

General Purchasing Terms POWER-HYDRAULIK GmbH

1. General, scope

- 1.1 Our General Purchasing Terms (GPT) shall apply to the purchase of goods and materials, even if these are products, parts or components specifically developed for us or tailored to our needs, as well as to delivery items resulting from services and the use of services (hereinafter referred to as "delivery" or "subject matter of the contract") by us.
- 1.2 These GPT apply to all – including future – business transactions with our service provider or supplier (hereinafter referred to as "Supplier"), provided that the Supplier is a contractor in the sense of § 310 para. 1 BGB (German Civil Code), a legal entity under public law or a special fund under public law. These GPT apply exclusively; we shall only recognize any general terms and conditions of business of the Supplier which conflict with or deviate from our GPT if we have expressly agreed to them in writing; acceptance of the subject matter of the contract or payment for it does not constitute consent. Individual agreements made in individual cases shall have priority in any case, whereby the content of such agreements shall be governed by our written confirmation or (if available) a written contract, subject to proof to the contrary. The written form requirement is also deemed complied with if communications are sent by remote data transmission, fax or e-mail.
- 1.3 References to the applicability of statutory provisions shall only serve the purpose of clarification; they shall also apply without clarification insofar as they are not directly amended or expressly excluded in these GPT.

2. Conclusion and amendment of the contract

- 2.1 Orders, transactions and delivery schedules as well as any changes and additions to them shall be made in writing.
- 2.2 The Supplier shall notify us of obvious errors and incompleteness of the order including the order documents; otherwise the contract shall be deemed not to have been concluded.
- 2.3 If the Supplier does not accept our order within three working days of receipt in writing or by unconditional delivery of the goods, we shall be entitled to cancel the order. Until written acceptance of the order by the Supplier, we are not bound to the order and can revoke or change it at any time, whereby a change will initiate a new acceptance period.
- 2.4 Delivery schedules within the framework of order and schedule planning become binding if the Supplier does not object within three working days of receipt.
- 2.5 Our agreement on quality, occupational safety, environmental protection and social responsibility for suppliers (quality assurance agreement) is an integral part of the contract.

3. Prices, invoicing, payment terms, default

- 3.1 The price stated in the order is binding. If value added tax is not shown separately, all prices include statutory value added tax.
- 3.2 Unless expressly agreed otherwise in individual cases, the price shall include all services and ancillary services of the Seller as well as all incidental costs (such as travel expenses, provision of tools, industrial trucks/lifting vehicles and allowances) and packaging costs.
- 3.3 A single copy of the invoice shall be sent to the address stated in the order, stating the invoice number and other references, e.g. order and item number; it shall not be enclosed with the consignments.
- 3.4 The Supplier is entitled to issue an invoice only after the complete performance of the service. The Supplier's invoices shall be due 30 working days after receipt of a proper and correct invoice, subject to the fulfillment of the Supplier's contractual obligations and in the absence of any special agreement.
- 3.5 With the exception of interest on maturity, which we do not owe, the statutory provisions shall apply in the event of default of payment.
- 3.6 The statutory rights with regard to set-off and retention as well as the plea for non-fulfillment of the contract shall apply.
- 3.7 The Supplier shall only be entitled to assert his right to set-off or retention on the basis of counterclaims that have been legally established or are undisputed.
- 3.8 The payment of an invoice by us shall not constitute an acknowledgment of the invoiced deliveries and is without prejudice to any claims to which we are entitled under the contract.

4. Delivery lead time and Supplier's default

- 4.1 The dates and deadlines specified by us in the order are binding. Compliance with the deadline is an essential part of the Supplier's fulfillment of the contract.
- 4.2 Receipt of the goods at our premises is the defining criterion for compliance with the delivery date or the delivery period. In the case of a delivery not agreed "free works" (DAP or DDP according to Incoterms 2010), the punctual provision of the goods by the Supplier, taking into account the time for loading and dispatch to be agreed with the carrier, is decisive.
- 4.3 If the Supplier does not meet agreed deadlines, the statutory provisions shall apply. The regulations in Clause 4.4 shall remain unaffected.
- 4.4 If the Supplier becomes aware of circumstances which could prevent him from delivering on time or in the agreed quality, he shall immediately inform our purchasing department in writing.
- 4.5 In the event of the Supplier's default, we shall be entitled, without prejudice to further legal claims, to demand lump-sum compensation for the damage caused by the default in the amount of 1% of the net price per completed calendar week, but not more than a total of 5% of the net price of the goods delivered late. We reserve the right to prove higher actual damages. The Supplier shall be entitled to prove that we have incurred only minor or no damage at all.
- 4.6 The unconditional acceptance of the delayed delivery does not constitute a waiver of the claims for compensation to which we are entitled due to the delayed delivery.

5. Delivery, transfer of risk, default of acceptance

- 5.1 The Supplier bears the procurement risk for his deliveries, unless otherwise agreed in individual cases.
- 5.2 The Supplier shall only be entitled to make partial deliveries if we have expressly agreed to them. Additional costs incurred, e.g. additional freight and packaging costs, shall not be borne by us.
- 5.3 The Supplier shall pack the goods securely so that damage during loading, transport and unloading is prevented, and the Supplier shall comply with our delivery and packaging specifications.
- 5.4 Loading equipment shall be exchanged immediately upon delivery. If the company commissioned with the delivery by the Supplier refuses to immediately exchange the loading equipment, we shall be entitled to charge our internal expenses for the later exchange of loading equipment.
- 5.5 Unless otherwise proven, the values determined by us during the incoming goods inspection shall be decisive for quantities, weights and dimensions.
- 5.6 Within Germany, delivery shall be made "free works" (i.e. DAP or DDP as ordered according to Incoterms 2010) to the place specified in the order (place of performance). In the absence of a destination, delivery shall be made to our registered office. The respective destination is also the place of performance for the delivery and any subsequent delivery. The Supplier shall bear the material risk until acceptance of the goods by us or our representative at the place to which the goods are to be delivered according to the order.
- 5.7 If the Supplier works at one of our locations, he shall comply at his own expense with all safety regulations applicable there and shall observe the provisions of the respective company rules. He shall ensure that the employees he deploys at one of our locations are informed about compliance with safety regulations and company rules.
- 5.8 Subject to this Clause, the statutory provisions shall apply to the occurrence of our default of acceptance. Even if a specific or determinable calendar time has been agreed for an action or cooperation on our part, we shall only be in default of acceptance after the Supplier has expressly offered his services. In the event of default of acceptance, the Supplier shall only be entitled to rights beyond the reimbursement of his additional expenses if we have committed ourselves to cooperate and are responsible for the failure to do so. Force majeure, operational disruptions through no fault of our own, unrest, official measures and other unavoidable events shall release us from the obligation of timely acceptance for the duration of their existence. During such events and within two weeks after their end, we shall be entitled – without prejudice to our other rights – to withdraw from the contract in whole or in part, provided these events are not of insignificant duration.

6. Duty of inspection and notification of defects, warranty, claims for defects and recourse

- 6.1 The statutory provisions on material defects and defects of title (including incorrect and short delivery as well as improper assembly or inadequate assembly, operating or instruction manuals) shall apply, unless provided otherwise hereinafter.
- 6.2 Our commercial obligation to inspect and give notice of defects shall be in accordance with the statutory provisions, with the proviso that our obligation to inspect shall be limited to defects which become apparent on external inspection (including the delivery documents) as part of the incoming goods inspection or which are identifiable during our random quality control. There shall be no obligation to inspect the goods if acceptance has been agreed. Otherwise, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects, which are detected later, shall remain unaffected. In any case, our notice shall be deemed to have been made immediately and in good time if it is sent within 3 working days of discovery, or in the case of obvious defects, of delivery, and if it contains a brief description of the deviation, damage or defect.
- 6.3 Without prejudice to any other warranties under the Contract or on other legal grounds, the Supplier warrants that the goods and any parts or materials used in the manufacture of the goods or in the performance of any work in connection with the goods
 - are suitable for their intended purpose,
 - are suitable for a purpose specified by us to the Supplier and accepted by the Supplier,
 - and in any event comply with the product descriptions which are the subject matter of the relevant Contract or how these GPT have been incorporated into the Contract, e.g. by designation or reference in our order, regardless of whether the product description has been written by us, the Supplier or the Manufacturer,
 - are new and unused as well as free of (hidden or other) defects,
 - comply with all international and national laws and regulations as well as safety standards applicable at the time of delivery, and are accompanied by all information, warnings etc. relevant to their use, storage, operation, consumption, transport and disposal.
- 6.4 Contrary to § 442 para. 1 sentence 2 BGB, we shall be entitled to claims for defects without restriction despite negligent ignorance of the defect at the time of conclusion of the contract.
- 6.5 We shall generally have the right to choose the type of supplementary performance. The Supplier may refuse the type of subsequent performance chosen by us if it can only be performed at disproportionate cost.

- 6.6 If certain parts of the subject matter of the contract are not in conformity with the contract, we shall have the right to refuse acceptance of the entire delivery unless the Supplier is able to prove that the remaining delivery is in conformity with the contract.
 - 6.7 If the goods have been installed in or attached to another item in accordance with their nature and intended use, the subsequent performance shall include the removal of the defective goods and the reinstallation of defect-free goods. The Supplier shall bear the expenses necessary for the purpose of inspection and subsequent performance even if it is subsequently established that there was no defect. In the event of unjustified claims for defects, we shall be obliged to pay damages in accordance with the statutory provisions, insofar as we have recognized or grossly negligently failed to recognize that there was no defect.
 - 6.8 If the Supplier fails to remedy the defect immediately after our request to remedy the defect followed by a reasonable deadline, we shall be entitled to remedy the defect ourselves and to demand compensation from the Supplier for the necessary expenses, or a corresponding advance payment. In the event of failed or unacceptable subsequent performance (e.g. in the event of particular urgency, safety hazards or the threat of disproportionately high damage), we shall not be obliged to set a deadline; we shall inform the Supplier of such circumstances which make the setting of a deadline unnecessary, if possible before the substitute performance is carried out, but in any case immediately after becoming aware of such circumstances.
 - 6.9 In the event of defects of title, the Supplier shall also indemnify us against any existing claims of third parties, unless the Supplier is not responsible for the defect of title.
 - 6.10 Claims for defects shall – except in cases of fraudulent intent – become time-barred after 3 years, unless the item has been used for a building in accordance with its usual purpose and has caused defects in the building, in which case the statutory warranty periods shall apply. The period of limitation begins with the delivery of the object of the contract (transfer of risk).
 - 6.11 If the Supplier fulfills his obligation of subsequent performance by means of a replacement delivery, the limitation period for the goods delivered as replacement shall start anew after their delivery, unless the Supplier has expressly and appropriately reserved the right to make the replacement delivery only as a gesture of goodwill, to avoid disputes or in the interest of the continuation of the Supplier relationship.
- 7. Supplier recourse**
- 7.1 In addition to our claims for defects, we shall be entitled to the statutory claims arising from supplier recourse without restriction. In particular, we are entitled (but not obliged) to demand from the Supplier the type of subsequent performance that we owe to our respective customer.
 - 7.2 Before acknowledging or fulfilling a claim for defects (of whatever kind) asserted by a customer, we shall notify the Supplier and give him the opportunity to make a written statement within a reasonable period of time, giving a brief description of the facts. If neither an amicable solution is brought about nor the Supplier makes a substantiated statement within a reasonable period of time, the actual warranty provided by us shall be deemed to be owed to our customer, whereby the Supplier shall have the right to prove otherwise.
 - 7.3 Our claims from supplier recourse shall remain unaffected by any further processing of the defective goods.
- 8. Liability, indemnity, insurance**
- 8.1 In the event that claims are made against us on the basis of public safety regulations or product liability in connection with the Supplier's deliveries or services, the Supplier shall be obliged to indemnify us and our employees against such claims if and to the extent that the cause of such claims originates from the Supplier's organization and sphere of control.
 - 8.2 This indemnification claim shall include all costs and expenses arising from or in connection with a third-party claim, including recall actions carried out by us and the costs of any legal action.
 - 8.3 In all other respects the statutory provisions shall apply.
 - 8.4 Prior to a recall action which is wholly or partly the result of a defect in the subject matter of the contract delivered by the Supplier, we shall inform the Supplier as far as possible and reasonable, give him the opportunity to cooperate and exchange information on efficient implementation with him.
 - 8.5 The Supplier shall take out and maintain the usual insurance policies at his own expense, in particular product liability insurance with a lump sum coverage of at least EUR 10 million per personal injury/property damage, and shall provide us with proof of this upon request. For clarification, we point out that the Supplier's liability shall not be limited by the insurance cover or the associated amount.
- 9. Provision**
- 9.1 Materials, components, containers and special packaging or tools provided by us shall remain our property. These shall only be used for their intended purpose and shall be stored separately by the Supplier at the Supplier's expense until further processing in accordance with the regulations, and shall be insured to an appropriate extent against destruction and loss.
 - 9.2 It is agreed that we shall be co-owners of the products manufactured using our materials and components in the ratio of the value of the materials provided to the value of the finished product, which shall be kept safe for us by the Supplier.
 - 9.3 Any processing, mixing or combination (further processing) of provided items by the Seller shall be carried out for us. The same shall apply if the delivered goods are processed by us so that we are considered the manufacturer and acquire ownership of the product at the latest with the processing in accordance with the statutory provisions.
 - 9.4 The transfer of ownership of the goods to us shall take place without conditions and without regard to the payment of the purchase price. If, in individual cases, we accept an offer of transfer of ownership from the Seller, subject to the payment of the purchase price, the Seller's reservation of title shall expire at the latest upon payment of the purchase price for the delivered goods. In the ordinary course of business, we shall remain authorized to resell the goods even before payment of the purchase price, with advance assignment of the resulting claim. All other forms of retention of title are thus excluded in any case, in particular the extended and forwarded retention of title as well as the retention of title extended to further processing.
- 10. Documents and confidentiality**
- 10.1 All commercial or technical information made accessible by us (including features which can be inferred from any objects, documentation or software handed over, and other knowledge and experience) shall be kept secret from third parties as long as and to the extent that it is not demonstrably publicly known, and may only be made available in the Supplier's own business to persons who shall necessarily be consulted for the purpose of delivery to us and who are also obliged to maintain secrecy. Such information remains our exclusive property and shall exclusively be used for the contractual performance. Without our prior written consent, such information – except for the purpose of delivery to us – shall not be reproduced or used commercially. At our request, all information originating from us (including any copies or records made, if applicable) and any items provided on loan shall be returned to us immediately and completely, or they shall be destroyed.
 - 10.2 We reserve all rights to such information (including copyrights and the right to register industrial property rights such as patents, utility model protection, etc.). Insofar as these are made available to us by third parties, the provisions of this Clause 10 shall also apply in favor of these third parties.
 - 10.3 Products which are manufactured according to documents drawn up by us, such as drawings, models or similar, or according to our confidential information or with our tools or reproduced tools, shall not be used by Suppliers and shall not be offered or supplied to third parties.
 - 10.4 The provisions of this Clause 10 shall continue to apply beyond the termination of the contract. The obligation to maintain secrecy shall only expire upon general disclosure of the knowledge contained in the documents provided, unless the general disclosure is based on a breach of the obligation to maintain secrecy.
- 11. Spare parts**
- 11.1 For a period of at least seven years after handover of the goods, the Supplier shall keep compatible spare parts available, which are essentially equivalent to the subject of the contract in terms of functionality and quality, or shall provide equivalent solutions on reasonable (including financial) terms.
- 12. Export control and customs**
- 12.1 The Supplier is obliged to inform us in his commercial documents about any approval requirements for (re-)exports of his goods in accordance with German, European, US export and customs regulations and the export and customs regulations of the country of origin of his goods. For this purpose, the Supplier shall provide the following information on the relevant items at least in his offers, order confirmations and invoices:
 - the export list number according to Annex AL to the German Foreign Trade and Payments Regulation or comparable list items of relevant export lists,
 - for US goods, the ECCN (Export Control Classification Number) according to the US Export Administration Regulations (EAR),
 - the origin of his goods and the components of his goods,
 - the statistical goods number (HS code) of his goods, and
 - a contact person in his company to clarify any queries from our side.
 - 12.2 At our request, the Supplier shall be obliged to provide us with all further foreign trade data on his goods and their components in writing and to inform us immediately (before delivery of corresponding goods affected by this to us) in writing of all changes to the above data.
- 13. Compliance**
- 13.1 The Supplier acknowledges the declaration of compliance that we require from our suppliers (available on our website) and shall not take any actions that would violate it.
 - 13.2 The Supplier undertakes to prove to us in a suitable manner on our request that he fulfills the requirements outlined in the declaration of compliance.
- 14. Compensation in the event of competition law infringements**
- 14.1 Without prejudice to any other right to which we are entitled under the Contract or on other legal grounds, the Supplier shall pay us compensation amounting to 15% of the net invoice amount of all deliveries or services concerned if the Supplier has entered into an agreement that unlawfully restricts competition in connection with the conclusion or performance of the contract. The Supplier shall be entitled to prove that we have incurred no or only minor damage.
 - 14.2 Any further claims for compensation for damages beyond this shall remain unaffected.

15. Governing law, place of jurisdiction and general provisions

- 15.1 These GPT and the contractual relations between the Supplier and us shall exclusively be governed by German law, excluding the conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 15.2 The place of jurisdiction for all legal disputes arising directly or indirectly from these GPT or from a contractual relationship based on these Purchasing Terms shall be our registered office. We shall further be entitled to sue the Supplier at our discretion at his general place of jurisdiction or his branch or at the court of the place of performance. Priority statutory provisions shall remain unaffected.
- 15.3 Should individual provisions of these GPT be or become invalid, this shall not affect the validity of the remaining provisions. The contracting parties shall be obliged to replace the invalid provision with a provision that comes as close as possible to the invalid provision in terms of its economic success.