



General Purchasing Conditions

§ 1

Application of terms

- (1) Orders placed by us are subject to the following Conditions of Purchase. We do not accept the supplier's general terms and conditions of sale or other agreements deviating from our own Conditions of Purchase unless such an agreement is given expressly and in writing.
- (2) Our Conditions of Purchase shall also apply if we are aware of conditions of the supplier that conflict with or are different to our Conditions of Purchase yet accept a delivery without raising any objection. In the conditions set out here we expressly oppose any reference or counter-acknowledgment by the supplier asserting his terms and conditions of sale.
- (3) Our Conditions of Purchase shall also apply to all future business transactions with the supplier.

§ 2

Orders/Delivery schedules

- (1) Only orders placed in writing shall be valid.
- (2) The acceptance of every order shall be acknowledged without delay by the supplier upon receipt but at the latest within one week. If we have not received the acknowledgement within one week of the date of the order, we shall be entitled to cancel the order.
- (3) Within the limits of what is reasonable for the supplier, we may request changes to the item to be supplied in respect of its design and model. In this context, adequate provision must be made to take account of the implications, in particular in respect of additional and reduced costs and delivery dates.
- (4) All units, parts etc. which are not specifically mentioned in the order or order confirmation, but which are deemed necessary for the completion of the agreed deliveries and/or services, shall be included in the scope of the service or delivery and shall therefore be included in the agreed price.
- (5) Unless it is agreed to the contrary, the supplier is obliged to deliver goods that are in compliance with the latest technologies and accepted regulations of engineering practise and that are, at the time of delivery, in accordance with the most up-to-date manufacturer's developments.
Unless otherwise agreed, software suppliers shall send us the latest version of the selected software at the time of software delivery.
The supplier is obliged to adhere to all data and measurements included in our drawings as well as all the requirements stipulated in our specifications.
- (6) We shall, unless agreed to the contrary, organise and accept call orders complete for delivery within 24 months. The delivery date stipulated by us is binding. The goods are to arrive at our premises on this given date. The delivery schedule is to be made in writing. If there are fixed dates during which call-ups have to be made in full, we are entitled to exceed the agreed deadline by 6 months at the most with a notice of two months.

§ 3

Prices

- (1) Unless it is agreed to the contrary, the prices indicated in our order shall be binding.
- (2) In the absence of any other agreement, the prices shall be exempt from transportation charges to the delivery address indicated by us and include packaging to our headquarters in Stuttgart unless an alternative address is indicated.
- (3) If we so wish, the supplier is obliged to collect and take back the packaging free-of-charge.

§ 4

Invoices and supplier declarations

- (1) We only process those invoices containing our correct order details as well as the order number allocated to this particular order. The supplier is responsible for all subsequent implications arising from a breach of this obligation.
Receipt of the invoice shall not render accounts receivable due for payment.
- (2) The supplier is under obligation at the latest upon the initial delivery to issue a supplier's declaration on request in accordance with EC Regulation 12 07/2001.
- (3) It shall be deemed that the invoices have not been submitted until the form requirements set out in § 4 Para. (1) and (2) have been satisfied.

§ 5

Conditions of payment

- (1) In the case of payment within 14 days, we shall be entitled to deduct a 3% trade discount or a net payment within 30 days.
- (2) Default on payment shall only take effect 30 days following the due date or 30 days following the receipt of the invoice, at the earliest, however, following adherence to the written form requirements specified in § 4 Para. (1) and (2) and receipt of delivery.
- (3) The payment shall then be made subject to the verification of the invoice.
- (4) In the case of the acceptance of early deliveries, the deadlines as regards determining the due dates shall only take effect following the agreed delivery date.
- (5) On the condition there is no criminal intent or wilful negligence involved on our part, interest on arrears for payment claims shall be limited to 5% above the base rate. If the supplier pays lower interest on credit, such rates shall be deemed authoritative. In the event that compensation claims are lodged for delayed performance, the supplier is to provide us with proof of the interest on credits that the supplier pays.
- (6) The supplier may only allow a third party to represent his interests or collect on his behalf with our consent. A partial assignment by the supplier or the recovery of fractional amounts by a third person shall be excluded.

§ 6

Delivery dates and periods

The delivery dates, quantities and periods agreed to in the order and/or delivery schedules shall be binding and complied with in full. We are not under any obligation to accept partial performance. In the event that the supplier brings about partial performance, we may, following a reasonable period as regards performing services for the entire amount that has proved unsuccessful, reject the partial deliveries as not due. Receipt of goods at the agreed address and, insofar as no other address has been agreed, at the address of our headquarters, shall be deemed authoritative as regards complying with the delivery dates.

§ 7

Dispatch/place of delivery/passing the risk

- (1) In each case, the delivery shall be made to the shipping address stated on the order and, insofar as no address is given, to our headquarters address. Each delivery is to be accompanied by a single copy of a delivery note.
Delivery documents must include the serial number, production date, cost, commission and order numbers as well as order date and our ID.
- (2) Unless we have undertaken dispatch ourselves and/or specified the freight forwarding company, the place of delivery shall always be the shipping address given on the order and, insofar as no specific address is stated, our headquarters in Stuttgart, Germany.
- (3) The supplier shall bear the risk until the goods to be supplied are delivered to the stated shipping address at our headquarters (place of delivery), even if we have taken responsibility for the freight forwarder and/or transport insurance.

§ 8

Delay in delivery

- (1) The date stated in written orders by us or in other declarations in conjunction with the order shall be deemed authoritative as regards to the delivery date determined according to the calendar date. Dating on the part of the supplier is irrelevant regarding the time of the service rendered by the supplier unless such dates correspond to the delivery dates stated by us.
- (2) As soon as the supplier sees that he is experiencing difficulties with the procurement of materials, manufacture of the delivery/service etc., which could prevent him from supplying the contractual goods within the stipulated period, he shall inform us of this fact immediately. This shall not effect his obligation to supply the goods on schedule.
- (3) The acceptance of a delayed delivery or performance does not in any way constitute a relinquishment of the claims against the supplier to which we are entitled as a result of the delayed performance especially any relinquishment of agreed penalties for breach of contract. We may reject at all times partial performance as non-fulfilment of the obligation to deliver on the part of the supplier.

§ 9

Quality and documentation

- (1) The goods delivered by the supplier shall comply with the latest technologies at the time of delivery and accepted regulations of engineering practise as well as safety specifications. In addition, every delivered part must furnish evidence of compliance with the technical requirements stipulated for the entitlement to the CE symbol.
- (2) The following applies for quality assurance standards:
 - a) the supplier is obliged to maintain at the least a quality assurance system in accordance with EN ISO 9001 or a similar system. In the manufacture of all delivered products, the supplier shall adhere to the regulations stipulated in this quality assurance system and shall conduct a 100% test. In the event of quality audits, the supplier shall make available all quality documentation to us;
 - b) the supplier is under the obligation to manufacture and test all objects subject to contract with certification mark in accordance with the specifications required;
 - c) in the event of planned modifications to the material, manufacturing and test procedures implemented, the supplier shall gain our consent beforehand. The test results must be dated and archived by the supplier. This content data shall be held for 15 years;
 - d) the supplier shall inform us of any modifications to the technology or design or changes to the supplied product and provide us with details of what has been changed and of when these changes will be effected. The supplier's commitment to the delivery of products based on contractual agreements and specifications remain unaffected hereby.
- (3) Easy-to-understand software documentation is to be provided that allows users with limited EDP experience to be able to use the supplied software following a one-day instruction period.
The documentation shall be provided in German.

§ 10

Notice of defects

- (1) Insofar as we are under obligation to provide notice of defects in quality, such notice is to be given in the case of obvious defects at the latest 14 days following receipt of the delivered goods.
If the goods are delivered directly to our customers, the 14-day period shall come into effect only once the customer has acknowledged receipt of the delivered goods or at the earliest 7 days after the customer has informed us of the defect.
- (2) In the case of goods for which the defect can only be detected on installation, the notice of defects to the supplier shall be deemed to have been given good time if it is made within one week after the defect has been detected.
- (3) We are not under any obligation to test the delivered product for unapparent defects before installation.
- (4) In the event that a claim, based on the right of recourse in accordance with § 478 German Civil Code recourse act, is lodged by one of our customers as a result of a defect – irrespective of non-compliance with the § 377 German Commercial Code regulation pertaining to proper notice of defects – the notice of defects on our part shall be deemed to have been made in good time if it is made 7 days after notice is given of the defect by our customer.
- (5) If a claim can be lodged against us as a result of a defect that is attributable to the fact that the supplier and/or his various agents made inaccurate statements to our customers regarding the quality of the delivery item, the notice of defect shall be deemed to have been made in good time if we provide the supplier with notice of such a defect 14 days after the notice is given of the defect by our customer.
- (6) If the facts provided for in accordance with § 10 Para. (1) to (6) constitute a restriction of the supplier's rights resulting from § 377 HGB (German Commercial Code), the supplier shall waive raising an objection to a delayed notice of defects.
- (7) Payment of the purchase price that may have been effected before the defect was detected does not constitute any recognition that the goods are free from defects and were delivered according to regulations.



§ 11

Material defects

- (1) In the case of a deficient delivery, the statutory provisions shall be deemed valid at the time of delivery by the supplier insofar as nothing contrary to these conditions of purchase is agreed upon.
- (2) Insofar as nothing to the contrary is specified hereinafter, the statute of limitations for claims for material defects is 30 months from the time at which the delivery item is installed by us or our customer, at the most, however, 30 months from the passing over of the risk.
If the delivery parts in question amount to parts that are installed by our customer in motor vehicles, the statute of limitations shall commence at the time at which the motor vehicle is initially licensed. The statute of limitations for these parts is 36 months, however ends 42 months from the handing over of the delivery item at our premises. The statute of limitations with spare parts commences at the time the parts are installed in the appropriate item. The statute of limitations for spare parts is 24 months, at the most, however, 36 months from the handing over of the spare parts at our premises.
- (3) The interruption of the statute of limitations is based on the statutory provisions subject to the proviso that the interruption of the statute of limitations commences at the time of receipt of the notice of defects at the supplier's premises. In the case of several attempts to remedy the defect, the statute of limitations shall be interrupted for at least 3 months as from the last attempt to remedy the defect. Other statutory periods remain unaffected hereby.

§ 12

Warranty of title

The statutory regulations shall apply to the warranty of title. Contrary to the statutory regulations, claims resulting in the violation of warranty of titles shall be limited to two years after the claim arises and after we have gained knowledge of the circumstances which establish the claim or we should have gained such knowledge without gross negligence, at most, it shall amount to 10 years from the passing over of the risk.

§ 13

Product liability

The statutory provisions shall be deemed applicable as regards claims lodged by us against the supplier pertaining to product liability.

Should a claim be made against us for product liability or a breach of safety regulations imposed by the authorities or a breach of property rights under legislation in Germany or other countries, the supplier shall reimburse us for any losses incurred as a result of this, including the cost of legal action, providing the supplier is the manufacturer of the part of delivery that caused the defect or providing a German or foreign law decides that the delivery part caused the damage. This liability of the supplier shall also exist if the supplier is not negligent, if a claim is made against us under German or foreign law on the grounds of liability with fault on account of this defective part of the delivery.

The same rules governing the burden of proof shall apply to the relationship between us and our supplier as between the claimant and us. Should several parties be liable to pay damages for the same loss, § 5 of the Law of Product Liability shall apply in this case. Where we are also liable, § 6 of this law shall apply.

If we are obligated to carry out a recall campaign on account of a defect caused by the goods delivered by the supplier or if performance of such a recall campaign constitutes a reasonable action, the supplier shall undertake to cover the costs. If the costs are to be apportioned among several responsible parties, the provisions set out in §§ 5 and 6 of the Law on Product Liability shall apply accordingly.

§ 14

Supply of spare parts/Software updates

- (1) The supplier undertakes to ensure that spare parts will be provided for the proposed service life of the finished products, which is at least 10 years. This period commences with the passing of the risk of the delivery item.
- (2) Following the expiry of this 10-year period and/or in cases of rejection of the supply of spare parts, the supplier is under obligation to hand over to us free-of-charge technical documentation and production documents concerning these parts. Our claims regarding the non-commitment to supply spare parts remain unaffected hereby.
- (3) The supplier shall ensure that the software supplied by him can be maintained for a period of at least 10 years and especially ensure that all necessary updates can be carried out and that we shall have access to the source code of this software for at least 10 years.

§ 15

Business secrets/exclusivity

- (1) The supplier undertakes to treat our order and all commercial and technical details associated with this as a business secret.
- (2) We withhold right of ownership and copyrights for all illustrations, drawings, calculations or other documents; they may only be made accessible by the supplier to third parties with our written authorization. They are intended for exclusive use with our order; they shall be returned unsolicited once the order has been completed.
- (3) This obligation shall also apply after the end of the delivery contract, until this business secret is – without any involvement on the part of the supplier – in the public domain.
- (4) Items that have been developed according to our specifications and/or with parts, samples, models and masters provided by the supplier for us as well as other manufacturing material are manufactured by the supplier exclusively for us.

§ 16

Manufacturing equipment

- (1) Material, parts, samples, models and masters supplied by us shall remain our property and must be marked
"property of ONLY Motion GmbH"
Such items may only be used for the purpose intended. The materials shall be processed and components assembled for us. It is agreed that we will be a joint owner of the items produced using materials and components supplied by us, the value being in proportion to the value of the items supplied in relation to the overall value. Handing over is replaced by an agreement that the goods will be held in the supplier's possession until the agreed delivery date for processing and will be kept separately for us.
- (2) Documentation of whatever kind, which we have made available to the supplier, such as

samples, drawings, models, masters and similar shall be returned free of charge to us upon request.

- (3) The supplier shall undertake to take out at his own expense adequate insurance against all risks and in particular fire and theft to cover the materials and components provided and, if requested, to furnish proof that such an insurance policy has been taken out.
- (4) Our masters, samples, models, material, parts and other manufacturing equipment may only be destroyed if written permission has been obtained by us. The supplier shall undertake to submit at regular intervals and whenever requested to do so a list of manufacturing equipment owned or jointly owned by us.
- (5) If requested to do so by us, the supplier shall hand over immediately but at the latest within one day the materials, components, models, masters, equipment or other manufacturing equipment provided by us. If the supplier is the joint owner, the goods will be handed over gradually against payment of the supplier's share of the goods. In the event of a dispute concerning the amount of the figure relating to jointly owned goods, we can avoid the right of retention being exercised because of this joint ownership by issuing a guarantee for the amount in dispute.

In other respects, the right of the supplier to retain manufacturing equipment is excluded, if the demand on which the right of retention is based, is disputed by the parties or where no final legal judgement has been given.

§ 17

Final provisions

- (1) The law applicable in the Federal Republic of Germany shall apply to these Conditions of Purchase and the entire legal relationship between us and the supplier. The application of the agreement of the UN Convention on Contracts concerning the International Sale of Goods (CISG) is excluded.
- (2) The exclusive place of jurisdiction for all disputes arising directly or indirectly from this agreement shall be Stuttgart and, if selected by us, the place of jurisdiction of the supplier.
- (3) If one party to the contract suspends payments or if insolvency proceedings have been instituted against the assets of the contracting party or if arrangements procedures have been initiated either in or out of court, the other party shall be entitled to withdraw from the part of the contract that has not been completed. This does not affect further-reaching claims.
- (4) Should one provision of these Conditions of Purchase or one provision of other agreements be or become invalid, the validity of all other provisions or agreements shall not be affected. If the invalid agreement in question does not amount to the General Terms and Conditions, the parties shall be under obligation to replace the invalid agreement with a valid agreement which comes closest to the economic purpose of the invalid agreement in a manner that is deemed legally valid.

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