



General Conditions of Purchase of FLABEG GmbH & Co. KG Nürnberg

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I Introduction, scope

1. Our Conditions of Purchase shall apply exclusively; different supplier terms and conditions or such to the contrary shall only be accepted, if explicitly agreed to in writing. Our Conditions of Delivery and Payment shall also apply if we accept the supplier's delivery unconditionally, although we are aware that such supplier's terms and conditions are different or to the contrary to our Conditions of Delivery and Payment.
2. Any agreements made between us and the supplier for the performance of this contract must be laid down in writing herein.
3. Our Conditions of Delivery and Payment shall apply between ourselves and a contractor, a legal entity under public law or a public law special fund as defined by section 310 (1) German Civil Code.
4. Changes or amendments of an order shall not be effective unless made in writing.

II Purchase offer and conclusion of the contract

We shall be bound by our purchase offer for 14 days after sending the order.

III Delivery, transfer of risk, acceptance

1. The receiving location as determined by us shall be the place of performance for all supplies and services. The risk shall be transferred after the delivery of the goods or the acceptance of the service. Partial deliveries require our express consent. Each shipment shall be accompanied by the delivery note (in duplicate) indicating the full ordering data, the precise description of the product and our item number. Delivery notes may not include any prices and terms.
2. We may request changes of the ordered goods regarding design, quality, and quantity to a reasonable extent. The effects of such changes, in particular regarding higher or lower costs and the delivery date, shall be reasonably considered and decided on by common consent.
3. Blanket orders placed by us shall constitute a purchasing commitment for no more than the quantities scheduled for a period of four weeks. Such period shall be extended correspondingly for any production releases made for periods beyond these four weeks.

IV Delivery Date

1. All delivery dates agreed shall be binding and must be observed. The decisive point in time shall be the time of arrival at our premises or at the receiving location indicated by us.
2. Prior agreement is required for any deliveries made outside of normal business hours (weekdays 7.00 am - 2.30 pm). We shall be informed when the shipment has left the supplier's premises or the point of dispatch.
3. The supplier shall promptly inform us of its inability to meet a deadline or a date, irrespective of the reason therefore. In this case we shall be authorized to grant the supplier a reasonable grace period to perform or deliver.

4. On grounds of default of delivery we shall be entitled to all claims permitted by law. After unsuccessful expiry of a reasonable grace period we shall be entitled to claim damages in place of performance and to rescind the contract. If we choose to claim damages the supplier shall be entitled to proof that it is not responsible for the failure to comply with its duties.
5. We shall be entitled to claim a flat rate for damage caused by default in delivery in the amount of 1 % of the value of the goods to be delivered per full week of delay, however not exceeding 5% thereof; we hereby reserve the right to assert additional legal claims (rescission and damages in lieu of performance). The supplier shall be entitled to proof that no damage or less damage has been incurred due to the delay.

V Prices, invoices, and payment

1. The prices indicated in the supplier's quotation or in our order shall be fixed prices including freight, customs and packaging, free our works in Fürth or the destination indicated. Value added tax as prescribed by law shall be included in the price.
2. We shall only accept price increases, if these have been previously acknowledged in writing.
3. All invoices shall be issued in duplicate, quoting our order data. Copies must be identified as such. Invoices may not be accompanied by any shipments of goods.
4. At our discretion payments shall be made up to 14 days after the date of the invoice with a 3% discount or net no later than 60 days after the date of the invoice. It is assumed that the date of the invoice corresponds to the date of dispatch.
5. We reserve the right to make payments with refinancing bills after deduction of discount; we hereby assume any expenses and fees related thereto.
6. We shall have the right to set-off and retain payments to the extent permitted by law.

VI Inspection for defects, liability for defects

1. We agree to inspect the goods within a reasonable period for any irregularities in quality and quantity; a complaint of defect shall be deemed to be on time, if it is received by the supplier within one week after receipt of the goods, respectively after discovery in the case of hidden defects.
2. We shall be entitled to all claims due to defects permitted by law; at any rate we shall be entitled to request the supplier to remove the defect or to supply replacement goods at our discretion. We explicitly reserve the right to claim damages, in particular to claim damages in lieu of performance.
3. The limitation period for buyers in actions for breach of warranty shall be two years after delivery. Where the performance concerns a structure or materials or parts which are customarily used in structures and where such parts or materials caused the defect the limitation period in actions for breach of warranty shall be five years after delivery.
4. If the Supplier or a third party gave a guarantee (guarantee relating to quality or durability) our claims under such guarantee shall remain fully valid.

5. Any denial within the meaning of § 203 (1st sentence) German Civil Code must be made in writing.
6. In urgent cases and after agreement with the supplier we shall be entitled to remove the defects ourselves or cause third parties remove such defects. The same shall apply, if the supplier defaults on the removal of defects. If we remove such defects ourselves the price shall be reduced by at least the cost of such removal.

**VII
Product liability, indemnity against liability,
public liability insurance coverage**

1. Any supplier responsible for damage caused by a product shall hold us harmless against any damage claims by third parties to the extent such causes are within its domain and it is liable to third parties.
2. Within the scope of the supplier's liability for damage as defined in paragraph 1 above, the supplier shall likewise be responsible for the reimbursement of any expenses as defined in sections 683, 670 German Civil Code and in sections 830, 840, 426 German Civil Code which we incur in relation to any recall activities. The same shall apply, if one of our customers is organizing a recall. We shall inform the supplier - to the extent possible and reasonable - about the nature and scope of the planned recall activities and provide the supplier with an opportunity to comment. This shall be without prejudice to any other legal claims.
3. The supplier agrees to buy product liability insurance coverage of Euro 2.5 million per incidence of personal injury or damage to property - blanket coverage - and to present proof thereof; this is without prejudice to any damage claims we are entitled to beyond this.

**VIII
Industrial property rights, licences**

1. The supplier shall guarantee that its supplies do not infringe any rights of third parties and hereby agrees to hold us harmless against any claims by third parties. The supplier's indemnity against liability includes any expenses we incur and any damage we suffer due to or in relation with any claims by third parties.
2. By virtue of this clause an exclusive licence and all industrial property rights are transferred to us for any illustrations, drawings, product descriptions, and data sheets that have been generated or made on our behalf. We shall have the exclusive right to the exploitation and use of such results. The supplier shall not be entitled to use such objects outside the scope of the order without our written consent. The supplier shall be entitled to keep them subject to recall. The supplier must identify such objects in a way indicating our title of ownership including to third parties. The supplier shall not have any right of retention to such objects, unless they are subject to uncontested claims or counter claims by the supplier that have been upheld by a court decision without possibility of appeal.

**IX
Reservation of title, provisions, tools**

1. Reservations of title by the supplier do not become part of the agreement, except such that cease at the time the price agreed for the goods subject thereto are paid for and unless we are authorized to sell and process the goods in the ordinary course of business. We shall not accept any reservation of title by the supplier that goes beyond the scope described.
2. We reserve the title to any parts we are providing the supplier with. Any processing or changes made by the supplier shall be made on our behalf. If the goods to which we retained the title are processed with other materials which are not our property we shall acquire co-ownership of the resulting good proportionately to the value of our goods to that of the other goods processed at the time of the processing.
3. If the goods we provided are inseparably mixed with other goods which are not our property we shall acquire co-ownership of the new good proportionately to the value of the goods subject to the retention of title to that of the goods they are mixed with at the time of the mixing. It is hereby agreed that the supplier transfers to us proportionate co-ownership of the goods, if the result of the mixing is such that the goods of the supplier must be deemed dominant; the supplier shall keep the goods subject to our sole or co-ownership on our behalf.
4. We reserve the title to any tools made on our behalf. The supplier agrees to use such tools exclusively to make the goods ordered by us.

The tools shall be returned when the contract is terminated. The supplier has no right of retention for such tools, unless such rights relate to counterclaims by the supplier that are uncontested or have been upheld by a court decision without possibility of appeal.

5. The supplier shall buy insurance coverage for our tools against fire, water damage and theft at replacement value. The supplier agrees to initiate in due time and at its expense any maintenance and inspections that might be required. The supplier shall promptly notify us of any disruptions or incidents. If the supplier culpably fails to do so our claims to damages shall remain unaffected.

**X
Confidentiality**

1. The supplier agrees to treat any confidential information as well as all samples, drawings, calculations, and other documents it received strictly confidentially. This duty to observe secrecy likewise includes any information the supplier became aware of in the course of the performance of this contract. The duty to observe secrecy includes any and all information about us as well as about any of our potential contracting partners.
2. Any knowledge about Flabeg's and its subsidiaries' processes and business methods in the technological, commercial, and other fields, any knowledge of data and other information relating to the financial situation and human resource management of Flabeg as well as any detail information about projects shall be considered confidential information, unless these are in the public domain or with our express prior consent to their disclosure to third parties.
3. This confidentiality obligation shall survive the termination of this contract for two years.

**XI
Security information**

The supplier agrees to observe all of FLABEG GmbH & Co. KG's general security regulations when delivering to or working on our premises.

**XII
Data protection**

Within the scope of the German Federal Act on Data Protection we shall be entitled to store and analyze any data required relating to persons or to facts without any further information. The supplier agrees to handle all data about our company in accordance with the German Federal Act on Data Protection.

**XIII
Venue, place of performance, governing law**

1. The place of performance shall be our principal place of business, unless stated otherwise in the order.
2. For suppliers who are merchants as defined in the German Commercial Code our principal place of business shall be the exclusive venue, unless another venue is mandatory. We shall, however, be entitled to bring action against the supplier also at the court holding jurisdiction for the supplier's place of business.
3. This Agreement shall be governed by and interpreted in accordance with the laws of Federal Republic of Germany to the exclusion of the CISG/UN Convention on Contracts for the International Sale of Goods and of German private international law.
4. The German version of these terms and conditions shall be the binding version, the translation into English is a courtesy translation.

**XIV
Continuance in force in case of partial ineffectiveness**

If any of the provisions of these terms and conditions are ineffective this shall not affect the effectiveness of the remainder of the provisions. We shall be entitled to replace ineffective provisions to the extent permitted by law with provisions that most closely reflect the intended purpose.