



GENERAL PURCHASING TERMS of J. Willibald GmbH*

I. General information, domain of applicability

1. These Purchasing Terms of J. Willibald GmbH (the Client, CL) shall apply exclusively to all business with suppliers and other contractors (CO). Conflicting or divergent terms and conditions shall not be incorporated into the contract, even if the CL does not expressly object to such terms unless the CL acknowledges their validity in writing. These Purchasing Terms shall also apply if the contract is executed, without reservation, with the CO being cognizant of conflicting or divergent delivery terms of the CO.
2. All agreements entered into between the CL and CO for the purpose of executing the contract must be documented in writing.
3. Individually concluded agreements between the CL and the CO such as service specifications, technical specifications or construction service contracts shall have precedence over these General Purchasing Terms.
4. Our Purchasing Terms shall only apply to companies within the meaning of § 310 (1) BGB (German Civil Code).
5. These Purchasing Terms shall also apply to all future transactions with the CO. J. Willibald GmbH shall have the right to amend these Purchasing Terms with effect for the entire future business relationship with the CO following corresponding notification. Notification shall be issued in writing. If the CO does not object to the amendments within six weeks of receiving notification, the amended Purchasing Terms shall be deemed acknowledged by the CO.
6. If the CL and CO have concluded a master agreement, these Purchasing Terms shall apply both to said master agreement and to individual orders unless otherwise provided for in the relevant master agreement.
7. Remuneration for visits or the preparation of offers, projects, drafts and sample deliveries will not be granted unless agreed otherwise in writing.

II. Order, order placement

1. An order shall be deemed placed once it has been documented by the CL in writing, also via email and has been placed. Orders placed verbally or by telephone shall only be effective if they have been confirmed in writing.
2. Once the order has been placed by the CL in the sense of paragraph 1, the CO shall be obligated to confirm the acceptance of the order within a period of no more than five work days of receiving the confirmation of order. If the order is not confirmed by the CO within this period with a binding delivery date in text form, the CL shall have the right to rescind the order without the need to specify reasons for this. If the CL does not object to the confirmation of order within five days of receipt, the contract shall be deemed concluded.
3. The CO shall be obligated to carefully check the order documents for blatant inaccuracies and/or contradictory information, feasibility and completeness and, in particular, to compare the bills of materials, drawings and other lists against the order documents. If there is a need for clarification, if inaccuracies are identified or if the CO has any suggestions for changes or improvement, it shall notify the CL in text form. With respect to the scope of delivery and services, the CL may also demand changes after the contract has been concluded to the extent reasonable for the CO. If contractual amendments affect price and/or the delivery time, the CO must provide immediate notification of this.
4. The CL shall reserve the property rights and copyrights to images, drawings, samples, calculations and other documents. They may not be made available to third parties without the express written consent of the CL. They may only be used for production on the basis of the CL's order. Once the order is processed, they must be returned to the CL without request.
5. The CO is obligated to specify the order number and article numbers (if they exist) on all order documents (confirmation, delivery bill, invoice). A corresponding delivery bill must be enclosed with every delivery. If this does not occur, the CL shall not be responsible for any delays in processing.
6. The CL shall not be subject to an obligation to purchase a minimum quantity or value.
7. By accepting the order, the CO acknowledges the provisions for third-party companies regarding conduct on the CL's company premises.

III. Prices, invoices, payment terms

1. The prices specified in the order are binding for the entire contractual term unless the CL and CO otherwise individually arrange a price adjustment. All prices are net prices plus the statutory VAT. Other ancillary costs such as duties, insurance premiums and the like shall be charged to the CO.
2. Unless otherwise agreed in writing between the CL and the CO, the price includes delivery "free domicile" including packaging. Insofar the CL is responsible for carrying the shipping costs as the result of a divergent written arrangement, the CO must use the type of shipping prescribed by the CL, alternatively, the one that is the most affordable for the CL. In this case, packaging costs must be charged at the cost price whereby the CO must select the packaging type specified by the CL.
3. Invoices must be issued in a verifiable form and must comply with legal requirements as well as the specifications of the CL. Invoices can be forwarded electronically via email as an attached open PDF document to the following address info@willibald-gmbh.de or as a paper copy to J. Willibald GmbH, Bahnhofstraße 6, 88639 Wald-Sentenhart, GERMANY. Invoices that do not contain the agreed data will not become due. The CL shall not be responsible for payment delays resulting from incomplete documents.
4. Unless otherwise agreed, payments shall be rendered after proper delivery/performance, issue of the invoice and receipt of the invoice by the CL within 14 days with deduction of a 3% discount or within net thirty days. Payments shall be rendered in Euro by means of a valid payment method selected by the CL. The deduction of a discount is also permissible if the CL sets off or withholds payments in a justified manner e. g. as the result of defects. The payment period shall begin with the receipt of invoice by the CL, however, not before delivery of the goods or acceptance of performance or handover of the documentation owed. Payments shall always be rendered subject to the reservation of due delivery/performance and correct pricing and calculations. If a warranty obligation is identified, the CL shall have the right to withhold payment until the warranty obligation has been fulfilled.



5. The CL shall have the rights to set off and retention within the legally permissible scope. The claims of the CO arising from the contractual relationship with the CL may not be assigned without the written consent of the CL. In the event the CO has assigned a counterclaim vis-à-vis the CL to a third party, the CL shall have the right, with discharging effect vis-à-vis the third party, to render payment to the CO.

6. To the extent requested by the CL, hourly wage work will only be remunerated at the hourly rates recognised by the CL in accordance with the confirmed time sheet. The CO must report additional expenses, which were not agreed, and they must be approved by the CL.

IV. Delivery and performance time, transfer of risk, packaging

1. The delivery date and/or delivery times specified in the order are binding. In the absence of a divergent written agreement, the price shall include delivery "free domicile" including packaging. For compliance with the confirmed delivery deadline, it is decisive that the delivery items have been delivered to the agreed place, on the agreed date, free of defects and in their entirety in compliance with the goods acceptance times of the CL. If one of the specified points is not complied with, the respective delivery shall be deemed not delivered on time and the CO shall be deemed in delay with delivery. A separate reminder is not required in this respect.

2. Before the delivery date passes, the CL shall not be obligated to accept the goods. The CL shall have the right, in the event of early delivery, to choose between returning the goods at the CO's expense or storing them at the CO's expense and risk.

3. The CO shall be obligated to immediately notify the CL in writing if circumstances occur or become known to it, which frustrate compliance with the agreed delivery deadline. The CO must, to the extent possible, take suitable measures to keep such delays to a minimum. The CO must carry additional costs in order to comply with the deadlines.

4. The risk shall first be transferred to the CL at the point in time at which the goods are handed over to the CL. If the goods are transported by the CO or a third party, the transfer of risk shall first take place following unloading at the place of receipt and/or the agreed delivery location including countersigning of the bill of lading. This shall also apply in the event the CL carries the transport costs. All deliveries shall be effected for the account and at the risk of the CO.

5. The CL shall have the right to refuse acceptance of shipments if the shipment is clearly incomplete or obviously damaged or if proper shipping documents are not enclosed.

6. Delivery items must be packaged and labelled in an appropriate and professional manner for transport. Unless otherwise agreed, the CO shall carry the costs of the packaging. Damages to delivery items, which are attributed to insufficient packaging and/or transport protection shall be charged to the CO.

7. Packaging material must be environmentally-friendly and only used to the respectively required extent. The proper disposal of the packaging material is the responsibility of the CO and at its expense; furthermore, the take-back obligation for the packaging material is provided for in accordance with Section 15 packaging act.

V. Contractual penalty in the event of delay in delivery

1. If the deadline is not met and this is not attributed to the CL, the CL shall have the right to demand the payment of a contractual penalty amounting to 2% of the total net order value for each week begun, however, no more than 10% of the total net order value. The CL shall not be obligated, upon acceptance, to reserve in writing the right to demand the payment of a contractual payment. It is permitted to set off against the final invoice. Such shall be without prejudice to the right to assert claims for compensation.

2. The CO may only set off against an imposed contractual penalty with legally established or recognised counterclaims.

VI. Documents, implementation extent, permits

1. The scope of the delivery of the respective contractual item also includes the applicable supporting documents and inspection documents as well as the technical documentation in the required languages. Furthermore, all drawings, technical documents, attachments, diagrams, operating and maintenance books, application handbooks, catalogues, specifications and other documents to be prepared or provided by the CO must be issued in German.

2. No later than upon conclusion of the delivery or performance, the CO must provide all documents required for proper use. They shall be transferred to the ownership of the CL. The CL shall reserve the right to request all plans, documents and data concerning the CL and which the CO prepared. The CO shall be obligated to surrender these documents and data.

3. The CO shall be obligated to observe the usual business practices, the recognised rules of technology and legal and official regulations, in particular, also accident prevention regulations.

4. To the extent official permits are required for its performance implementation, it is up to the CO to provide them at its cost.

VII. Quality assurance, material defects and defects of title

1. A delivery is free of defects if it has been effected at the agreed place, at the agreed time, in the agreed quality and is complete. Free of defects means that the delivery items and services have the agreed, assured properties and functions and do not contain flaws, which nullify or reduce the value or the fitness for the use required under a customary contract or in accordance with the contract. Free of defects also includes error-free and completion documentation in accordance with the agreed and/or prescribed scope. Free of defects also means that the delivery items and services are free of defects of title.

2. The CO shall ensure by means of systematic inspections and suitable inspection methods that only parts, assemblies or services that are free of defects are provided to the CL. The CO shall document the quality inspections performed in inspection protocols and enclose them with the delivery as a copy. If a defect arises within twelve months following the commissioning of the delivery item, it is presumed that it was already defective at the time the risk was transferred. The CO shall have the right to disprove this assumption.

3. The CO shall be obligated to only delivery goods whose manufacture fulfils all requirements of EU regulations. This includes, in particular, registration and information duties under REACH and the duty to classify, label and package in accordance with the CLP Regulation.



4. The commercial obligation to examine and give notice of defects in connection with the incoming inspection of the CL shall be limited to obvious defects which are recognisable in connection with the incoming inspection of goods with an external inspection including inspection of the shipping documents.

5. If a component is purchased for a machine of the CL, it shall be deemed duly delivered once the machine has been installed and properly commissioned. In this regard, the CL will be given a period of six weeks following delivery.

6. The CL will inform the CO of any notices of defects by issuing it a non-conformance report. Such notices shall be deemed to have been effected without delay and in a timely manner if recognisable defects are reported within two weeks following the receipt of goods and other defects within two weeks of their discovery. In this case, the CO shall be obligated to take measures and document them so that the identified defects are not repeated with future deliveries. After receiving the notice of defects, the CO shall prepare an initial written statement within 24 hours and, within ten days, it shall prepare a written error analysis with root cause determination. Four weeks after the notice of defects is received, documented proof of implementation of the measures to rectify the defects and/or to prevent future defects will be presented.

7. The CL shall be entitled to the statutory defect claims. It shall have the right to demand from the CO, at its discretion!!see above!!, rectification of the defect or the delivery of a new item. The right to the compensation for damages??, in particular the right to compensation for damages in lieu of performance, shall remain expressly reserved. The CL shall have the right, at the cost of the CO, to rectify the defects itself if two rectification attempts have failed, in the event of impending is synonymous danger or special urgency.

8. The limitation period for warranty claims is equal to 36 months from the date of commissioning/acceptance unless no longer periods are provided for by law. The warranty period for rectified or replaced parts shall recommence.

VIII. Liability, product liability, insurance

1. The CO shall reimburse the CL for all costs and damage caused by the delivery of defective goods or services or the breach of a duty arising out of the delivery contract and shall release the CL from all such claims. In the event of strict liability, this shall not apply if the CO proves that it is not culpable.

2. To the extent the CO is responsible for product-related damage within the meaning of the product liability act, it is obligated to indemnify the CL in this respect from third-party claims for compensation!! at first request insofar the cause falls within its sphere of organisation and control and it is itself in external relationships. This shall also apply if the product defect is attributed to performance on the part of suppliers and subcontractors of the CO.

3. In connection with its liability for damage claims, the CO is also obligated to reimburse any expenses in accordance with §§ 683, 670 BGB as well as in accordance with §§ 830, 840, 426 BGB, which occur out of or in connection with a recall campaign carried out by the CL. The CO will be notified regarding the contents and scope of the recall campaign to be performed. Such shall be without prejudice to other legal claims

4. The CO shall be obligated to take out liability insurance with a cover of at least 3 million Euro per claim for material and financial loss as a lump sum and an unlimited cover for personal injury. The CO shall provide the CL with proof of insurance upon request.

IX. Third-party rights

1. The CO guarantees that the delivered item or service shall be free of third-party rights, in particular reservations of title, intellectual property rights, liens and other encumbrances.

2. If the CL is sued by third parties, the CO shall be obligated to indemnify the CL, at first request, from such claims. The obligation to indemnify concerns all expenses, which necessarily are incurred for the CL in connection with being sued by a third party, the same applies to officially imposed fines.

3. Any patent and/or licence fees shall be settled with the contractual price.

X. Retention of title, supply, tools equipment

1. Insofar the CL supplies parts at the CO's location, it shall reserve the title therein. Any processing or reworking thereof by the CO will be performed on behalf of the CL. If the reserved goods of the CL are processed together with other items, the CL shall obtain joint ownership in the new item in proportion to the value of the item of the CL to the other items being processed at the time of processing. The same applies in the event of mixing with the items supplied with other items.

2. The CL shall retain ownership of the tools. The CO is obligated to label the tools so that they are clearly identifiable as the property of the CL and to only use them for the manufacture of the goods ordered by the CL. The CO shall be obligated to insure the tools, at the new value and at its own expense, against fire and water damage as well as against theft. At the same time, the CO shall assign, already at this point, all claims for compensation arising from this insurance to the CL. The CO hereby accepts this assignment. The CO is obligated to perform required maintenance and inspection work on the tools of the CL at its expense. The CL must promptly report incidents. The CL may demand the return of its tools following proper termination of the contract. The same applies if the CO is temporarily or permanently unable to effect deliveries. The CO shall have no right of retention to the tools unless this concerns an undisputed or titled claim of the CO.

XI. Confidentiality

1. The contractual partners are obligated to treat as a trade secret all knowledge regarding non-obvious commercial or technical details, which it obtains in connection with the business relationship. They may only be disclosed to third parties with the express consent of the CL. The CO must impose a confidentiality obligation on subcontractor's mutatis mutandis. The employees of the CO must also be advised in writing of their duties, under the employment agreement, to keep company and trade secrets.



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2. If the CO breaches its confidentiality obligation, it shall be obligated to pay to the CL an appropriate contractual penalty, which the CL stipulates at its discretion, for every breach. Legal action may be taken to establish a proper amount.
3. The confidentiality obligation expires once the confidential information becomes publicly known whether through official or judicial order or on the basis of lawful publicity.

XII. Data protection

1. The CO shall be obligated to secure all information and data of the CL against access by unauthorised third parties and to protect them, in particular, against theft, loss, manipulation, damage or duplication.
2. All documents handed over to the CO must be returned without request and entirely once the order is processed and/or to be irreversibly destroyed and/or deleted accordingly from all data storage devices. This also applies to copies made.
3. If the CO has information indicating that unauthorised third parties have or may have obtained knowledge of confidential information, the CO must immediately notify the CL of this and take the necessary steps to clarify this in coordination.

XIII. Protection of intellectual property

1. The CL, as the author, also remains the sole owner of all technical documents developed by the CL and provided to the CO. No rights of use beyond the execution of the order will be granted.
2. Insofar the CL commissions the CO with the performance of development and construction work, these results, documents and data will be transferred to the ownership of the CL with the right to exclusive utilization and exploitation. With the agreed remuneration, all rights to work product of any kind shall be jointly sold to the CL. The CL shall be granted an exclusive, irrevocable, transferable right of use not limited terms of space and time for all types of use.

XIV. Advertising ban

The CO may not, without the prior written consent of the CL, advertise using its business relationship with the CL, its name or the goods or disclose them. This shall not apply to the extent this is required by mandatory legal provisions.

XV. Applicable law, legal venue, contract language

1. The place of performance for all deliveries and services of the CO is the delivery address specified by the CL, the place where delivery is rendered or the place of use.
2. Even if the CO has its headquarters abroad or the delivery is effected from abroad, this contractual relationship shall be exclusively subject to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
3. The exclusive legal venue shall be the headquarters of the CL providing the CO is a businessman. The CL shall, however, have the right to also select the headquarters of the CO as the legal venue.
4. The contract language is German.

XVI. Severability clause

1. The above General Purchasing Terms of the CL contain all aspects to be provided for. Verbal collateral agreements do not exist. Such agreements must be in written form in order to be effective. Supplements and amendments of the above Purchase Terms must be in written form in order to be effective. This also applies to an amendment of the written form requirement.
2. If one or more provisions of this agreement are or become ineffective, such shall be without prejudice to the effectiveness of the remaining provisions. An effective and enforceable provision, which the parties would have agreed to had they properly interpreted the respective provision in cognizance of the legal situation, shall supersede the ineffective or unenforceable provision.

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