, shall only be deemed as received on the date of the agreed delivery date for calculating all due dates of payment.
- 3.3. Insofar as analysis certificates or production documents have been agreed for the goods to be delivered, they shall form an essential part of the delivery and are to be sent to us together with the invoice. The term of payment for invoices shall begin with the receipt of the agreed documents.
- 3.4. In case of faulty delivery we shall be entitled to retain the payment pro rata until the proper performance.
- 3.5. In case of advance payments you shall, upon request, provide reasonable security, e.g. bank guarantee, the costs of which are for the account of the supplier.
- 3.6. Without the prior written consent of the buyer, which may not be reasonably refused, the supplier is not entitled to assign his claim against him or have this collected by a third party. In case of extended reservation of title the consent shall be deemed as granted.

### **4. Permission to print**

- 4.1. Proofs will be submitted to us in duplicate for approval by attaching the manuscript in case of all printing orders.
- 4.2. If release is not given for printing within 5 working days the supplier shall be required to submit an enquiry to us.

### **5. Delivery dates, default in delivery, force majeure**

- 5.1. The agreed delivery dates are binding. Decisive for observing the delivery date or the delivery term is the receipt of the goods at the point of receipt or use stated by us or the timely nature of the successful acceptance.
- 5.2. If you can see that an agreed date cannot be met for any reasons you must inform us immediately in writing thereof by stating the reasons and the expected duration of the delay.

- 5.3. You are obliged to compensate us for all direct and indirect damages of default. The acceptance of the delayed delivery/service is not deemed a waiver of the claims for compensation.
- 5.4. After the unsuccessful expiry of a reasonable final deadline set by us we shall then also at our choice be entitled to demand compensation instead of performance or to procure replacement from a third party or to declare the cancellation.
- 5.5. You may only refer to the omission of necessary documents to be supplied by us if you have sent a written warning about the documents and have not received these within a reasonable period of time.
- 5.6. Force majeure and industrial disputes shall release the contractual partners from the obligation to perform for the duration of the interference and to the extent of their effect. Within the framework of that which it is reasonable the contractual partners undertake to immediately provide the necessary information and to adapt their obligations to the changed circumstances by good faith.  
We shall be released from the obligation to purchase the ordered delivery/service either in whole or in part and insofar entitled to cancel the contract if the delivery/service is no longer usable for us owing to the delay caused by force majeure or the industrial dispute – taking into account economic aspects.
- 5.7. In case of earlier delivery than agreed we reserve the right to return the goods at your costs. In the event that the goods are not returned in case of premature delivery they will be stored with us until the delivery date at your costs and risk.  
We reserve the right in the event of premature delivery to not make the payment until the agreed due date.
- 5.8. We shall only accept part deliveries after express agreement. The remaining amount must be listed in case of agreed part consignment.

## **6. Guarantee, warranty**

- 6.1. Quality guarantee  
The Supplier undertakes to assume the demanded quality guarantee. Any changes to the quality must be expressly approved by us before production or despatch.
- 6.2. You shall guarantee that all deliveries /services are state-of-the-art technology, comply with the relevant legal provisions and the regulations and directives of authorities, trade associations and specialist federations, in particular with regard to production, execution, accident protection, hygiene, environmental protection and product information. You shall inform us clearly without request and in writing of possible dangers. You must obtain our prior written consent in the event that deviations from these regulations are necessary in a single case. Your duty for warranty is not limited through this obligation to obtain consent. You must inform us immediately in writing in the event that you have any misgivings against the type of execution requested by us.
- 6.3. You undertake to use environmentally-friendly products and processes in your deliveries/services and also with deliveries or secondary services of third parties within the framework of that which is possible in commercial and technical terms. You will be liable for the environmental compatibility of the delivered products and packaging materials and for all consequential damages, which are incurred through breach of your legal duties for disposal.  
Upon our request you will issue a certificate of condition for the delivered goods.
- 6.4. We shall notify you immediately in writing of obvious defects to the delivery/service as soon as they are determined according to the conditions of a proper business flow, no later however than within 8 calendar days after receipt of the delivery by us.

- 6.5. Defects of the deliveries/services for which a complaint is made during the period of warranty, which shall also include the non-achievement of guaranteed data, you shall correct upon request immediately and free of charge, including all secondary costs at our choice through subsequent improvement or replacement of the faulty parts or new delivery. After the unsuccessful expiry of a reasonable deadline set by us for subsequent improvement or new delivery we shall also be entitled to the legal rights for cancellation, reduction and compensation.
- 6.6. If you do not satisfy your obligation for warranty within a reasonable deadline set by us and you are at fault we may carry out the necessary measures personally or have these carried out by third parties at your costs and risk– notwithstanding your warranty obligation.  
In urgent cases we can, after coordination with you, carry out the subsequent improvement personally or have this carried out by third parties.  
Small defects may be corrected by us personally– subject to our duty to minimise damages – without prior coordination and without affecting your warranty obligation. We shall then be entitled to charge you the necessary expenses. The same applies if there is a threat of unusually high damages.
- 6.7. The warranty period is 2 years insofar as legal regulations do not envisage a longer period of time for our benefit or insofar as not expressly otherwise agreed. It shall begin when the delivered object is handed over to us or the third party named by us at the point of receipt or use stipulated by us.  
In case the inspection of the services of the supplier requires commissioning or a use for test purposes acceptance shall only take place after successful completion of the tests.  
In case of equipment, machines and systems the warranty period begins with the acceptance date, stated in our written declaration of acceptance. In case the acceptance is delayed without this being your fault it shall be 2 years after provision of the delivered object for acceptance.  
The warranty period for spare parts is 2 years after installation/commissioning.
- 6.8. A current warranty period will be extended for delivered parts, which could not remain in operation during examination of the defect and/or the correction of the fault, by the time in which the operation is interrupted. The warranty period shall begin again on the respective date for improved or parts delivered as replacement– beyond the legal inhibition.
- 6.9. The warranty claim shall become statute-barred 6 months after the notification of defects within the warranty period, however not before it ends.
- 6.10. In the event that a claim is asserted against us for breach of official safety regulations or owing to domestic or overseas product liability regulations or – laws in particular according to the medicine product law owing to a faultiness of our product, which is a result of your goods we shall be entitled to demand compensation from you for these damages insofar as they are caused through the products delivered by you. These damages also cover the costs of a provisional recall action.  
You shall mark the delivered objects so that they are permanently recognisable as your products.  
You shall carry out quality management suitable in type and scope and in line with state-of-the-art technology and provide proof of this to us upon request. You shall enter into a corresponding quality control agreement with us, insofar as we consider this to be necessary.  
In addition, you shall insure yourself against all risks from product liability including the recall risk to a reasonable extent and upon request prove this by submission of a corresponding cover confirmation.

## **7. Property rights**

- 7.1. You shall guarantee that all deliveries are free from property rights of third parties and that in particular patents, licences and other property rights of third parties are not infringed through the delivery and use of the delivered objects.
- 7.2. You shall release us and our customers from claims of third parties for any infringements of property rights and also bear all costs, incurred to us in this connection.
- 7.3. We shall be entitled at your costs to obtain the approval for using the delivered objects and services concerned from the authorized person.

## **8. Samples, drawings, secrecy**

- 8.1. All documents, which we make available to you, such as samples, drawings, models and such, shall remain our property and are to be returned to us without request free of charge, as soon as they are no longer required for executing the order. They may not be made accessible to third parties.  
Products, which are produced according to documents designed by us, such as drawings, models and such or according to our confidential information or with our tools or copied tools, may not be used by the supplier personally nor offered or supplied to third parties. This applies accordingly also for our print orders. If goods marked accordingly are rejected as faulty the supplier shall ensure that these cannot be used at his costs.
- 8.2. Secrecy  
The supplier must treat the information received with the order confidentially. He shall be liable for all damages, suffered by us through the breach of this obligation. He must obtain our express consent before making reference to the business relationship with us in advertising means, which are produced through printing and other reproduction.  
Subcontractors shall be obliged accordingly.
- 8.3. In case of a breach of one of the afore-mentioned obligations the buyer shall be entitled to cancel the contract or demand that the benefit achieved through the breach be handed over or demand compensation for the damages suffered by the buyer through the breach.

## **9. Execution of work in our plant**

Persons, who carry out work without our company in the performance of the supply contract shall be subject to the provisions of our company directives; the regulations existing for accessing our plant installations must be observed.

## **10. Execution of building and other work, delivery of machines, etc.**

- 10.1. Supplementary terms and conditions shall apply for the submission of offers and execution of building or other work and
- 10.2. for delivery of machines, techn. systems, apparatus and such– which have to comply with the generally recognised rules of technology and labour protection - and accident prevention regulations.

## **11. Place of performance and place of jurisdiction /final provision**

- 11.1. Should single parts of these General Terms and Conditions of Purchase be invalid this shall have no effect on the other provisions.
- 11.2. You are not entitled, without our prior written consent, to forward the order or essential parts thereof to third parties.

- 11.3. Insofar as not expressly otherwise agreed the place of performance for the supply obligation is the despatch address or point of use requested by us; for all other obligations both parts **Großostheim.**
- 11.4. Place of jurisdiction is Aschaffenburg.
- 11.5. In addition the law of the Federal Republic of Germany shall apply exclusively excluding the UN Convention on the International Sale of Goods of 11.04.1980.

CIBA Vision Vertriebs GmbH : Postfach 10 02 24 : 63702 Aschaffenburg  
Status October 2004