

General Conditions of Purchase of BIEBER + MARBURG GMBH + CO KG

Version August 2014

(english)

I. Application

1. These Purchase Conditions (Conditions) shall apply to all our present and future orders for goods and services and to the performance of such orders vis à vis entrepreneurs, governmental entities, or special governmental estates in the meaning of sec. 310 para. 1 BGB (German Civil Code). Seller's conditions diverging from these Conditions will not be acknowledged unless otherwise stipulated within these Conditions or otherwise agreed in the contract with the Seller. In the event we accept the goods not expressly objecting to these Conditions, the Seller may in no case assume our consent with his conditions.
2. Oral agreements made by our sales staff shall not be binding unless confirmed by us in writing, by telefax or by e-mail.
3. Any offer issued for us will be free of charge and not binding to us.
4. Any trade terms shall, in cases of doubt, be interpreted according to the INCOTERMS as amended from time to time.

II. Prices

1. The contract price shall be regarded as a fixed price. Unless otherwise agreed this fixed price shall also include all shipping, packing and other costs related to the contract.
2. In case of deliveries where we pay the cost, we shall take over only the most favourable freight costs unless we have specified a special type of shipment.
3. The quantities referred to are not binding for us. Excess quantities or shortage of quantities, as well as the omission of individual positions, neither entitle to changes in prices nor include a respective purchase commitment.

III. Payment

1. Unless otherwise agreed or unless the Seller's conditions provide for more favourable terms, payment shall be made either within 14 days with 3 p.c. discount or within 30 days without discount. Payment and discount periods shall begin with the receipt of the invoice but not before the receipt of the goods resp. the approval of services and where the contract includes documentation (e.g. test certificates) or similar written material, such periods shall begin only after receipt of such documents as agreed in the contract.
2. Payment shall be made by cheque or by bank remittance. Payment is considered to have been made in time if the cheque has been mailed on the due date or the bank has been charged with the remittance on the due date.
3. We will not be liable for maturity interest. The interest rate for default will be 5 pct-points above the Basic Interest Rate. In any case, we are entitled to claim and prove a lower default damage than claimed by the Seller.
4. We shall be entitled to all our statutory rights as to the set-off and retention of our claims. We are in particular entitled to refuse payment if and as long any inspection documents acc. to EN 10204 have not been supplied.

IV. Delivery Times / Late Delivery

1. All contractual terms and dates of delivery shall be binding to the Seller. The Seller shall immediately inform us in case of imminent delays and submit to us adequate proposals to remedy the consequences of such delays.
2. Unless otherwise agreed in writing, any contractual terms and dates of delivery shall be considered to be met only if and in so far as the goods have been handed over to us at such date and place.
3. If and in so far as the Seller defaults in delivery, we shall be entitled to our statutory rights. In particular, we shall have the right to claim damages for non-performance if and in so far as the Seller fails to effect delivery after a reasonable grace period set to him has elapsed.
4. The Seller may excuse his default by claiming the lack of any documents to be submitted by us only in such cases where we have, upon the Seller's reminder, failed to procure such documents.
5. In case of premature deliveries, we retain the right to return the goods at the Seller's expense. If, in such a case, the goods are not returned, the same will be placed into stock at the expense and risk of the Seller until the date of delivery contractually agreed upon.

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V. Retention of Title

1. The Seller's terms covering his retention of title shall be valid subject to the condition that title in the goods shall pass to us on the date of payment for such goods. Hence, the extended title retention forms of the so-called current account retention (Kontokorrentvorbehalt) shall not apply.
2. The Seller may claim return of the goods on the basis of the retention clause only if he has previously withdrawn from the contract.

VI. Performance of Deliveries, Passing of Risks, Packing

1. The Seller shall bear the risks of accidental loss and accidental deterioration of the goods until it has been handed over to us at its place of delivery. This provision shall also apply in cases of "free delivery".
2. We will not accept partial deliveries unless we have given our prior express consent to them.
3. Excess or short deliveries will be accepted only in accordance with current trade practise.
4. Unless otherwise agreed in writing, the Seller shall bear the costs of packing. In the event we agree to bear such costs, the Seller may charge the lowest possible rates only. Any obligations to take back packing material shall be governed by the Packaging Decree (Verpackungsverordnung) of 21.08.1998, as amended from time to time.
5. In case of direct delivery the Seller shall submit a copy of the consignment letter acknowledged by the consignee before invoicing the delivery to us. In case of direct delivery the goods as well as the packing material must not show any marks of origin.

VII. Declarations of Origin

1. The Seller will, upon our demand, provide us with a supplier's declaration regarding the preferential origin of the goods.
2. In the event the Seller makes a declaration in regard to the preferential or non-preferential origin of the sold goods, the following terms shall apply:
 - a) The Seller will allow verification through customs authorities and submit all necessary information as well as any required certification.
 - b) The Seller shall compensate us for any damages and losses incurred to us, if and in so far as the competent authorities, due to any deficient certification or impossibility to verify, fail to acknowledge the declared origin, unless he proves that he is not responsible for such consequences.

VIII. Warranty Provisions and Statute of Limitations

1. The Seller shall deliver the goods and services free of any material and legal defects. He will warrant in particular that his deliveries and his services comply with the state of the art and with any contractual requirements and standards.
2. The Seller shall ensure a comprehensive quality control in regard to the production of the goods as well as an outgoing goods inspection. We shall examine the quality and quantity of the goods upon their receipt to the extent both reasonable and technically feasible for us. In the absence of specific evidence for defects of the goods the requirements of such reasonable and technically feasible inspection are met with the examination of the external quality of the goods visible to the naked eye. The internal quality of the goods shall in no case be subject of such inspection. Any notice of a defect will be deemed to be in time if it reaches the Seller within eight working days by letter, telefax, e-mail or by telephone. Periods for such notices shall not start before we – or in case of direct sales our buyers – have detected or should have detected the defect.
3. In the event that the goods show a defect, we may exercise our statutory rights. If the Seller tries to repair the goods, such remedy is considered to have failed after the first unsuccessful attempt. We shall have the right to withdraw from the contract also in such cases where a breach of contract is not considered to be material.
4. Where the goods have already been defective at the time the risk has passed to us, we may claim from the Seller also those expenditures in connection with such defect which we are liable to pay to our customer.
5. Any claims arising from defects of the goods will be time-barred within 36 months after delivery, unless other statutory periods apply.
6. The Seller hereby assigns to us - on account of performance - the benefit of any claims against his supplier arising from the delivery of deficient goods or of such goods not conforming with the guaranteed characteristics. He will supply us with any documents necessary to enforce such claims.

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IX. Insurance

The Supplier shall maintain a product liability insurance with an adequate minimum insurance amount of € 10 million for each single occurrence of personal and property damage.

X. Place of Performance, Jurisdiction and Applicable Law, Miscellaneous

1. Unless otherwise agreed, our warehouse shall be the place of performance for the delivery.
2. Our principal office shall be the place of jurisdiction. We may, however, sue the Seller at his place of jurisdiction or at the court which is competent for our branch office with which the contract in question has been concluded.
3. All legal relationships between us and the Seller shall be governed by the laws of the Federal Republic of Germany supplementing these Purchase Conditions, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).
4. The ineffectiveness of one or several provisions of the present Agreement does not affect the effectiveness of the remaining terms and conditions.

XI. Applicable Version

In cases of doubt, the German version of these General Conditions of Purchase shall apply.