

## General Terms and Conditions of Purchase

### EP Ehrler Prüftechnik Engineering GmbH

#### General

1. The following terms and conditions of purchase apply exclusively to orders. Other terms and conditions only apply if they have been accepted by the customer in writing. If other terms and conditions are cited in the order confirmation, these will not be binding on the customer without express written acknowledgement. Fulfilment of order shall be deemed as acknowledgement of the terms and conditions of purchase. Acceptance of the delivery / performance on part of the customer without objection does not imply that the customer has accepted the supplier's terms and conditions of delivery. These terms and conditions of purchase only apply to companies according to Sect. 14 of BGB (*German Civil Code*) and can be viewed at [www.ep-e.com](http://www.ep-e.com) and downloaded as a file.

#### Order placement and acceptance

2. Only orders (orders/call-off orders) and transactions that have been placed or confirmed in writing are legally binding for the customer. Orders placed verbally or over the phone, including amendments, must be confirmed in writing.
3. Orders, call-off orders as well as changes and amendments may also be made by means of data transfer or machine-readable data carriers after prior written agreement.
4. Legal declarations by both parties may also be made in electronic form. In such case, the issuer of the declaration must add his name and the electronic document must be provided with a qualified signature in accordance with the German Signature Act. In case of a contract, both parties must each sign an identically worded document electronically in the above-described manner. Until proven otherwise, each party is bound by the declarations made in such a digital document if the document has been signed electronically in accordance with the requirements of the German Signature Act.
5. If the customer accepts the supplier's offer with the order without any amendments, the contract is entered into with the receipt of the order. Any further order confirmation on part of the supplier is then not required. If the supplier deviates from the provisions set out in the order in the order confirmation, the supplier must clearly point this out. If he fails to do so, the contract is entered into without these deviations.
6. If, by way of exception, the order does not include a price, the supplier must state its highest price in the confirmation, which is deemed to have been approved if the customer fails to object within two (2) weeks.
7. The customer can also request changes to the object of delivery even after the formation of the contract, provided that this is reasonable for the supplier. In case of such a contractual change, the impact on both parties, especially with regard to additional or reduced costs as well as delivery dates, must be taken adequately into account.
8. Compensation for visits or preparation of offers, projects, etc. will not be granted.
9. The supplier must treat the formation of the contract in confidence and may only make reference to business connections with the customer in advertising material after having received the customer's written consent.
10. The contractual parties agree to treat all commercial and technical details which are not public knowledge and which they become aware of through the business relationship as a trade secret.

Sub-contractors must be required to accept corresponding obligations. If one of the contractual parties recognises that an unauthorised third party has gained knowledge of information to be treated as confidential or that a document to be treated as confidential has been lost, then that party must notify the other contractual party in this regard immediately.

### **Prices, shipping, packaging**

11. The agreed upon prices are fixed prices and exclude all additional claims of any kind. The prices include costs for packaging and transport to the shipping address or place of use indicated by the customer as well as customs procedures and duty. The agreement on the place of fulfilment is not affected by the type of pricing.
12. Every delivery must be announced immediately after dispatch by way of shipping note, which is carefully arranged by type, quantity and weight. Shipping notes, bills of lading, invoices and all correspondence must include our order number.
13. The customer only accepts the quantities or number of items ordered by him. Short- or over-shipments are only permitted after prior agreement with the customer.
14. Shipping shall be performed at the risk of the supplier. The supplier is responsible for the risk of any possible impairment including the accidental destruction until delivery to the shipping address or place of use requested by the customer.
15. An obligation to take back packaging is based on the relevant statutory provisions. If, by way of exception, the customer is billed separately for packaging, he is entitled to send back the packaging, which is in good condition, to the supplier carriage-paid for a payment of two-thirds (2/3) of value specified for this on the invoice. Only environmentally friendly packaging materials should be used.

### **Delivery periods, default of delivery, force majeure**

16. The agreed upon delivery dates are binding. The receipt of the goods at the place of receipt or use as specified by the customer or the timeliness of the successful acceptance is decisive for determining compliance with the delivery date or the delivery period.
17. If the supplier is aware that an agreed upon date cannot be maintained for whatever reasons, he must give notice immediately to the customer in this regard while indicating the reasons and the expected duration of the delay in writing.
18. Should the supplier be in default of delivery, the customer is entitled to statutory claims. In addition to that, the customer is entitled to demand a flat-rate compensation for delay. It amounts to 0.5 % for every full week of delay, but no more than 5 % of the value of the delivery or the part of the total delivery, which cannot be used on time or in accordance with the contract as a result of the delay.
19. After a reasonable period set by the customer has expired in vain, he is authorised to request at his discretion compensation in damages instead of performance or to procure a replacement from a third party or to withdraw from the contract. The right to delivery / performance expires as soon as the customer demands damage compensation in writing instead of performance or withdraws from the contract.
20. The supplier may only assert the absence of necessary documents to be provided by the customer if the supplier has sent a written reminder relating to the documents and has not received them within a reasonable period.
21. Force majeure and industrial conflicts release the contractual parties for the duration of the problem and in the scope of its effect on the obligation to perform services. The contracting parties are obligated to promptly provide the necessary information and to adjust their obligations to the changed circumstances in accordance with the requirements of good faith. The customer is released in full or in part from the obligation to accept the ordered delivery / performance and is entitled to withdraw from the contract if the delivery / performance is no longer usable for him due to a delay caused by force majeure or an industrial conflict.
22. In case of earlier delivery than agreed, the customer reserves the right to return goods at the

- expense of the supplier. If the goods are not returned in case of an early delivery, the goods are placed in storage at the customer's premises until the delivery date at the expense and risk of the supplier. In case of an early delivery, the customer reserves the right to make payment on the agreed upon due date.
23. The customer only accepts partial deliveries after express agreement. If partial shipments are agreed upon, the remaining amount must be listed.

### **Liability for defects and deficiencies**

24. The supplier guarantees that all deliveries / performances are free of defects and deficiencies, which means in particular that they possess the attributes described in the order and enable an appropriate, safe and problem-free operation as well as reflect the state-of-the-art technology and comply with the relevant legal requirements of authorities, employers' liability insurance associations (BG) and trade associations. If, in individual cases, deviations from such regulations are necessary or if there are concerns about the type of design / implementation requested by the customer, these must be communicated to the customer immediately in writing. The customer's incoming goods inspection is limited to transport damage, spot checks and apparent deficiencies; he will promptly notify the supplier about any deficiencies in the delivery / performance in writing as soon as they are noted during the normal course of business, but no later than five (5) calendar days after receipt of the delivery at the customer's premises. Any deficiencies that the customer fails to notice during the spot checks are considered to be concealed deficiencies.
25. In case of a deficiency, the customer is entitled to the full statutory rights. The customer is also entitled to rights of recourse in accordance with Sections 478, 479 of BGB vis-a-vis the supplier in appropriate application if the supplier has only provided parts for the object newly manufactured by the customer.
26. If the supplier is in default with the replacement delivery or rectification of the deficiency, the customer is entitled to procure the replacement or rectify the deficiency on his own or have such carried out by a third party at the supplier's expense. The same applies if urgency is called for or the supplier is unavailable or is not able to rectify the deficiency or procure a replacement in good time.
27. Unless agreed upon otherwise in the order, the warranty period for the delivery / performance is twenty-four (24) months as of delivery. The statutory period of limitation for repaired or redelivered parts starts anew at the time of the repair or redelivery.
28. The warranty period commences with the acceptance in case of delivery of devices, machines and equipment. If the acceptance is delayed through no fault of the supplier, the warranty period is twenty-four (24) months after the object of delivery was made available for acceptance. The warranty period for structures and building materials is five (5) years.

### **Product liability, breach of duty**

29. The supplier shall indemnify the customer against any claims arising from the manufacturer's liability and based on the German Product Liability Act, provided that the damage was caused by a defect in the object of delivery. In this context, the supplier bears all costs and expenses, including the costs of legal defence and a product recall, unless the cause for the fault did not occur within his area of responsibility. The customer shall inform the supplier about the content and scope of the product recalls to be carried out before they are carried out.
30. If the supplier culpably violates an obligation arising from or in connection with the order, the customer is entitled to demand compensation for the damage incurred as a result, including any damage that has occurred outside of the object of delivery. Notwithstanding the aforesaid, the customer shall only claim a loss of production or loss of profit if the supplier has acted with intent or gross negligence or if the customer has been sued for this by clients or third parties or if these damages have been covered by an insurance policy taken out by the supplier.

## Invoicing and payment

31. Invoices are to be sent to the customer in duplicate with all associated documents and information separately in the proper form after the delivery has taken place. Invoices that are not submitted properly will only be regarded as having been received by the customer after the date of their correction.
32. Payment shall be made using normal commercial arrangements, either within fourteen (14) calendar days with a 3% discount or after thirty (30) calendar days net, calculated from delivery / performance and receipt of invoice. Depending on the customer's automatic payment processes, these deadlines can be exceeded by a maximum of five (5) work days without the customer's entitlement to a discount lapsing.
33. If material test certificates have been agreed upon, they form an integral part of the delivery and are to be sent to the customer together with the delivery. They must be received, however, no later than ten (10) calendar days after the customer's receipt of the invoice. The payment period for invoices begins with the receipt of the agreed upon certificate.
34. In the event that the delivery is defective, the customer is authorised to withhold payment in proportion to the value until proper fulfilment.
35. In case of advance payments, the supplier must provide a suitable collateral security, e.g. bank surety, upon request.

## Industrial property rights

36. The supplier guarantees that all deliveries are free of any industrial property rights or other third-party rights and especially that no patents, licences or other property rights of third parties have been violated by the delivery and use of the object of delivery.
37. The supplier shall indemnify the customer and his clients of third party claims resulting from any violation of property rights and shall also bear all costs incurred by the customer in this context.
38. The customer is entitled to obtain the approval for use of the corresponding objective of delivery and performance from the authorised party at the supplier's expense. The same regulation applies in the event that a claim is asserted by a third party against the customer due to a defect in title, for which the supplier is responsible.

## Deliveries according to customer specifications, drawings and models

39. If the goods are manufactured according to the customer's specifications, drawings or models, then the goods and the special equipment, matrices or similar, which are associated with the production of the goods, may only be delivered to third parties with the customer's express consent.
40. The customer is exclusively entitled to the right of disposal over order-related production equipment and tools, in particular with regard to joint use, modification or destruction.
41. Models, samples, drawings or technical documents of any kind remain the property of the customer and are to be kept confidential; such must be returned together with any copies made after the order has been completed.
42. If improvements are made by the supplier in connection with the implementation of the order, the customer has a free, non-exclusive right to use the improvement and any industrial property rights.
43. If the supplier has any concerns about the intended type of design / implementation, material selection or processing methods when delivering according to the customer's specifications, drawings and models, the supplier must notify the customer about this immediately in writing, if possible prior to the start of production.

## Provisions

44. Material provided remains the property of the customer. He reserves the title to all materials supplied in such a way that the supplier manufactures the objects to be delivered to the customer on behalf of the customer; in this context the customer is the manufacturer within the meaning of the law. The customer is entitled to the title to these objects in each phase of production. The supplier shall store the objects for the customer free of charge.
45. Waste and chips occurring during the processing of the customer's material remain the property of the customer and must be returned with the manufactured parts.

## Final provisions

46. Should any individual provision or any part of any provision hereof be or become unenforceable, the validity of the remaining provisions shall in no way be affected.
47. The supplier is not entitled to pass on the order or significant parts of the order to third parties without the customer's prior written consent.
48. The supplier shall treat the supplier's personal data in accordance with the *German* Data Protection Act.
49. Claims from this contract may only be assigned by the supplier subject to the customer's prior consent. The customer is entitled to transfer rights and/or claims from this contract to another company of the EP Ehrler corporate group. The customer may offset claims that the supplier has against the customer with all claims, to which the customer or another company of the EP Ehrler corporate group is entitled vis-a-vis the supplier.
50. Unless expressly specified otherwise, the place of fulfilment for the obligation to deliver is the shipping address or the place of use requested by the customer; for all other obligations of both parties.
51. The place of jurisdiction is Bad Mergentheim, Germany, if the supplier is a merchant. The customer, however, reserves the right to assert his claims at another permissible place of jurisdiction.
52. The contract is governed exclusively by the laws of the Federal Republic of Germany, while excluding the UN Convention on International Sale of Goods (CISG).

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