

General purchasing arrangements

- 1.1 Except as otherwise stated in writing or as provided in the following provisions this agreement shall be governed in accordance with the statutory laws. Any diverging provisions of the vendor or the supplier (hereinafter referred to as "vendor") are in no case binding to us, even if we have not expressly refused them.
- 1.2 Only written purchase orders which have been affixed on our order forms are binding. The same holds for additional and consequential purchase orders or for alterations of already existing purchase orders, with the exception of orders being processed via electronic data transfer and needing express agreement.
- 1.3 The order is to be confirmed in writing within 10 days. Otherwise, we are entitled to withdraw from the order.
- 2.1 The time for delivery prescribed shall commence on the day of the written purchase order. If the delivery fails to be executed or is executed incompletely within the specified deadline we shall not allow a grace period but will make use of ruling laws. We reserve the right to inspect the production progress on the spot – at any time, with prior notice.
- 2.2 The vendor is obligated to give immediate notice in writing of foreseeable delays in delivery by providing us with the reasons and the extended delivery time. If he does not fulfil these obligations within the reasonable grace period granted by us, withdrawal shall be made, provided we have not made use of the law according to the item above. In this case we are entitled to make a covering purchase to the vendor's debit. If the delay in delivery is due to occurrences or causes beyond the vendor's control we shall withdraw from the contract in whole or in part or demand the execution of the order at a later time, being exempt from any liabilities on the part of the vendor.
- 2.3 We are entitled to demand reasonable changes in the goods to be delivered as to design and manufacture. The vendor agrees to produce spare parts for the goods to be delivered for a minimum of 15 years after conclusion of the respective order. In the event that the vendor discontinues the production of spare parts he is obligated to give notice of this in writing. After this notice we are entitled to request the delivery of spare parts to stock up.
- 2.4 Tender documents or plans made and other services provided will not be compensated.
- 2.5 We shall be informed of any subcontractors of the vendor but shall not be considered having business transactions with these subcontractors. We are entitled to obligate the vendor to refrain from dealing with all subcontractors indicated by us without being required to give any reasons. We will hold the vendor liable for his choice and for negligence caused by his subcontractors.
- 3.1 All deliveries are to be dispatched according to our instructions. If the vendor dispatches goods not being in accordance with our instructions of dispatch or without our express permission he shall be liable for any losses incurred, particularly lost profits. The vendor shall send or fax a written notification of dispatch prior to arrival of goods.
- 3.2 The goods ordered will be dispatched on the account of and at the risk of the vendor. The costs of any transportation insurance providing sufficient compensation shall be borne by the vendor.
- 3.3 Dispatch notes and packaging lists being identified with our purchase order number are to be sent prior to dispatch.
- 3.4 Goods shall be packed according to customary procedures or deemed expedient and shall be protected against any harmful influences whatsoever. All of our instructions on special markings of goods, if indicated, are to be strictly kept. We reserve the right to return any non-biodegradable packaging material or any packing material posing a problem to the environment, carriage forward.
For vendors from Austria: If you are member of ARA we kindly ask you to indicate your licensee number on the confirmation of order.
- 3.5 The holders of our written authority are solely entitled to pick up goods against open account. The vendor is to note the person's name, address and authority certificate. Orders exceeding € 500 are to be picked up only after an enquiry call at the purchasing department.
- 3.6 Charges for C.O.D. parcels shall only be paid in the case of prior agreement.
- 4.1 The vendor declares that he will observe complete discretion and secrecy as to all data and information which have come to his attention in the execution of the present agreement. The same holds for the vendor's employees and subcontractors. This clause shall survive any termination of this agreement.
- 4.2 Drawings, models, templates, samples and similar objects shall not be permitted to be retained by or made available in whichever manner to any unauthorized third party. This is to hold true with the exception of duplication where and for so long as such is required for executing the order.
- 4.3 The vendor is prohibited to make any unauthorized commercial use without prior consent.
- 5.1 Payment is effected on receipt of verifiable invoices and unless otherwise agreed within 30 days upon receipt of the goods or the invoice, deducting a 3 % discount, within 45 days deducting a 2 % discount or net after 90 days.
- 5.2 The vendor shall send the invoice in triplicate, in the case of a foreign dispatch in our copies to our purchasing department. The invoice is to contain vendor number, purchase order number and date or number and date of the delivery on call, additional data of the buyer, unloading place, delivery note number and date and amount of the goods invoiced. A delivery note may not have more than one invoice.
- 5.3 We shall, at our option, reserve the right to pay in cash or by acceptance credits of three months and we exercise our right to extend our acceptance once to another three months.
- 5.4 The vendor agrees to compensate all obligations and liabilities, especially those from our associated companies.
- 5.5 The buyer's cessions are prohibited without our express written consent. The cession is to contain our purchase order number and the invoice number.
- 5.6 If deliveries or services are deficient we are entitled to withhold payments becoming due.
- 6.1 Unless otherwise specifically agreed, the vendor's warranty claims are subject to limitation after two years after the time of acceptance, impeccable commissioning or in the event that hidden defects are found, provided that these defects including the missing of assured or common qualities or the delivery of faulty goods have been found. Without prejudice to our legal claims and in the event that the vendor does not remedy goods that show defects or does not supply us with any replacement goods within a period set forth by us we are entitled to make a covering purchase or the vendor shall compensate any expenses incurred in connection with conducting repairs by ourselves or a third party.
Upon notice of defect we shall obtain a full refund for:
a) open defects up to six weeks from the time of acceptance,
b) hidden defects up to six weeks after the defects have been found.
Hidden defects are defects which become apparent in goods normally remaining unpacked till their usage or in unprocessed goods only as they are unwrapped or during servicing. In case of replacement or repair services the warranty claims commence a new.
Depending on the item to be delivered we reserve the right to conduct inspections and ongoing reviews of the production or to reject faulty parts during the production process.
- 6.2 The delivery is to apply to the intended purpose, state-of-the-art, statutory laws and ruling standards as well as to relevant regulations of authorities and associations. The vendor declares that the goods can be purchased and sold without infringement of any trade or other industrial property rights to any third party – trademark rights, sample rights, patent rights and copyrights in particular, nor violation of any applicable Competition Acts. He agrees to pay all such claims resulting from any third party claims and to defend, indemnify and keep the purchaser indemnified against all costs involved.
- 7.1 The vendor agrees that the ordered product (i.e. raw material of half-finished products) is without defects as to design, production and instruction according to the provisions of the Product Liability Act. He also declares that the product did not show any start-of-the-art defects prior to purchase.
- 7.2 The vendor is obligated to provide all information necessary for the delivery of a faultless product according to the Product Liability Act (such as instructions for use, warnings, conformity regulations, etc.). Should the vendor later know of circumstances explaining a product defect according to the Product Liability Act, he is obligated to immediately inform us about such occurrences. All costs for the necessary return of faulty goods shall be borne by the vendor. In the case of a return we hold the vendor liable for paying back the purchase price already paid, especially lost profits and additional costs incurred and he shall bear full financial responsibility for costs caused by goods which have been ordered yet are not available.
- 7.3 We shall be exempt from any liabilities for any claims arising from restrictions of the Product Liability Act against the vendor or from other foreign Product Liability Acts applicable for the product ordered or restrictions whatsoever.
- 7.4 In the event that the vendor's customer uses the product the vendor agrees to defend, indemnify and hold us non-actionable from any such costs incurred and to bear full financial responsibility. We assume that the delivered product was produced by the vendor and is under the vendor's responsibility as manufacturer or importer. Should it consequently be established that all or individual parts were not manufactured or imported by the vendor the vendor is responsible for them in the same way as a manufacturer or importer. In this case the vendor renounces of the objection to be free of liability being only the trader.
- 7.5 Claims on product liabilities arising under this agreement shall be solely governed by competent and local courts of Austria. Austria's Product Liability Act is applicable. In the event of referral standards to foreign Product Liability Acts financial Austrian laws for product liabilities shall govern this agreement.
- 8.1 Place of performance for the delivery and passage of risk shall be the destination indicated by us, provided no objection has been made at the time of acceptance. The place of performance shall be Vienna. If the vendor is not domiciled in Austria he consents and submits to the jurisdiction of the laws of Austria.
- 8.2 Exclusive place of jurisdiction shall be the competent and local courts in Austria. We shall also be able to take legal action against the vendor at his registered office concerned.
- 8.3 Incoterms 2000 and the laws of Austria shall govern these agreements, excluding the United Nations Convention on Contracts for the International Sale of Goods as set forth in the Austrian Federal Civil Code 1988/96.
- 9.1 Should individual provisions of this purchasing agreement become invalid in whole or in part the validity of the remaining provisions shall not be affected. The invalid provision shall nonetheless be applicable or enforceable as closely to the economic target goal as is permitted by law.