

General Conditions of Purchase of Mektec Manufacturing Corporation Europe DE GmbH

1. Scope

- 1.1 All orders placed and contracts concluded by us - hereinafter "order" or "orders" -, relating to the purchase of goods, services and work performance - hereinafter "delivery" or "deliveries" – are subject exclusively to the present conditions of purchase ("Conditions of Purchase"). We hereby expressly reject any conditions of our suppliers which deviate from or are supplementary to the present Conditions of Purchase; They are not be binding for us. The Conditions of Purchase shall also apply exclusively in case we should not object to the applicability of our supplier's conditions in a particular case or if, being aware of the existence of such conflicting or supplementary terms and conditions of the supplier, we should accept his delivery unconditionally.
- 1.2 The present Conditions of Purchase also apply to all future business relations with the supplier, even if not explicitly and separately agreed upon.
- 1.3 If any of the clauses of these Conditions of Purchase is or should become invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby. In such case the invalid or unenforceable provision shall be replaced by a legally valid provision which comes as close as possible to the economic purpose of the invalid or unenforceable provision.

2. Conclusion of contract

- 2.1 Any agreement with the supplier and all orders shall be binding for us only if they are reduced to writing. Any amendment, supplement or subsidiary agreement entered into prior to, simultaneously with or after conclusion of the contract also requires our written consent. The writing requirement may itself also only be waived in writing. Fax, email or remote data transmissions shall be deemed equivalent to writing.
- 2.2 If the supplier does not accept our order in writing within two weeks as of receipt, we shall be entitled to revoke it. Delivery calls shall become binding upon receipt by supplier. Any deviation, supplement or other modification made by supplier to our orders shall be effective only if explicitly and separately pointed out as deviation, supplement or modification and expressly approved by us in writing.

3. Prices and payment

- 3.1 Prices specified in the order are fixed prices. Prices include the delivery of the goods "free delivery place of destination" as well as any packaging, transport, insurance and all other costs of delivery, unless agreed upon otherwise in writing. Value Added Tax (VAT) as applicably by law from time to time shall be separately shown, otherwise it will be considered included in the price.
- 3.2 Unless otherwise agreed upon in writing, in cases where supplier has taken over the responsibility for the erection, assembly and/or the putting into operation of a delivery, the supplier shall bear all necessary costs related thereto, e.g. travel expenses and the cost of provision of tools.
- 3.3 Invoices can be processed only if received by us separately from the delivery. Each order shall be invoiced separately. Invoices shall include the order number specified, the order date, the supplier number as well as our item number, all highlighted for easy readability.
- 3.4 Invoices shall be made out in the currency used in the order. Payments will be made only in such currency.
- 3.5 Payments will be made, by our choice, by bank transfer or cheque and/or bill of exchange after receipt of the delivery and of a proper invoice as well as receipt of all documents pertaining to the delivery. Unless otherwise agreed upon, we shall pay at our discretion either within 30 days with a 3% discount, or within 90

days net, each calculated as of the day of receipt of a proper invoice (Section 3.3).

- 3.6 The supplier shall not be entitled to assign or otherwise dispose of his claims against us, in whole or in part, without our prior written consent.

- 3.7 We shall be entitled to claim statutory setoff and retention rights.

4. Delivery time and delivery conditions

- 4.1 Delivery dates specified in the order or otherwise agreed upon are binding and must be strictly met. The supplier shall notify us in writing without delay in case he expects that delivery dates or deadlines will be delayed or exceeded, explaining the reasons therefore and specifying their expected duration.

- 4.2 Partial deliveries and premature deliveries shall be accepted only with our express prior written consent. Partial deliveries shall in any event be expressly marked as such in the delivery documents.

- 4.3 Unless otherwise agreed upon, deliveries must be accompanied by a delivery note which shall in any event show the order number and be accompanied by a works test certificate according to EN 10204 as in force from time to time or any other equivalent internationally recognized test certificate specifying the details as mutually agreed upon with the supplier. An initial sample test report must be furnished together with first-time deliveries.

- 4.4 Deliveries are only possible at the times indicated in the order.

- 4.5 In case of delivery delays we shall be entitled to impose a contractual penalty of 1% for each commenced week of delay, however not more than a total of 10% of the order value; The supplier reserves the right to prove that no or only less damage has been caused. The right to assert exceeding damages shall be reserved. We shall be obliged to declare the reservation of contractual penalty no later than upon payment of the invoice following the delayed delivery.

- 4.6 Force majeure that renders a delivery by our supplier or the acceptance or use of such delivery in our plant or at our customer impossible or substantially more difficult shall defer our obligation to take delivery, as is appropriate with regard to our actual demand. In case of force majeure affecting ourselves or our supplier we shall, at our sole discretion, also be entitled to rescind the contract in whole or in part.

5. Place of performance, passage of risk, acquisition of ownership

- 5.1 Place of performance for the goods to be delivered and the services to be rendered shall be the place where, according to the order, the goods have to be delivered or the work has to be performed or the services have to be rendered ("place of destination").

- 5.2 Deliveries shall be made with adequate transport packaging "free delivery place of destination". The risk of accidental perishing or deterioration of the delivery shall pass on to us only as of receipt of the delivery by us or by our forwarding agent at the place of handover of possession of the goods or upon final acceptance of the delivery, whichever is later, even if we have taken over the organisation of the transport.

- 5.3 Upon passage of risk at the place of destination or upon handing over of the goods to a forwarding agent specifically appointed by us, we shall acquire ownership of the goods without retention of any rights of whatsoever nature by the supplier.

6. Liability for defects and other liability

- 6.1 We will inspect the delivered goods on the basis of accompanying documents only as to identity and quantity as well as to visible transport damages. We will notify supplier about any defects of

delivery once discovered in the ordinary course of our business within an appropriate period of at least 5 working days as of discovery of the defect. In so far, the supplier hereby waives his right to object to the notification of defects on grounds of delay pursuant to Sec. 377 German Commercial Code (HGB).

- 6.2 Unless stipulated otherwise in this Section 6, the supplier shall be liable pursuant to applicable law in particular for defects of the delivery, it being understood that his liability shall in no way be limited or disclaimed with respect to cause or amount, and that he shall in so far indemnify and hold us harmless from and against any third party's claims.
- 6.3 We shall, in our sole discretion, be entitled to choose the type of subsequent performance. Under the conditions of Sec. 439, Par. 3 German Civil Code (BGB) the supplier may refuse the type of subsequent performance chosen by us.
- 6.4 If the supplier fails to start with the remediation of the defect without delay, we shall, in urgent cases, in particular to avert danger or major damages, have the right to remedy the defect ourselves or through a third party, in each case at supplier's cost and without first having to grant a grace period.
- 6.5 Unless otherwise agreed upon or unless legal provisions provide for longer periods of limitation, claims for defects in quality shall become statute barred within 24 months after sale of the final product to the consumer, however not later than 30 months after the delivery has been received by us. In case of work performance the period of limitation shall be 30 months as of written final acceptance. In case a delivery has been, pursuant to its usual purpose of use, used for/in a structure and has caused the latter's defectiveness, the limitation period shall be 60 months as of acceptance of the work performance. Our rights pursuant to Sec. 478, 479 German Civil Code (BGB) shall remain unaffected.
- 6.6 In addition, the supplier shall hold us free and harmless from and against any third-party claims related to deficiencies in title. For deficiencies in title the statutory period of limitation shall apply.
- 6.7 If, as a result of a defective delivery, incoming inspections become necessary which exceed the agreed upon scope (Section 6.1), the supplier shall bear the costs related thereto.

7. Product liability

Supplier shall indemnify and hold us harmless from and against any third party claims arising out of or related to personal injury or damage to property, if and to the extent the cause therefore was under supplier's control. The supplier is, within such scope, also obliged to reimburse us for all expenses according to Sec. 683, 670 German Civil Code (BGB) incurred by or in connection with a recall action or any other measure initiated by us.

8. Compliance with intellectual property rights and all laws

- 8.1 Supplier guarantees that his deliver and its use neither infringe third party industrial property and other rights nor violate legal or administrative regulations of whatever origin, kind or nature. The supplier also guarantees that the goods delivered by him do not contain CFC, PCB or asbestos. The supplier undertakes to provide without further cost at our request all relevant IMD system data.
- 8.2 The supplier undertakes to take all measures required to prevent occupational accidents, occupational diseases and work-related health risks, as well as effective first aid. The measures to be taken are described particularly more in detail in governmental and in occupational safety regulations of the Employer's Liability Assurance Association (Berufsgenossenschaft) and in other accident prevention codes.
- 8.3 The supplier undertakes to conduct his manufacturing and delivery operations in conformity with the environmental legislation as applicable from time to time (including but not limited to foreign, EU regulations (including REACH, RoHS etc.) and international provisions).
- 8.4 The supplier undertakes to comply with the provisions of the Code of Conduct on social responsibility of the Central Association Electric Engineering and Electric Industry e.V. (Zentralverband

Elektrotechnik und Elektroindustrie e.V.) as in force from time to time.

- 8.5 The supplier shall indemnify us from and against any and all claims raised by third parties against us by reason of or in connection with the delivery or its use (including but not limited to claims based on a breach of this Section 8). Section 6.6 Sentence 2 shall apply correspondingly.
- 8.6 Supplier's obligation to provide indemnification extends to all expenditures incurred by us in connection with third party claims raised against us.
- 8.7 Drivers, forwarders, visitors as well as the employees and the vicarious agents of suppliers shall abide by our Work's Rules on Third Party Companies (Betriebsordnung für Fremdfirmen) as applicable from time to time.

9. Reservation of title, tools

- 9.1 We reserve title for goods provided by us (e.g. parts, components, semi-finished products) and may demand their return at any time without supplier having any right of retention or any lien whatsoever.
- 9.2 Reservation of title also extends to products which have been created by processing, mixing or by combination of our goods with third party goods it being understood that these operations are deemed done on our behalf so that we are deemed, in legal terms, the manufacturer of such new products. If, in the event of processing, mixture or combination of our goods with third parties' goods, property rights of such third parties should persist, then we shall, instead of sole property, acquire co-ownership of the goods so created in proportion to the objective values of the goods processed, mixed or combined..
- 9.3 Tools made available to the supplier as well as tools manufactured by the supplier himself on our behalf or tools ordered by the latter with third parties for which we have paid in whole or in part, shall remain our sole property or shall become our sole property upon their manufacture or delivery to the supplier, and shall be clearly labeled as our property.
- 9.4 The supplier is obliged to keep tools safe for us free of charge, to provide adequate insurance coverage and to produce evidence of such insurance coverage on our request. The supplier undertakes to use the tools exclusively for the manufacture of parts for us, unless otherwise agreed upon in writing.
- 9.5 The supplier shall maintain and keep in good order and repair at his own expense tools put at his disposal by us. The supplier shall immediately return to us the tools upon our request, without enjoying any right of retention or lien whatsoever. Upon their return, the tools shall be, subject to wear and tear resulting from their intended use, be technically as well as optically in flawless condition. Costs for any repairs shall be borne by the supplier. In no case may the supplier scrap the tools without our prior written consent.

10. Quality assurance

- 10.1 The supplier shall, during the entire business relationship with us, (i) maintain a quality management system according to DIN EN ISO 9001 that ensures the perfect quality of deliveries, (ii) monitor such system by internal audits in regular intervals and promptly take adequate corrective action if any deviation has been detected. We have the right to inspect the supplier's quality assurance system at any time upon prior notice. At our request the supplier shall permit us to examine certification and audit reports as well as inspection procedures including all test records and documents relevant to the delivery.
- 10.2 Our Quality Standards, as amended from time to time, and which shall be sent to our suppliers upon their request, form and integral part of any order placed by us with supplier and/or agreement between us and the supplier.

11. Confidentiality, documents

- 11.1 Any information, formulae, drawings, designs, tools, technical records, processes, software as well as any other technical and commercial know-how made available by us or acquired by the supplier through us, and also any work results obtained therefrom (hereinafter "confidential information") shall be maintained in secrecy by the supplier towards third parties, may be used in the supplier's business exclusively for deliveries to us and may be made available only to such persons which need to have access to confidential information in connection with the business relation and have been obliged to maintain secrecy as if they were a party hereto. These obligations shall also apply beyond the term of our contractual relationship with the supplier if, as long as and to the extent that the supplier fails to prove that the confidential information was known to him already before or was in the public domain at the time of disclosure to supplier or was made public later without his fault.
- 11.2 Any documents (e.g. drawings, illustrations, test specifications), samples, models etc. made available by us to the supplier during the business relationship remain our sole property and shall, at our sole discretion, be returned (including any copies, extracts and replicas) to us upon our request at any time, however no later than upon termination of the business relationship, or be destroyed at supplier's cost. The supplier has no right of retention or lien whatsoever.
- 11.3 The disclosure of confidential information as well as any possible delivery of documents, samples or models does not create, result in or convey any right of or to the supplier with regard to industrial property rights, know-how or copyrights and constitutes no prior publication and no right of prior use in terms of the applicable law on patents and utility models.

12. Compliance

The supplier guarantees that he has no direct or indirect business or other relationship with terrorists, terrorist organizations or other organizations of a criminal nature or which are hostile to the democratic constitution of a state. More specifically, the supplier shall ensure through appropriate organizational measures (including but not limited to appropriate software systems) the implementation of relevant EU-regulations as well as US-American and/or other relevant provisions. As soon as our goods have left our premises, it is solely the supplier who is responsible for the compliance with the aforesaid provisions. Supplier shall indemnify

and hold us free and harmless from and against any and all third party claims and costs (including but not limited to reasonable attorney's and consultant's fees and fines) raised against us based on or related to supplier, affiliated companies of supplier, representatives and/or the vicarious agents having violated any of the aforesaid provisions.

13. Applicable law, place of jurisdiction

- 13.1 The business relation with our suppliers shall be exclusively governed by the laws of the Federal Republic of Germany to the exclusion of its law on conflict of laws as far as it refers a matter to the applicability of another legal system. The UN Convention on the International Sale of Goods (C.I.S.G.) and other bilateral or international conventions on the international law on the sale of goods shall not be applicable.
- 13.2 Place of jurisdiction for all claims based on or relating to business relations with our suppliers, in particular those based on or relating to the contract or its validity, shall be, at our sole discretion, the place of performance (Section 5.1) or Weinheim / Bergstraße. We shall, however, at our sole discretion, be entitled to bring an action against the supplier instead in any other general or special legal venue.
- 13.3 If a supplier's place of business is located outside of Germany, we shall be entitled to have all disputes, claims or disputes arising out of or in connection with the business relation with the supplier finally settled, austing the jurisdiction of the competent court or tribunal, under the rules of arbitration of the Zurich Chamber of Commerce by one or more arbitrators appointed in accordance with said rules. The place of arbitration shall be Zurich, Switzerland. The arbitration proceedings shall be conducted in the English language. The award rendered by the arbitrators shall be final and binding upon the parties.

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