

Standard Terms and Conditions of Purchase of TREMA Verfahrenstechnik GmbH

I. General

These Standard Terms and Conditions of Purchase shall apply to all business relationships with suppliers or other contractors, irrespective of whether or not they are specifically mentioned in the individual contract. Any additional or different terms and conditions of our contract partners shall be deemed void and ineffective unless their General Conditions of Sale have been expressly accepted by us in writing.

II. Purchase Orders

Only Purchase Orders awarded in writing and signed by us shall be legally effective. Purchase Orders placed verbally or over the telephone shall be valid and binding only if and to the extent confirmed by us by the subsequent submittal of a written purchase order.

All correspondence shall show our Purchase Order Number.

If the Purchase Order is not confirmed in writing within 10 working days of receipt, we shall be entitled to revoke the contract and/or make changes to the scope of supplies and services at no cost to us. We may require Supplier to make modifications to the agreed Supplies/Services at any time during order execution to the extent such modifications can be reasonably expected from Supplier.

Deviations from the quantities and quality specified in our Purchase Order and any subsequent amendments of the contract shall be valid only if expressly confirmed by us in writing.

Supplier shall not be entitled to subcontract – either in whole or in part – Supplies and/or Services covered by the Purchase Order to third parties without our prior written consent which shall not be unreasonably withheld by us.

Purchase Orders, delivery call-offs as well as any modifications and supplements thereto may also be effected by electronic data transfer or via machine-readable media. Unless prices are stated in the Purchase Order, the Supplier's current list prices less the commercially available discounts shall apply. The agreed place of performance shall remain unaffected by the price basis.

All drawings, tools, patterns, brands, designs or any other form of intellectual property rights as well as any finished products and semis made available by us or manufactured on our behalf shall be and remain our exclusive property and shall not be made available to third parties without our express written consent. Unless otherwise agreed in the individual case, these shall be returned to us without any specific request promptly on completion of the Purchase Order, any costs incurred being for Supplier's account.

III. Bid Cost/Clarification Meetings/Visits

Bids shall be prepared and submitted at no cost and without any obligation to us. Expenses incurred in connection with the preparation of the bid and joint clarification meetings will not be reimbursed by us, unless expressed agreed and confirmed by us in writing in advance.

Delivery dates

The agreed delivery dates and times shall be binding. The order shall be delivered to the delivery address indicated by us by the agreed delivery date or within the agreed delivery time. Should it turn out that the agreed delivery date or delivery time cannot be met, Supplier shall give us prompt notice in writing and obtain our decision as to the continuation of the contract. Notwithstanding the above, we may avail ourselves of all rights and legal remedies which we may have in respect of delayed delivery.

Acts of God, labour disputes and strikes shall relieve the contractual parties from their performance obligations for the duration such circumstances of Force Majeure exist and to the extent the contract is affected thereby. In such a case, the contractual parties undertake to promptly provide each other with such necessary information as can be reasonably expected from them and act in good faith to adjust their obligations to the changed conditions. Should such circumstances of Force Majeure lead to a delivery delay in excess of 4 weeks we shall have the right to rescind the contract. This shall, however, only apply to the extent that the economic purpose of the contract is no longer fulfilled.

Part deliveries will not be accepted unless expressly agreed in writing. Where part deliveries have been agreed, the outstanding balance remaining to be delivered shall be stated in the delivery note.

Delivery / Packaging

Delivery shall be made carriage paid to the place of delivery stated by us. If, in exceptional cases, freight charges are borne by us Supplier shall select the shipping method specified by us. In all other cases, Supplier shall select the best-priced shipping method.

The risk in the goods shall pass to us upon delivery and receipt at our delivery address.

Packaging shall be included in the purchase price. If specifically agreed to the contrary in exceptional cases, packaging shall be charged at cost.

Only environmentally compatible packaging materials shall be allowed. Packaging shall be designed and selected such as to reliably rule out any damage during transport and handling.

The agreed delivery dates shall be binding. If a calendar week has been agreed as the delivery date, the latest delivery date shall be the Friday of the agreed calendar week. If the agreed delivery date is not met for reasons attributable to Supplier, we may avail ourselves of all rights and remedies available to us at law. Notwithstanding the above, Supplier shall promptly notify us in writing of any delays, stating the reason and the expected extent of the delay.

Supplier may invoke non-availability of documents to be provided by us only if he has given written notice to us of the non-availability of such documents and has not received them within a reasonable time after such written notice.

Documentation

Invoices, delivery notes and packing slips shall be rendered in duplicate and attached to each consignment. These documents shall include the following information:

- Purchase Order No.
- Quantity and unit of quantity
- Gross and net weights, including charged weight where applicable
- Name of article together with our article number
- Outstanding balance in the case of part deliveries

For freight shipments, a dispatch note shall be sent to us not later than on the date of shipment.

VII. Invoices/Payment

Invoices shall be rendered in duplicate and submitted to us complete with all the associated documents and data (invoice date, invoice number and sales tax identification number) under separate cover and separate from the consignment after delivery of the Supplies/Services. Value-added tax shall be separately shown on all invoices.

Invoices shall be deemed to have been received only if they are made out in the required format, i.e. if they are free from errors, complete and verifiable. All invoices shall show the purchase order references indicated by us.

Invoices shall be payable less a 3 % early payment discount within 14 days or otherwise within 60 days from the date of fault-free and contract-conformant delivery and/or acceptance of the Supplies/Services and submittal of a properly made-out, complete, correct and verifiable invoice.

Where material test certificates have been agreed and/or documentation is to be submitted, such certificates and documentation shall be deemed to be a material part of the Supplies/Services and shall be available to us not later than 14 days prior to the date of receipt of the invoice.

In the case of faulty Supplies/Services we shall be entitled to retain payment until proper performance. From purchase order values of € 25,000 Supplier shall provide us, at our request, with adequate security in the form of a performance bond of unlimited duration to be issued by a first-class German bank (no insurance company) and provide for joint and several liability of the principal and surety, waiving any objections.

Any setoff of counterclaims shall be subject to our prior written consent and shall only be allowed if the counterclaims are undisputed and have been accepted by us.

Supplier shall not be entitled to assign to third parties any claims against us without our prior written consent. Payments will be made exclusively to the Supplier.

VIII. Warranty / Guarantee / Complaints

1.

Supplier warrants his Supplies/Services to reflect the latest state of the art and science, to be in conformance with the generally accepted rules of good engineering practice, the applicable statutory provisions and the regulatory requirements of authorities, employers' liability insurance associations and trade associations in the Federal Republic of Germany, the European Union and the country of the end user.

Furthermore, Supplier warrants his Supplies/Services to conform to our specifications, to possess the agreed characteristics and to be fit for the intended use as defined in the Purchase Order. Should Supplier have doubts as to the type of execution requested and ordered by us, he shall notify us thereof promptly in writing.

The documents (e.g. drawings) shall be prepared in accordance with our specifications and submitted to us for review and approval prior to commencing production.

Supplier shall be liable for the environmental compatibility of the products supplied by him including the packaging materials as well as for any consequential damage resulting from the violation of his statutory disposal obligations.

Evident defects of the Supplies/Services will be notified to Supplier in writing promptly after they can be reasonably expected to be detected in the ordinary course of business.

2.

Unless otherwise agreed, the warranty period shall be 24 months and start on the date the Supplies/Services are handed over to us or delivered to the stated delivery address (transfer of risk).

Defects in the Supplies/Services (including variations in quantity and weight or wrong deliveries) developing during the warranty period, which shall also include failure to reach the guaranteed performance data and the lack of agreed guaranteed characteristics, shall be promptly remedied by Supplier at our direction by way of subsequent performance through correction/remedial work or replacement/renewed preparation. The cost of such remedial work including all ancillary costs shall be for Supplier's account

After failure of the second attempt at subsequent performance, we shall have and may exercise any other rights and remedies available to us at law, in particular the right of rescission, reduction of the purchase price and indemnification. Should Supplier, through his fault, default on his obligation to remedy faulty Supplies/Services within a reasonable period of time following default notice by us we shall have the right to effect ourselves or have effected by third parties the remedial work for Supplier's account (substitute performance).

Where required to minimize loss, we shall have the right to remedy minor defects ourselves for Supplier's account without prior coordination with Supplier. The same shall apply if there is an emergency or an immediate risk. Such remedial work shall not affect Supplier's warranty obligations in any way whatsoever.

On issue of a written notice of defects, the warranty period shall be suspended. In the case of replacements supplied or other remedial work carried out by Supplier, a new warranty period shall begin. Supplier shall also be liable for consequential damage to the extent provided for by law.

Claims for hidden defects, in particular material defects which do not become apparent until at the time the delivery items are further processed or placed in service, may also be asserted after expiry of the warranty period regardless of whether the affected components have been further processed, mounted or installed. Supplier waives the defence of the statute of limitations.

Manufacturer's Liability

For defects in the products attributable to Supplier, Supplier shall indemnify and hold us harmless from and against the resulting manufacturer's liability to the same extent as he would be directly held liable.

Furthermore, Supplier shall bear the cost of a precautionary call-back action initiated by us if such action is due to a defect or deficiency in the products supplied by him.

Supplier warrants and represents that he maintains adequate insurance for all product liability risks including the call-back risk. At our request, Supplier shall submit a copy of the insurance policy.

Retention of Title / Other Security Interests

Supplier warrants and represents that his Supplies/Services may be used and sold by us in the ordinary course of business without any restrictions. Supplier shall inform us of any security interests attached to the Supplies/Services in the individual case.

Proprietary Rights

Supplier warrants and represents that his Supplies/Services and their use by us will not infringe any patent rights or other proprietary rights of third parties. Supplier undertakes to indemnify and hold us and our customers harmless from and against any third-party claims based on the infringement of proprietary interests. This shall not apply to the extent Supplier has manufactured the supplied products on the basis of drawings, models or equivalent descriptions or instructions provided by us and does not know or cannot be expected to know that proprietary rights may be infringed in connection with the products manufactured by him.

Custody / Title

Materials made available by us shall remain our property. They shall be separately stored and not be used for any purposes other than our order. Supplier shall be liable for any reduction in value or loss of material provided by us regardless of whether or not such reduction in value or loss occurs through Supplier's fault. The items manufactured from the material made available by us shall be our property at all manufacturing stages. Supplier shall keep these items in safe custody for us. The cost of custody shall be deemed to be included in the purchase price.

Secrecy

Supplier undertakes not to disclose and to maintain in strict confidence any information about our purchaser orders and all related commercial and technical data.

Certificates of Origin

Supplier undertakes to submit at our request the certificates of origin of the goods supplied and shall be liable for their accuracy.

Place of Performance / Jurisdiction

1.
Unless expressly agreed otherwise, the place of performance shall be the delivery address / place of use stated by us.
2.
The exclusive place of jurisdiction for disputes arising out of and in connection with the contractual relationship shall be Kemnath/Stadt for cases involving amounts of less than € 5000,00 and Bayreuth for cases involving amounts in excess of € 5000,00.
3.
The contractual relationship shall be exclusively governed by the law of the Federal Republic of Germany. This shall also apply to business conducted with international companies or supplies to countries other than Germany.

Severability

Should one of the provisions of these Standard Terms and Conditions of Purchase be held invalid or unenforceable the validity of the remaining provisions shall not be affected thereby. In such a case, the invalid or unenforceable provision shall be deemed replaced by such valid and enforceable provision which serves best the economic interest of the contracting parties originally pursued by the invalid or unenforceable provision.

No amendment or supplement to these Standard Terms and Conditions of Purchase including a waiver of this written form provision shall be binding unless expressly confirmed in writing.