

Centrotherm Systemtechnik GmbH – General Terms and Conditions of Purchase

- 1. Relevant Conditions**
The legal relations between the Supplier and the respective Customer of Centrotherm Systemtechnik GmbH, Brilon, for the purchase of manufacturing materials, equipment, and parts for motor vehicles as well as of other services shall be governed by these General Terms and Conditions of Purchase and any additional written agreements. Amendments and additions thereto shall be in writing. No other trading conditions shall apply even if they are not expressly contradicted by us in individual cases. All correspondence shall be conducted exclusively with the Customer's purchasing department stating the reference given on the order, specifically the order number.
- 2. Orders**
 - 2.1.** Supply agreements (order and acceptance), call-offs, as well as amendments and additions thereof shall be made in writing. The requirement of written form is also met in case of data tele-transmission or telefax.
 - 2.2.** If the Supplier does not accept the order within two days of receipt, the Customer shall be entitled to revocation. Delivery call-offs shall become binding at the latest if the Supplier does not object within one week following receipt.
 - 2.3.** Within the bounds of what is reasonable for the Supplier, the Customer is entitled to ask the Supplier for modifications of the delivery item to be made in terms of construction and design. In doing so, any consequences shall be appropriately and amicably considered and settled, in particular those regarding additional expenses or reduced costs as well as delivery dates.
 - 2.4.** Provided that the delivery item or the object of the service is ordered on behalf of and for the account of a subsidiary of the Customer, call-offs and payments shall be made from there.
 - 2.5.** The Customer shall be entitled to undertake a review of prices by analysing the value and by way of cost-reduction workshops. According to reasonable discretion, the prices to be paid on the basis of the agreement shall be mutually adjusted to the development of those expenses which are significant for the calculation of the prices.
- 3. Dispatch**
 - 3.1.** An invoice (single copy) shall be issued for every delivery note. The invoice must include the following: Supplier number, order number and date of the order, additional data of the Customer (account assignment), VAT identification number, in case of cross-border deliveries inside the European Union number and date of the delivery note as well as quantities of the goods invoiced. Invoices shall be issued separate from the goods to the consignee's or service recipient's accounting unit respectively.
 - 3.2.** Empties not specified in the delivery notes (container number or carrier number resp.) shall become property of the Customer without any additional charge.
- 4. Payment**
 - 4.1.** Payment is to be made by transfer or cheque or credit note procedure respectively.
 - 4.2.** If the shipment is faulty, the Customer shall be entitled to reserve the rights to set-off and detain in the extent permitted by law.
 - 4.3.** Without the Customer's prior written consent, which may not be refused without good reason, the Supplier shall not be entitled to assign his claims to third parties or to allow third parties to collect such claims. In case of extended reservation of title, consent shall be deemed given. If, contrary to clause 1, the Supplier assigns his claims against the Customer to third parties without the Customer's consent, this assignment shall nonetheless enter into effect. However, the Customer may perform or settle with discharging effect to the Supplier or the third party.
- 5. Notice of Defect**
The Customer shall immediately notify the Supplier in writing about any deficiencies of a shipment as soon as they are identified in the normal course of business. Apparent defects shall still be deemed reprimanded in time by the Customer if they are communicated to the Supplier within two weeks following the arrival of the goods. If the matter is a concealed defect, this complaint period shall commence once this deficiency is discovered.
- 6. Confidentiality, Advertising, Data Protection**
 - 6.1.** The contracting parties shall undertake to treat as a trade secret all non-overt commercial and technical details of which they have become familiar as a result of their business relation. The Supplier shall be obliged to make good all damage done to the Customer as a result of a violation of the confidentiality obligation.
 - 6.2.** Drawings, models, templates, samples, and similar items must not be given or made otherwise accessible to unauthorised third parties. The reproduction of such items shall only be permitted within the framework of operational requirements and of copyright regulations.
 - 6.3.** Sub-contractors are to be obligated accordingly.
 - 6.4.** The contracting parties shall be allowed to use their business relation for advertising purposes only if the respective business partner has given prior consent.
 - 6.5.** In the same way, taking photographs on our premises or on one of our construction sites shall merely be allowed in case of prior consent.
 - 6.6.** During implementation of the business relationship, the statutory data protection regulations shall be observed.
- 7. Delivery Dates and Deadlines, Freight**
 - 7.1.** Agreed dates and deadlines shall be binding. The decisive factor for meeting the delivery date and deadline shall be receipt of goods by the Customer. Whether or not contractual services and performances are provided in time shall depend upon a ready-for-acceptance completion of the contract partner's total performance. The Supplier shall provide the goods in a timely fashion and in due consideration of the time usually required for loading and dispatch.
- 7.2.** If through the fault of the Supplier an accelerated delivery of consignments becomes necessary, any additional costs caused by this speeding-up shall be at the Supplier's expense.
- 7.3.** The Customer shall not be obliged to effect advance payment of freight charges. The Customer may decline acceptance of consignments having no correct postage. If the price is "Ex Works", the Customer, in agreed-upon cases of exception, shall assume the pure freight costs. All costs incurred before the goods are handed over to the freight forwarder, including loading and carriage, shall be at the Supplier's expense. The Supplier shall bear all risks and dangers until the goods have reached the named place of destination.
- 7.4.** If, in single cases, Incoterms are agreed upon, they shall overrule the conditions referred to above.
- 8. Delay in Delivery**
 - 8.1.** The delivery time stipulated in the order shall be binding.
 - 8.2.** The Supplier shall be obliged to notify the Customer instantly in writing as soon as circumstances arise or become known to him from which it might be inferred that the stipulated delivery time cannot be met. In doing so, the Supplier shall state the cause and probable duration of the delivery delay.
 - 8.3.** In the event of delay in delivery, the Customer shall be entitled to the statutory claims. In particular, upon expiry of a reasonable period of grace without delivery having been made, the Customer shall be entitled to damage claims for non-performance.
 - 8.4.** The unconditional acceptance of a delayed delivery shall not imply a waiver of any compensation claims the Customer is entitled to on account of the delayed delivery.
- 9. Force Majeure**
 - 9.1.** If non-compliance with the delivery periods is caused by force majeure, those periods shall be extended by the time-span for which the aforesaid event or the effects thereof persists. This shall also apply if the force majeure occurs at a point in time at which the respective party is in default. The contractual partners shall, within reasonable bounds, be obliged to immediately provide the necessary information and to adjust their duties in good faith and to the best of their abilities in order to suit the modified circumstances.
 - 9.2.** By force majeure shall be understood all events occurring beyond the respective contract party's control which are unforeseeable and unavoidable and which prevent or delay the complete or partial fulfilment of the party's contractual obligations. Forms of industrial action shall be regarded as cases of force majeure.
- 10. Quality Management**
 - 10.1.** The Supplier shall be obliged to comply with the recognised state of the art in science and technology, the safety regulations, as well as the technical data agreed upon. Modifications of the delivery item shall require the Customer's prior written consent. The Supplier shall have to establish and verify an appropriate quality-management system (DIN EN ISO 9000 et seq., QS 9000, IATF 16949 or similar). The Customer shall reserve the right to inspect and check the effectiveness of the quality-management system on-site. Regarding the first-sample test, the contract parties are referred to VDA Volume 2 "Assuring the Quality of Deliveries – Selection of Suppliers, Samplings, Quality Performance in Series", as amended. Irrespective of this, the Supplier shall constantly monitor the quality of the delivery item. The contract parties shall notify each other about any possible quality improvement.
 - 10.2.** In the event that nature and extent of the inspections as well as test materials and methods are not firmly agreed upon between Customer and Supplier, the Customer's Quality Management staff, within the bounds of their know-how, experience, and possibilities, shall be willing to discuss the inspection with the Supplier upon his request in order to determine the corresponding and requisite level of test technology. Furthermore, the Customer shall notify the Supplier upon request about the relevant safety regulations.
 - 10.3.** In his quality recordings, the Supplier shall have to specify for all products when, in what way, and by whom the fault-free production of the deliveries was ensured. Those recordings shall be archived for 15 years and shall be presented to the Supplier when required. This may particularly apply to any features subject to documentation which are marked in the technical files, as well as to all features required for the fulfilment of the relevant statutory obligations. Features subject to documentation, properties required for the fulfilment of the relevant statutory obligations as well as all other crucial characteristics shall be reliably met. In the event of damage occurring as a result of a deviation from the aforesaid attributes, total liability shall be placed on the respective Supplier. The Supplier shall be entitled to shorten the period for keeping recordings and documentation if he is able to exclude hazards for life and health during use of his products. Pre-suppliers shall be obligated to the same extent by the Supplier within the framework of legal options. For guidance, reference is made to VDA Volume 1, Guidelines for Documentation and Storage of Quality Requirements, as amended.
 - 10.4.** System suppliers shall independently decide about documentation or the definition of crucial features and shall undertake to archive quality recordings for a period of 15 years as well as to comply with all applicable laws and standards. The systems supplier shall be responsible for the development, procurement, testing, production, quality, costs, and delivery of a system, i.e. of a functionally and reasonably separable assembly. By the Supplier, he shall be handed a specific contract explicitly declaring him a systems supplier.
 - 10.5.** Insofar as authorities responsible for motor-vehicle safety, exhaust-gas emissions etc. request insight into the production process and the test documents of the Customer in order to carry out inspections of specific requirements, the Supplier shall agree to grant them equal rights within his company and to offer them every reasonable support.

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- 10.6.** For materials (substances, preparations) and items (for instance goods, components, technical equipment, uncleaned empties) as well as process materials used in production, which, due to their nature, properties, or state, might pose a hazard for life and health of people, for the environment as well as for objects, and which for this reason and on account of regulations have to be handled with special care regarding packing, transport, storage, handling, and waste disposal, the Supplier shall hand the Customer together with the offer a completely filled-in safety data-sheet according to Article 5, German Regulations on Dangerous Chemicals, as well as an appropriate Accident Procedures Sheet (Transport). In the event that materials or the legal situation change, the Supplier shall provide the Customer with updated data-sheets and leaflets.
- 11. Warranty**
- 11.1.** In the event of faulty delivery, the Supplier, prior to the start of production (processing or installation), shall first be given opportunity to sort as well as rectify the defective goods – unless the Customer can reasonably be expected to sort and rectify those defects himself. If the Supplier is unable to do so, or does not instantly comply with the Customer's demand for rectification or subsequent delivery respectively, the Customer may in that regard withdraw from the contract and send the goods back at the Supplier's risk and expense. In urgent cases, and upon unsuccessful expiry of a rectification deadline set by the Customer, the Customer shall be entitled to rectify the defect himself and demand from the Supplier compensation for the required expenditure caused – unless the Supplier is justified in refusing subsequent performance. Regarding this, the statutory provisions on self-performance in the case of contracts for work shall be applicable mutatis mutandis. If the same goods are repeatedly delivered in a defective state, the Customer, after a written warning, shall be entitled to withdraw from the contract also for that scope of delivery which has not yet been effected. The Customer's right to assert damage-claims for non-performance shall explicitly remain reserved.
- 11.2.** In the event of concealed defects, the Customer shall be entitled to assert compensation, among others for expenses wasted on materials or wages.
- 11.3.** The Supplier, at his request and at his own expense, shall immediately be provided with those components he has to replace.
- 11.4.** Unless explicitly agreed-upon otherwise, or unless the law provides for a longer statute of limitation, the limitation period for warranty claims shall be 24 months. The limitation period shall commence upon handover of the delivery items to the Customer. For delivery items which have to be assembled at the receiving point, the period shall commence upon completion of assembly. In case of a contract for work (for instance if machinery, technical facilities, or tools are delivered), the limitation period shall always only commence upon acceptance by the Customer.
- 11.5.** All and any warranty claims shall be excluded if the defect is due to a violation of regulations for operation, maintenance, and installation, to incorrect or negligent treatment and normal wear and tear, as well as to any interference with the delivery item on the part of the Customer or third parties.
- 11.6.** Unless otherwise governed above, the warranty regulations shall be based on the pertinent statutory provisions.
- 12. Liability**
- 12.1.** Unless different liability provisions are agreed upon at other sections of the present conditions, the Supplier shall be obliged to compensate the Customer for any damage resulting directly or indirectly from a faulty delivery, from violations of administrative safety provisions, or from other legal reasons for which the Supplier bears responsibility.
- 12.2.** The Supplier, within the bounds of his product liability, shall be obliged to indemnify the Customer and hold him harmless from any damage claims on the part of third parties. The Supplier shall only be liable to the Customer to the extent he would assume liability directly. For compensatory adjustment between the Customer and the Supplier, the principles of Article 254 BGB (German Civil Code of Law) shall apply. This shall also apply in the event of claims made directly to the Supplier.
- 12.3.** To the extent that he is under a legal obligation, the Supplier shall be liable for actions taken by the Customer in order to ward off any damages.
- 12.4.** In addition, the Supplier shall, within the bounds of his product liability, reimburse the Customer for any expenses arising out of or in connection with a recall action the Customer had to carry out on account of a faulty product of the Supplier.
- 12.5.** The Customer shall promptly and comprehensively notify the Supplier if he intends to assert a claim against the Supplier according to the afore-stated provisions. The Customer shall grant the Supplier adequate opportunity to investigate the claim. The parties to the contract shall consult with each other about the measures to be taken, specifically in the case of settlement procedures.
- 12.6.** The Supplier shall undertake to maintain a valid liability insurance with an appropriate level of cover insuring him against all and any product-liability risks, including the risk of recall. Upon request, the Supplier shall produce and keep a respective proof of insurance.
- 12.7.** Further claims for damage shall remain unaffected.
- 13. Property Rights**
- 13.1.** The Supplier shall warrant that the delivery item is free from any rights of third parties. The Supplier shall be liable for all and any claims arising, during contractual use of the delivery items, as a result of violations of property rights or patent applications of third parties (property rights).
- 13.2.** The Supplier shall indemnify the Customer and clients of his from all and any claims arising from the use of such property rights.
- 13.3.** This shall not apply if the Supplier has manufactured the delivery items according to drawings, models, or other equivalent specifications or descriptions provided by the Customer, and if the Supplier does not know or, in connection with the products developed by him, does not necessarily need to know that protection rights are violated thereby.
- 13.4.** The contractual parties shall undertake to notify each other straightaway about imminent risks of as well as alleged cases of violation, and to allow each other opportunity to counteract respective claims amicably.
- 13.5.** Upon the Customer's request, the Supplier shall communicate the use of published and unpublished property rights and patent applications owned by him or licensed to him, relating to the goods to be delivered.
- 13.6.** In the event that the contractual use of the delivery item is impaired due to property rights of third parties, the Supplier, irrespective of his other legal or contractual obligations, and at his own expense, shall, after consulting with the Customer, either obtain the right from the person entitled to possess that property, or modify the components of the concerned product affected by such property rights in such a manner that they no longer fall under the scope of protection but simultaneously still comply with the contractual provisions.
- 14. Use of Production Materials and Confidential Details of the Customer**
- Models, matrices, templates, samples, drawings, sketches, tools, and other production materials, as well as confidential details and construction data, which are made available to the Supplier by the Customer, shall remain the Customer's property at all times and completely, and may only be used for deliveries to third parties upon prior written consent given by the Customer or a respective client of his. Upon request, any production materials made available shall promptly be returned to the Customer.
- 15. Additional Provisions for Equipment**
- 15.1.** By equipment shall be understood any and all type-related resources used for the production of a component/material, such as tools, devices, gauges, master patterns etc.
- 15.2.** Upon payment, the equipment shall become property of the Customer and shall be marked with the Customer's tool number. The equipment shall solely be used for the purpose of executing the Customer's orders. The Customer shall reserve the right to transfer ownership of equipment to his client. The Supplier shall be notified of such a transfer immediately. Upon the Customer's request, the equipment shall additionally be marked with the client's inventory number.
- 15.3.** The Supplier shall take responsibility for careful treatment, handling, and storage. He shall ensure that the equipment, at no expense for the Customer, is constantly kept ready for use. Whilst the equipment is left with the Supplier, it shall, at the Supplier's expense, be insured at original value against fire, theft, and other damage. The Supplier hereby now declares himself willing to assign possible insurance claims to the Customer.
- 15.4.** Of all and every equipment, drawings with material specifications shall be made, or, if this is not possible in individual cases, photographs with measurements and dimensions. Those drawings or photographs shall be available on call at all times.
- 15.5.** The Customer may, at any time, undertake a review of the prices by analysing the purchasing prices or by way of a value analysis, and may adjust the prices accordingly by mutual consent.
- 16. Spare-Parts Supply**
- The Supplier shall undertake to ensure a continued spare-part supply for machinery, devices, and tools for at least 15 years. This shall also apply to serial parts if explicitly agreed upon at procurement.
- 17. General Provisions**
- 17.1.** Unless agreed upon otherwise, the law of the Federal Republic of Germany shall exclusively be applicable. Application of the United Nations Convention on Contracts for the International Sale of Goods of 11th April 1980 (UNCISG) shall be excluded.
- 17.2.** In the event of a contractual partner suspending payment, or if an application has been made to open insolvency proceedings over this contract partner's assets, or if such proceedings have indeed been opened, the other partner shall be entitled to withdraw from the unsatisfied portion of the contract.
- 17.3.** If, apart from that, one of the provisions of these present Terms and Conditions of Purchase is or becomes invalid, the validity of the other provisions of the contract shall not be affected. The parties to the contract shall be obliged to replace the invalid provision by a regulation that most closely approximates the commercial success of the invalid one.
- 17.4.** Place of performance shall be the Customer's registered head-office. For delivery, a different location may be agreed upon.
- 17.5.** Sole place of jurisdiction shall be Brilon as seat of the Customer, provided the Supplier is a merchant. Nonetheless, the Customer shall be entitled to sue the Supplier also at the Supplier's own registered office.