

General Terms and Conditions of Purchase

Diehl Stiftung & Co. KG

as of 09/2017

- 1. Deviating Terms and Conditions, Acknowledgement of Ordinary Retention of Title Clauses of the Supplier**
 - 1.1.** By accepting our order the Supplier declares its consent with these General Terms and Conditions of Purchase. Our General Terms and Conditions of Purchase shall also solely be applicable in case our order is confirmed by the Supplier in deviation to our Conditions, even if we do not explicitly contradict. Thus, deviations to our Conditions shall be valid only if they are explicitly confirmed by us in writing. If the Supplier does not approve of the above handling, he has to immediately and expressly notify us thereof by separate letter. In this case we reserve the right to rescind the order. Our Conditions shall be applicable to future orders even if no explicit reference is made thereto.
 - 1.2.** However, we approve of a (simple) retention of title clause by way of which the Supplier reserves the ownership in a specific merchandise delivered by it until complete payment of this merchandise. We equally approve of an (extended) reservation of title clause, by means of which the Supplier grants its approval to a processing, mixing and/or combination of the delivered items or to their resale on condition that the Supplier is granted an appropriate share in the ownership of the new object respectively, in case of resale, an appropriate share in our payment claim against our customer.
- 2. Acceptance of Orders**

Unless otherwise agreed upon, orders as well as alterations thereof shall be legally effective only if placed in text form. Orders made orally and order changes shall be effective only if confirmed by us in text form.
- 3. Documents Provided**

Documents, data and data carriers provided to the Supplier for the purpose of submitting an offer or for execution of the contract shall entirely remain our intellectual and physical property and must not be used for other purposes, copied or made available to any third party. Material / parts / products / systems which have been manufactured on the basis of documents designed by us, like drawings, models and the like, or by means of confidential information provided by us, or by use of our tools or copies of such tools, must not be used by the Supplier for its own purposes nor be manufactured for, offered or delivered to any third party or otherwise be used for the Supplier's own purposes or for any third party.
- 4. Payment**

Unless otherwise expressly agreed upon, payment shall be effected within 30 days from receipt of the merchandise and proper invoice.
- 5. Assignment of Claims**

The assignment of claims against us shall only be valid with our prior written approval.
- 6. Delivery, Deviations from the Quantity Ordered**

Agreed delivery dates and periods are binding. Relevant for judging compliance with the delivery date or period is the receipt of the merchandise by us. Unless otherwise expressly agreed, delivery shall be effected DDP (INCOTERMS 2010) to the delivery address / unloading site indicated by us. If the Supplier foresees difficulties with regard to the supply with primary materials, in manufacture or similar circumstances which may prevent it from timely delivery, the Supplier shall immediately notify our purchasing department. Notwithstanding such a notification, the legal provisions shall apply in case of non-observance of agreed delivery dates. If the agreed delivery date is exceeded by more than one week, earlier in urgent cases, we shall be entitled to withdraw from the order, procure replacement supplies elsewhere and to invoice the Supplier for additional costs incurred by us.

The ordered quantities have to be strictly adhered to. Deliveries going below and beyond the quantities ordered shall be permissible only if expressly approved by us. In the absence of such prior approval, the delivery of lower quantities and the excess part of deliveries going beyond the ordered quantity may be rejected.
- 7. Reduced Incoming Inspection; Notification of Defects**

We are obligated to carry out incoming inspection in terms of § 377 HGB (German Commercial Code) only with respect to the identity of the merchandise delivered, the quantity as well as with regard to obvious transport and packing damage visible on the outside of the merchandise. If a defect is found, it has to be notified by us in text form within 8 working days from discovery, at the latest. However, this deadline is also deemed to be met if, at the last day of the deadline, we send the notification by letter or registered letter. Defects not identified within the framework of such an incoming inspection do not release the Supplier from its responsibility for hidden defects that become apparent only upon processing or later use of the merchandise. Hidden defects have to be notified by us within 8 working days from their discovery or from gaining knowledge thereof.
- 8. Unrestricted Liability for Vicarious Agents**

The Supplier cannot invoke the fact not to have (completely) manufactured the delivery item itself but partially or entirely by availing itself of a third party, be it a third party manufacturer, subcontractor or the like. In this case fault on the part of such third party or – insofar and to the extent that such third party did not perform manufacture itself – the fault on the part of the manufacturer, is attributed to the Supplier as if it were its own fault. This Clause 8 shall apply irrespective of the contract between us being a contract for services, a contract for work and materials or a purchasing contract.
- 9. Determination of the Required Condition of the Merchandise**

The agreed specifications shall be deemed to be a quality and durability guarantee in terms of § 443 BGB (German Civil Code) for the duration of the warranty period.
- 10. Liability for Defects**
 - 10.1. Handling of Parts Concretely Identified as Defective**

If the delivered merchandise / work produced ("part") turns out to be defective, we can grant the Supplier a reasonable period, at our discretion, either for replacement or repair of the part ("supplementary performance"). The Supplier has to bear all costs and expenses necessary in connection with the supplementary performance, in particular transport costs, workmen's travel, costs of work and material, sorting costs, costs incurred in connection with the detection of defects and examination costs, expert costs, lawyer's costs, costs of an incoming inspection going beyond the ordinary scope, etc. If necessary, the part also has to be disassembled and subsequently to be reintegrated for this purpose. If the Supplier is not in a position to do so at a reasonable expense or if the disassembly and reintegration by the Supplier is contrary to our legitimate interests, we shall perform such disassembly / reintegration on behalf and at the expense of the Supplier. If the Supplier either (i) does not or (ii) does not timely or (iii) refuses to effect supplementary performance or (iv) if two attempts at rectification of defects fail or (v) in case of a safety-relevant defect, i.e. a defect which entails the risk of serious injury to persons or damage of other objects than the delivery item, at least one attempt at rectification fails or (vi) the Supplier is obviously not capable of effecting supplementary performance or (vii) it is unreasonable for us to wait for supplementary performance on grounds of impending exceptionally high damage, we shall have the following rights:

 - a) We may effect the necessary supplementary performance ourselves or have suitable third parties effect such performance at the expense of the Supplier ("self-repair"). However, the Supplier may refuse supplementary performance if and insofar as it would entail excessive costs; in this case we shall also not be entitled to a compensation of the costs of self-repair; or
 - b) we may reasonably reduce the price of the defective parts, or
 - c) we may withdraw from the contract, retain the purchase price or claim repayment thereof and make the defective parts available for collection or, at the request and expense of the Supplier, properly dispose thereof.

In the cases of (i) to (vii) above, we shall furthermore have the right to claim compensation of the damage incurred due to the defective delivery / improper supplementary performance as well as of the costs and expenses incurred by us or our customers insofar as they assert claims against us. Apart from potential costs of disassembly / reintegration, such compensation shall particularly include lost profits, recall costs, costs of process interruptions (including line standstill) etc. Claims for damages cannot be asserted if the Supplier is not responsible for the defective delivery.
 - 10.2. Handling of Deliveries in Case of Merely Partial Quality Inspection**
 - 10.2.1. Voluntariness of Tests, Definition of the Terms "Test Quantity" and "Basic Quantity"; Treatment of the Parts Actually Examined**

Subject to the provisions of Clause 7, we are entirely free vis-à-vis the Supplier as regards the performing of quality controls (upon receipt, processing or outgoing of merchandise). If we effect such tests with respect to a partial quantity randomly chosen for this purpose ("Test Quantity") from a certain delivery lot ("Basic Quantity"), the regulations of Clause 10.1 above shall apply to any parts identified as defective in this process. The parts identified as flawless within such test quantity can (only) be returned by us subject to our rights according to Clause 10.2.2 below (against refund of the purchase price), if the relevant partial quantity is not of interest to us (e.g. due to the quantity being too small).
 - 10.2.2. Treatment of the Parts Not Tested; Extrapolation from the Test Quantity to "Defectiveness" of the Relevant Basic Quantity**

If only one part within such a Test Quantity shows a safety-relevant defect or if this Test Quantity misses a so-called Acceptable Quality Limit ("AQL") of 0.4% due to other not safety-relevant defects, the entire rest of the Basic Quantity that has not been tested shall as a whole be deemed to be "defective" irrespective of the concrete defectiveness of individual parts.

With respect to such a defective Basic Quantity, we shall have the rights indicated in Clause 10.1 with regard to all parts in freely selectable combination irrespective of their concrete defectiveness. The degree of a possible reduction in the purchase price shall be dependent upon the quantity of defective parts expected to emerge in the residual Basic Quantity on the basis of the Test Quantity and upon the seriousness of the defects to be expected.
 - 10.2.3. Applicability of Clause 10.2 in Case of an Accumulation of Defects in the Field**

This Clause 10.2 shall be applicable mutatis mutandis if after delivery of the parts / systems field returns / complaints on grounds of defects of these parts / systems show a serious defect in terms of Clause 10.2.2 within a rolling 12-month period or exceed the ppm value agreed upon in the individual case or, in the absence of an agreed ppm value, exceed a ppm value of 100 (due to the same or different defects). The ppm value is calculated by dividing the quantity of defective parts by the quantity of delivered parts / finished products within the same 12-month period.

10.3. Industrial Property Rights of Third Parties

The Supplier warrants that in connection with the delivery no industrial property rights of third Parties are infringed. If claims are asserted against us by third parties in connection with products delivered on grounds of the infringement of third-party industrial property rights, the Supplier shall be obligated to indemnify us from any such claims. The Supplier's indemnification obligation also comprises all reasonable expenses incurred by us in connection with the claims asserted by a third party. We will inform the Supplier without delay if a claim has been asserted by a third party. Insofar as an indemnification is granted, the Supplier shall, at its own due discretion, be entitled to take the appropriate measures of legal defense or for being granted the necessary rights of use. Our legal claims, in particular claims for damages, shall remain unaffected thereby.

10.4. Non-Conclusive Character of the Above Regulations

Other legal claims on our part in case of defects in quality and defects of title are not affected by the above regulations. In addition to the above provisions, we shall, in particular, be entitled to claim compensation of the damage and expenses incurred by us due to a defect in quality or a defect of title or which are invoiced to us by a customer.

10.5. Statute of Limitation for Claims for Defects (Warranty Period)

Claims out of liability for defects in quality and defects of title shall become time-barred at the earliest 36 months from receipt of the parts by us.

For replaced parts the original warranty period shall start to run anew upon receipt of the new delivery respectively reintegration.

In contrast, the following shall apply to repaired parts: The period of limitation shall basically end at the same time as the original period of limitation, however, it shall at least be six months from completion of the repair. For defects of the kind that had to be repaired, the period of limitation, however, shall begin to run anew upon completion of the repair.

11. Minimization of Damage by Defense Against Claims of Third Parties

If claims for damages are asserted against us by one of our customers which are due to or based on the defectiveness of the parts – assembled or not – delivered to us by the Supplier, we shall, vis-à-vis the Supplier, not be obligated in connection with the mitigation of the damage, to invoke the objection of § 377 HGB (lacking notice of defects) or of the statute of limitation towards the customer as long as the notice of defects was made within 2 weeks from occurrence of the damage and the commencement of the statute of limitation does not date back more than 3 months. If our customer is a company which accounted for 20% or more of our sales in the relevant product area in the preceding year, we are still not obligated to invoke this objection if the above prerequisites are not fulfilled, insofar as a refusal to compensate the damage asserted would seriously jeopardize the business relationship with the customer.

12. Product Liability, Indemnification, Third-Party Liability Insurance

12.1. The Supplier shall be obligated to indemnify us from any claims asserted by third parties on grounds of defects in terms of the Product Liability Law insofar as the part delivered already showed the defect or the causes thereof upon delivery to us (passing of risk) and the Supplier itself is liable under product liability law vis-à-vis the third party. Rights of recourse out of § 478 respectively § 445 a (from January 1, 2018) BGB (German Civil Code) shall remain unaffected thereby.

12.2. Within the framework of Clause 12.1 above, the Supplier shall also be obligated to compensate possible expenses that may arise out of or in connection with a product recall carried out by us.

12.3. We shall – insofar as feasible and reasonable – inform the Supplier with regard to the contents and scope of the recall measures to be effected and give the Supplier an opportunity to comment.

12.4. The Supplier is obligated to maintain an appropriate product liability insurance corresponding to the risk to be insured and to provide evidence thereof to us at any time.

12.5. Further claims shall remain unaffected by the above regulations.

13. Offset

The Supplier acknowledges that we place the above order in compliance with our existing or future offset obligations or such obligations of other companies of the Diehl Group (§§ 15 et seqq. *Aktiengesetz* (German Companies Act)). If necessary, the Supplier is prepared to confirm this vis-à-vis the competent offset authorities and within reasonable bounds to make and receive declarations that may be necessary for the order to be accepted as an offset transaction as well as to perform the pertinent actions (e.g. fill in forms and/or make oral or telephonic confirmations).

14. Force Majeure

Force majeure, Acts of God, labor disputes, operational interruptions for which we are not responsible, riots, measures by authorities and other unavoidable events release us from our obligation of timely acceptance of the merchandise for the duration of such circumstances. Should such circumstances persist for a not insignificant time and result in a decrease in demand on our part – also because of replacement procurement being necessary in the meantime –, we shall – notwithstanding our other rights – be entitled until expiration of one month after the end of such circumstances to entirely or partially withdraw from the contract.

15. Compliance

The Supplier shall safeguard that its employees and other persons employed by it / contracted by it within the framework of the business relationship with us refrain from doing anything that might result in a criminal liability of such employees / persons on grounds of fraud or embezzlement, bribery, corruption or other corruption offences or offences against free competition and shall in every respect encourage a law-abiding conduct of its employees / other persons contracted. In case of a violation of the above mentioned obligation, we shall, after having warned the Supplier and unsuccessful expiration of a reasonable deadline for remedial action, within 2 weeks from unsuccessful expiration of such deadline, be entitled to extraordinarily terminate individual or all business transactions with the Supplier and to break off individual or all negotiations. The prior warning and granting of a deadline is dispensable under special circumstances which, weighing the mutual interests of the parties, justify immediate termination; in this case the extraordinary termination can be declared by us within 2 weeks from our gaining knowledge of the violation. Notwithstanding the foregoing, the Supplier is obligated to observe all laws, official and other regulations applicable to it and the business relationship with us, as well as the General Business Principles of the Diehl Corporate Group which are published on the website www.diehl.com under „Corporate Compliance“ and are on request made available separately in printed form.

16. Adherence to EU-Regulations / Dodd-Frank Act

For each product the Supplier is in every respect obligated to adhere to the requirements and obligations of the REACH Regulation of the EU (VO (EU) No. 1907/2006 of December 18, 2006), the CLP Regulation of the EU (VO (EU) No. 1272/2008 of December 16, 2008) and the RoHS Regulation of the EU (RL 2002/95/EU of January 27, 2003) as amended from time to time (including the respective alterations and amendments to these acts of law and, insofar as already effected, their transformation/implementation into national law by the EU member states). At our pertinent request, the Supplier shall issue corresponding written product-specific declarations of conformity which shall also be valid vis-à-vis our customers and can be passed on to them.

The Supplier is furthermore obligated to promptly and to the best of its knowledge and belief provide all information requested by us or our customers as to whether any so-called conflict minerals from the DR Congo or its neighboring countries are contained in the delivered products in terms of the US-American Dodd-Frank Act and, as the case may be, render any further assistance for the purpose of complying with the Dodd-Frank Act which our customer may request. This shall apply mutatis mutandis insofar and as soon as a comparable set of rules comes into force within the EU.

17. Final Provisions

17.1. The place of performance for all obligations is the delivery address indicated by us or, in the absence of such address, the business address from where our order was placed or the point of delivery that may have been agreed upon in line with a separately agreed Incoterm (Incoterms 2010) deviating from Clause 6.

17.2. These Conditions shall exclusively be governed by German Law to the exclusion of the United Nations Convention on the International Sale of Goods (CISG) and International Private Law. Exclusive place of jurisdiction shall be Nuremberg.