

## Standard Terms of Purchase

### 1.0 Conclusion of the contract, written form, confidentiality, amendments, certificates of origin, official approvals

- 1.1 The Customer places its orders on the basis of these Standard Terms of Purchase (STP). These STP apply exclusively. No deviating, contradictory or supplementary terms of the Supplier form part of any contract, even if they are not expressly excluded. Acceptance by the Customer of supplies/services without expressly rejecting terms does not under any circumstances imply acceptance of the Supplier's delivery terms. These STP also apply to all future contractual dealings with the Supplier. These STP only apply vis-a-vis entrepreneurs ("Unternehmer" as per § 14 German Civil Code (BGB)), public law legal entities or public law special funds.
- 1.2 The parties must record the details of any verbal agreements, contracts and orders in writing.  
Orders, call orders and any amendments or additions thereto may also be placed electronically.
- 1.3 The Supplier must keep confidential the contract concluded, the order and all associated commercial and technical details and is only permitted to refer to its business connection with the Customer in advertising with the latter's written permission. The Supplier undertakes to treat all technical and commercial information acquired by it as a result of the business relationship and not in the public domain as business secrets. This confidentiality obligation will continue to apply even after the expiry of the respective contract term. Corresponding obligations must be imposed upon the Supplier's own suppliers and employees.
- 1.4 The Supplier undertakes to treat all technical and commercial information acquired by it during the execution of orders or as a result of the business relationship and not in the public domain as business secrets and not to permit any third party access to it. Corresponding obligations must be imposed upon the Supplier's own suppliers. Employees whom the Supplier instructs to execute the Customer's order must be placed under corresponding confidentiality obligations and informed about the requirements of §§ 17 and 18 German Unfair Competition Act (UWG). If the Supplier becomes aware that information subject to the confidentiality obligation has been improperly acquired by a third party or that records/documents or similar subject to such an obligation have been lost, the Customer must be informed of this immediately. This confidentiality obligation will continue in force even after the expiry of this contract. It will only cease to apply if and to the extent that the manufacturing information / know-how acquired becomes generally known.
- 1.5 For each breach of the provisions of 1.4, 9.1 and 9.2 the Customer is entitled to claim from the Supplier a contractual penalty equal to 1% of the order total, subject to a maximum equal to 5% of that total. In addition, the Customer reserves the right to claim compensation for losses suffered as a result of the contravention which exceed the amount of the contractual penalty.
- 1.6 The Customer is entitled to require modifications to the contract item even after the contract has been concluded, as long as this is reasonable to expect of the Supplier. In such a case the consequences on both sides must be taken into account, particularly in terms of increases or reductions in costs and delivery dates.
- 1.7 The Supplier must supply certificates of origin requested by the Customer without delay, properly signed and bearing all of the necessary information. In the case of deliveries abroad or within the EU a corresponding obligation applies with respect to VAT documentation. Such documentation must be submitted to the Customer at least 10 calendar days before the delivery deadline. The Supplier also undertakes to compensate the Customer for losses incurred because the declared origin is not recognised by the relevant public authority. The Supplier must inform the Customer immediately if a consignment is entirely or partly subject to export limits pursuant to German or any other law.
- 1.8 The Supplier must inform the Customer about any official permits or reporting requirements applicable to the import or operation of contract items.

### 2.0 Prices, scope of deliveries, transfer of title, excess/insufficient deliveries, transport, passing of risk, postponement, packing

- 2.1 The prices agreed are fixed and exclude all further claims of any kind. The prices include packing and transport to the delivery address/place of use specified by the Customer and any Customs duties and Customs formality costs. If the price is agreed to cover delivery "ex works" or "ex warehouse" the Customer will only pay the lowest freight costs if the goods are not collected by the Customer itself or a transport firm employed by it. If no prices are stated in an order, the Supplier's list prices will apply, less any discounts agreed upon with the Customer and/or the deductions customary in the trade.
- 2.2 Deliveries must include all contractually agreed auxiliary and operating materials, all documentation, e.g. drawings, quality and inspection/test

certificates, service manuals, replacement part catalogues and any other handbooks. Deliveries of technical equipment of any kind must also include comprehensive system descriptions and usable assembly and operating instructions; deliveries of software products must include complete system and user documentation. In the case of software developed exclusively for the Customer, the delivery obligation will not be deemed satisfied until the Customer has also been supplied with the source code.

- 2.3 On handover, a consignment becomes the Customer's property. This does not apply in the case of a simple reservation of title by the Supplier. The terms agreed with regard to the place of performance are independent of the pricing method. If title to products to be supplied passes to the Customer by contract whilst the products are still being stored by the Supplier, the latter must mark them appropriately as the Customer's property, store them separately and indemnify the Customer against any losses, damage or third-party claims.
- 2.4 Excess or insufficient deliveries are only permitted by prior agreement with the Customer. If partial deliveries are made, the requirements of the contract will only be deemed satisfied when delivery has been made in full.
- 2.5 The destination (delivery address) is also the place of performance. Transport is at the Supplier's risk. The Supplier must bear the risk of any deterioration, including that of accidental destruction, up to delivery to the Supplier's agreed delivery address / place of use. The Customer is under no obligation to process consignments before the shipping documents arrive.
- 2.6 If the Supplier is requested to delay a delivery, it must store the properly packed and marked products carefully and insure them, but it is only obliged to do so for up to 3 months.
- 2.7 The Supplier's obligations to take back packing materials are as provided by law. If packing materials remain its property, it must take them back at its own expense; otherwise it must bear the disposal costs incurred by the Customer. Only environment-friendly packing materials may be used.

### 3.0 Payment

Unless otherwise agreed, payment must be made either within 14 calendar days subject to a 3% discount or net within 30 calendar days, counted from delivery date and receipt of invoice.

### 4.0 Delivery times, late delivery, early delivery, partial delivery

- 4.1 The delivery times agreed are binding and must be strictly adhered to. For delivery to be deemed punctual, the items/services concerned must be delivered exactly as agreed and the documentation handed over at the destination / place of use specified by the Customer or formal acceptance must take place within the deadline. Acceptance of a late delivery without reservation does not imply any waiver of entitlement to compensation.
- 4.2 If the Supplier becomes aware that an agreed delivery deadline cannot be met for any reason, it must inform the Customer of this in writing immediately, stating the reasons and the likely duration of the delay.
- 4.3 If the Supplier defaults on delivery, the Customer is entitled to enforce its statutory rights. If a reasonable deadline set by it passes without result, the Customer is in particular entitled to claim damages in place of performance and withdraw from the contract. If the Customer claims damages, the Supplier is entitled to prove that it was not responsible for the breach of obligation.
- 4.4 In the event of default on delivery, the Customer is entitled to demand from the Supplier a contractual penalty equal to 0.3% of the order total per business day, subject to a maximum equal to 5% of that total. The Customer reserves the right to enforce further rights and claims based on delivery default.

### 5.0 Warranty, complaint deadlines, damages, serial defects

- 5.1 In the case of a defect we are entitled to enforce our statutory rights without restriction.
- 5.2 The Customer must report visible defects in consignments immediately in writing as soon as they are determined in the normal course of business, but at the latest within 5 working days after the Customer receives the consignment. The deadline for complaints about concealed defects is 5 working days following discovery. In the case of software, the relevant individual contract terms apply.
- 5.3 If there are defects of the same type in more than 3% of the goods delivered (serial defect), the Customer is entitled to reject all of the items delivered as defective and to enforce its relevant statutory and contractual rights.

### 6.0 Statute of limitations

The period of limitation for material and legal defects is three years, unless expressly agreed otherwise. The limitation period for claims for defects in construction work or construction materials is as provided by law, unless expressly agreed otherwise.

## Standard Terms of Purchase

### 7.0 Quality assurance, product liability

- 7.1 The Supplier must carry out factory checks to ensure that its deliveries comply with the Customer's technical delivery terms. It undertakes to make records of the checks carried out and to store all test, measurement and check results for 10 years. The Customer is entitled to inspect these records at any time and to make copies.
- 7.2 If a claim is made against the Customer based on a breach of official safety rules or pursuant to domestic or foreign product liability rules or legislation on the basis of a defect in one of its products which was caused by goods supplied by the Supplier, it is entitled to claim compensation from the Supplier for the relevant losses and costs. This includes any costs incurred for a precautionary recall campaign. The Supplier must, to the extent possible and reasonably to be expected, be informed of the nature and scope of any recall to be carried out, and it must be given an opportunity to comment.
- 7.3 The Supplier must take out appropriate insurance cover against all product liability risks, including the recall risk, and submit the insurance policy to the Customer for inspection on demand.

### 8.0 Liability

- 8.1 Any damages claims by the Supplier against the Customer based on slight negligence are excluded, whatever their legal basis. This exclusion of liability does not apply to damages claims based on a breach by the Customer of a substantial contractual obligation. Neither does it apply in cases of injury to life, limb or health.
- 8.2 In cases of slightly negligent breach of a substantial contractual obligation or gross negligence by simple vicarious agents, damages are limited to losses typical of the type of contract concerned and foreseeable when it was concluded.
- 8.3 To the extent that liability on the part of the Customer is excluded or limited, the same applies to personal liability on the part of its employees, representatives and vicarious agents.

### 9.0 Documents, drawings etc.

- 9.1 Documents/records etc., drawings, data, software, materials and items such as samples, models and tools which are provided to the Supplier for the execution of an order remain the Customer's property. They must be handed over to the latter immediately on demand. Any copies made must be destroyed without delay.
- 9.2 They and any produced by the Supplier on the basis of information, documentation etc. or calculations supplied by the Customer may only be put to use elsewhere, duplicated, utilised/sold or made accessible to third parties with the Customer's prior written consent.

### 10.0 Protected rights, usage rights

- 10.1 The Supplier is not permitted to make use of trade names, logos, trademarks or industrial property rights belonging to the Customer for its own or a third party's benefit. Without prior written permission, it is not permitted to use them either separately or in conjunction with its own trade names, trademarks or logos.
- 10.2 If and to the extent that the use/supply of a contract item/service results in a breach of third-party industrial property or other rights within the Federal Republic of Germany or, if the Supplier is aware of this, in the destination country, the Supplier must compensate the Customer for all losses and indemnify it against third-party claims to the extent that the Supplier is responsible for the breach of rights. The Customer is entitled to require the Supplier to obtain from the owner of the industrial property or other rights breached at its own expense the necessary permission to supply, start up, use, and dispose of or make any other use of the contract item/service envisaged by the order, unless it is unreasonable due to the high cost involved to expect the Supplier to obtain such permission. Formal acceptance or approval of drawings or samples submitted by the Supplier will not affect its responsibilities here.
- 10.3 On the delivery of any item protected by copyright, the Supplier automatically confers upon the Customer a simple, unlimited right to make any desired use of the item concerned.

### 11.0 Production changes, product availability, data protection, severance

- 11.1 If the Supplier intends to make production changes or cease production, it must inform the Customer of this in writing immediately. If it stops production it must ensure that the materials supplied to the Customer to date remain available for delivery for at least 12 months following this communication.
- 11.2 In the case of items supplied which were bought in, standard items or products manufactured by the Supplier itself, the Supplier guarantees availability for 5 years.

### 12.0 Transfer of orders, prohibition of assignments, offsetting, retention

#### rights

- 12.1 Without the Customer's prior written permission, the Supplier is not entitled to transfer an order or substantial elements thereof to a third party.
- 12.2 Without the Customer's prior written permission, the Supplier is not entitled to assign its claims against the Customer either in whole or in part or to have them collected by a third party. Should the Supplier assign a claim against the Customer to a third party without the Customer's consent, § 354a German Commercial Code (HGB) will apply.
- 12.3 The Supplier is only entitled to exercise retention rights if these arise out of the same contractual relationship.

### 13.0 Legal venue, place of performance, supplementary law

- 13.1 If the Supplier is a merchant ("*Kaufmann*") as defined by the German Commercial Code (HGB), a public law legal entity or a public law special fund, the exclusive legal venue (for international transactions as well) for all disputes arising out of the contractual relationship is Minden, Germany, the Customer's registered place of business. However, the Customer reserves the right to enforce its claims at any other permissible legal venue.
- 13.2 The place of performance for the delivery of goods/services is the delivery address / place of use specified by the Customer; for all other obligations on both sides the place of performance is Minden, Germany.
- 13.3 These STP and all legal transactions between the Customer and the Supplier are subject to the laws of the Federal Republic of Germany, with the UN Convention on the International Sale of Goods being excluded.

As at: 12. December 2014

Triflex GmbH & Co. KG  
Karlstraße 59  
32423 Minden • Germany

Phone: +49 571 38780-0  
Fax: +49 571 38780-738

info@triflex.co.uk  
www.triflex.co.uk