

Terms and Conditions of Purchase of STS Spezial-Transformatoren-Stockach GmbH & Co. KG

1. Scope of Application

1.1 These Terms and Conditions of Purchase shall apply to all purchase orders and contracts concluded with the Supplier. If the Supplier has accepted the Terms and Conditions of Purchase after we have made them available to the Supplier, then they shall also apply to all future contracts with the Supplier.

1.2 We object to the Supplier's general terms and conditions. They shall only apply if we have agreed to their validity in writing. They shall also have no effect if we do not object to them in individual cases, but rather refer to our Terms and Conditions of Purchase. Acceptance of deliveries, services or their payment shall not imply acceptance of the Supplier's general terms and conditions.

1.3 The Suppliers addressed by these Terms and Conditions of Purchase shall be entrepreneurs within the meaning of Section 14 of the German Civil Code [BGB].

2. Offers, Purchase Orders, Written Form

2.1 The preparation of offers or cost estimates by the respective Suppliers shall be done so free of charge for us. We shall not be responsible for any costs, nor shall we pay any remuneration for visits, planning or any other preliminary services provided by the Supplier for the submission of offers if such has not been agreed with the Supplier in individual cases.

2.2 Purchase orders, their modification or amendment as well as any other agreements made in connection with the conclusion of a contract shall be binding if they are submitted or confirmed by us in writing.

2.3 If no contract has yet been concluded with the written purchase order, then the Supplier shall confirm the entire contents of the purchase order to us in writing as soon as possible.

2.4 We shall be entitled to require changes from the Supplier, e.g. with regard to design, delivery quantity and delivery period in the case of contracts where the execution has not started yet or has not yet been fully executed. The Supplier shall agree to such where reasonable and feasible within the scope of the Supplier's business operations. The consequential costs in such cases are to be determined by way of mutual agreement, unless such costs are regulated by law.

2.5 If the submission of initial or type samples is intended for the execution of contracts in series production, then the Supplier may only commence with such following our express written approval of the samples.

3. Delivery, Deadlines, Dates and Acceptance

3.1. Agreed dates and deadlines shall be binding. Decisive for compliance with them shall be receipt of the complete, faultless delivery and/or services with the documentation and other documents owed with respect to the date/period at the place of destination or, in the case of acceptance, at the place of acceptance. Shipping documents, that are to accompany each delivery, shall include our purchase order number and our item information.

3.2 Deliveries shall be made "DDP... named place of destination", Incoterms® 2010, unless otherwise agreed in the contract, or unless performance of the contract is dependent on acceptance in accordance with statutory provisions.

3.3 Compliance with agreed dates and deadlines shall be determined by receipt of faultless delivery and/or service at the place of destination or acceptance declared by us following successful completion of the acceptance process if such is agreed or provided for by law. Early deliveries/services or partial deliveries/services shall require our prior written consent. Such consent in individual cases shall not result in payments becoming due any earlier or additional costs being borne by us for multiple deliveries.

3.4 The Supplier shall be obliged to notify us as soon as it becomes clear that the agreed dates and deadlines cannot be met on time either in part or as a whole, while indicating both the reasons for and the prospective duration of the delay. Corresponding notifications shall not affect the statutory rights and claims to which we are entitled in the event of breach of contract such as delay.

3.5 The Supplier shall ensure the transportability of the deliveries. The Supplier shall be liable for damage resulting from the use of defective packaging.

4. Contractual Penalty in the Event of Delay

4.1 If a contractual penalty has been agreed and incurred in the event of the Supplier's delay, then we shall be entitled, without having to reserve this right upon receipt, to assert such penalty until payment of the invoice for the delayed delivery or service is made.

5. Partial, Excess or Short Deliveries

5.1 Partial deliveries or services shall require our prior written consent. Even if we accept such without prior consent, this shall neither constitute accelerated maturity of payment obligations nor agreement with regard to the assumption of additional transport costs.

5.2 We reserve the right to honor excess or short deliveries in individual cases. If excess deliveries are made without our prior written consent, then we shall be entitled to refuse acceptance of such deliveries, to store them at the Supplier's expense or to return them to the Supplier.

6. Condition, Quality, Origin of Goods, Safety

6.1 The Supplier shall comply with the agreed quality features or warranties assumed and grant us the rights required for the intended use owed. Apart from this, the quality must be in line with the current state of the art.

6.2 If the Supplier manufactures goods for us in accordance with individually agreed characteristics, then the Supplier shall also inform us of possibilities for improvement and technical modifications. Changes to agreed characteristics planned by the Supplier following conclusion of the contract may only be made with our express written consent.

6.3 The approval of drawings, samples and other documents submitted to us (e.g. documents, specifications) shall not affect the Supplier's responsibility for proper, complete and faultless performance of the contract.

6.4 If the EU REACH Regulation applies to the delivery or components thereof, then the respective substances must be pre-registered, registered or authorized and other requirements resulting from this such as, for example, submission of a safety data sheet must be fulfilled.

6.5 The Supplier shall fulfill the necessary requirements in accordance with EU law as well as the current implementation regulations and standards for machinery and equipment or other supplies for which mandatory directives prescribe CE marking.

6.6 The Supplier shall carry out a quality inspection that is suitable in type and scope as well as other quality assurance measures that correspond to established quality assurance systems.

6.7 The deliveries must be equipped with prescribed safety devices and/or comply with safety regulations. Relevant environmental protection, hazardous substances, dangerous goods and accident prevention regulations and occupational safety requirements must be observed for deliveries and services. If the delivery has to comply with rules of origin in accordance with EU preferential agreements, then the Supplier shall provide us with the corresponding proof of preference. In the case of deliveries of goods which fall under bilateral or multilateral preferential agreements or if unilateral conditions of origin of the Generalized System of Preferences for beneficiary countries have to be fulfilled, then the Supplier must comply with the respective requirements and provide evidence of them.

6.8 The Supplier shall ensure that persons deployed by the Supplier on our premises comply with the safety regulations communicated by us to the Supplier, while ensuring that occupational safety and environmental protection requirements are complied with. Hazardous substances must be properly labeled and may only be used within our company following consultation with us.

7. Prices, Invoice and Payment, Assignment

7.1 Agreed prices shall be binding. They shall be "free place of destination".

7.2 Invoices shall be submitted separately for each purchase order while indicating the purchase order information after complete and faultless delivery, completion of services or subsequent to contractually agreed or legally prescribed acceptance. Invoices without purchase order information shall not be processed.

7.3 Payments shall not be made prior to complete and faultless delivery or completion or acceptance (statement of fulfillment) if such has been agreed to or is provided for by law. The right to require payment on account must either be contractually agreed or provided for by law.

7.4 Unless otherwise agreed, payment of properly issued and verifiable invoices shall be made within 14 days less 3% discount or within 30 days net after receipt of invoice. However, the payment period shall not commence with receipt of such an invoice before faultless performance of the contract and/or acceptance.

7.5 We shall be entitled to full statutory rights of set-off and retention. The Supplier shall not be entitled to assign claims to third parties or have such collected by third parties without our prior written consent unless such claims are undisputed or the subject of a declaratory judgment.

8. Statutory Minimum Wage [MiLoG], German Law on the Posting of Workers [AEntG], Prohibition of Illegal Employment

8.1 The Supplier shall be obliged to ensure that the staff employed by the Supplier or the latter's subcontractors to execute the contract between us and the Supplier will receive the statutory minimum wage or, if the services to be rendered fall within the scope of a European directive on the posting of workers and/or the German Law on the Posting of Workers [AEntG] – in particular in the case of assignments from abroad or to foreign countries – the respectively prescribed working conditions, depending on the duration of their assignment. The Supplier shall also comply with the other collective and statutory obligations to pay contributions to social insurance institutions, employers' liability insurance associations and other institutions and, in the case of subcontractors employed, must request evidence that they comply with the respectively current requirements.

8.2 If justified claims are asserted against us due to non-compliance with the Supplier's obligations in accordance with Subclause 8.1, then the Supplier shall indemnify us against these claims or compensate us for the damage incurred.

8.3 The Supplier shall refrain from illegal employment or commissioning illegal employment of any kind whatsoever.

9. Ownership, Industrial Property Rights, Copyright

9.1 We object to ownership regulations on the part of the Supplier insofar as they go beyond the simple retention of title.

9.2 Drawings, samples and other documents as well as aids which we make available to the Supplier for the execution of purchase orders shall remain the property of the holders of the rights. They may only be used as intended and must be returned to us upon request. In particular, copyrights and other industrial property rights to these are to be respected.

10. Bearing of Risk, Force Majeure

10.1 The Supplier shall bear the risk of accidental perishing and degradation until the arrival of deliveries at the place of destination. If acceptance is agreed or provided for by law, then the risk shall only pass to us upon acceptance. We shall only be obliged to accept deliveries if they exhibit the agreed quality features.

10.2 In cases of force majeure, industrial disputes and other external circumstances which are unforeseeable and beyond our control, we shall be entitled to postpone receipt of deliveries and/or services or acceptance for the duration of the hindrance.

11. Notification of Defects, Rights in the Case of Defects

11.1 Insofar as the commercial obligation to examine and provide notification of defects applies, our obligation shall be limited to inspection of the goods for quantity and identity, externally recognizable transport or packaging damage as well as random sampling of the goods for their essential characteristics. If obvious defects are recognizable, then we shall report such to the Supplier without delay, within 5 days following delivery at the latest, and with regard to other defects immediately after their discovery. If deliveries are not made to us but directly to customers or end users, then "discovery" shall mean the notification of a defect to us.

11.2 In the event of defects and non-compliance with agreed warranties, we shall be entitled to the statutory rights based on defects. If warranty claims go beyond the legal rights in the case of defects, then these claims shall remain unaffected. In the case of material defects, a limitation period of 36 months, commencing with delivery or performance or acceptance, if such is agreed or provided for by law, shall apply to claims based on defects subject to the statute of limitations. Longer statutory limitation periods for the limitation of claims based on defects and the duration and course of the statutory limitation period in accordance with Section 195 of the German Civil Code [BGB] shall remain unaffected. The limitation period for claims based on defects of title shall be 48 months.

11.3 If a defect becomes apparent within the limitation period, then we may, in urgent cases if the Supplier is not available and there is a risk of disproportionately high damage, remedy the defect at the Supplier's expense and risk or have such remedied by third parties. In the case of work performance, we shall be entitled to do so if the Supplier is in default with subsequent performance. We shall inform the Supplier of such measures without delay. Further rights and claims, in particular for any damage arising from defects to which we are entitled in accordance with statutory provisions shall remain unaffected.

11.4. The place of subsequent performance shall be the place of destination, the place of acceptance or, if known to the Supplier, another final place of destination. If subsequent performance is not effected within a reasonable period of grace, if it has failed or if stipulation of a period of grace was dispensable, then we may withdraw from the contract in accordance with statutory provisions and require damages instead of performance, reimbursement of futile expenses or a reduction in price.

12. Other Liability

12.1 The Supplier shall be liable in accordance with statutory provisions unless the contract or these Terms and Conditions of Purchase stipulate otherwise.

12.2 The Supplier shall indemnify us against all claims arising out of product liability if these are attributable to a defect in the delivery and/or service provided by the Supplier, the cause of which lies within the Supplier's sphere of control and organization. If we are officially or legally obliged to a product recall, then the Supplier shall reimburse any expenses incurred by us if they are caused by a culpable breach of duty on the part of the Supplier. Our right to claim our own damage against the Supplier shall remain unaffected. We shall inform the Supplier of such measures within reasonable time limits and give the Supplier the opportunity to provide a statement.

12.3 The Supplier shall be obliged to take out appropriate insurance against corresponding risks and provide evidence of such to us by submitting the corresponding insurance policy on request.

13. Industrial Property Rights of Third Parties

13.1 The Supplier shall ensure that we do not infringe any copyrights, patents or other industrial property rights of third parties through the contractual use or sale of the Supplier's deliveries and/or services. The Supplier shall indemnify us against all claims made against us due to infringement of an industrial property right or copyright and shall bear the costs of safeguarding the rights if these claims are based on a culpable breach of duty by the Supplier. We shall inform the Supplier without delay in the event of a claim.

14. Use of Subcontractors, Assignment, Set-off, Retention

14.1 The use of third parties for performance of the contract or their replacement shall require our prior written consent. If the Supplier plans to use such third parties, then the Supplier shall inform us of this at the time of submitting the offer.

14.2 The Supplier may only assign rights and obligations arising out of the contract concluded with us to third parties with our prior written consent.

15. Manufacturing Aids

15.1 Any manufacturing aids made available to the Supplier by us or manufactured by the Supplier in accordance with our specifications may not be sold, pledged or otherwise passed on to third parties or used for third parties without our prior written consent.

15.2 If we have the Supplier produce manufacturing aids, then the Supplier shall transfer ownership to us. The Supplier shall surrender any manufacturing aids already owned by us on request.

16. Trade Secrets, Advertising

16.1 The Supplier shall be obliged to consider all commercial and technical details of our business, the know-how and any other information of which the Supplier becomes aware through the execution of contracts as trade secrets and to treat them in a strictly confidential manner unless we make them public or unless the Supplier is obliged to disclose them by official order. Subcontractors shall be obliged accordingly insofar as documents or information are passed on to them with our consent.

16.2 The Supplier may refer to the business relationship with us in the Supplier's advertising if we have previously agreed to this in writing in the relevant case.

17. Data Protection

17.1 The Supplier shall be obliged to comply with the respectively applicable provisions of the EU General Data Protection Regulation [GDPR/EU-DSGVO] and the German Data Protection Law, in particular with regard to the use of personal data. If performance of the contract requires that the personal data provided by us to the Supplier be transferred to third parties, then the Supplier shall oblige such third parties to comply with the provisions governing data protection. We shall be entitled to process any and all data provided to us by the Supplier for the purpose of fulfilling the contractual relationship while taking the respectively applicable data protection regulations into consideration, even if personal data is involved.

18. Place of Performance, Applicable Law, Place of Jurisdiction

18.1 The place of performance for all of the Supplier's obligations shall be the place of destination. If acceptance is contractually agreed or provided for by law, then the place of performance shall be the place of acceptance.

18.2 German law shall apply. Application of the United Nations (Vienna) Convention on Contracts for the International Sale of Goods (CISG) from April 11, 1980 shall be excluded.

18.3 The place of jurisdiction shall be the court having jurisdiction over our principal place of business. However, at our discretion we may also bring action against the Supplier at the Supplier's general place of jurisdiction.

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