

# Terms and Conditions of Purchase (T&C Purchase) of BBW Lasertechnik GmbH

## 1. Scope

- a) All deliveries, services and offers are exclusively subject these Terms and Conditions of Purchase ("T&C Purchase"). These form an integral part of all contracts we conclude with our suppliers for the deliveries or services they offer. They apply to all future deliveries, services or offers, even if they are not agreed again separately.
- b) Terms and conditions of our suppliers or third parties do not apply, even if we do not specifically object to their application in the individual case. Even if we refer to a letter which contains or makes reference to the terms and conditions of the supplier or of a third party, this will not be deemed to constitute consent to the application of such terms and conditions.
- c) The T&C Purchase apply exclusively to suppliers who are entrepreneurs within the meaning of section 14 German Civil Code (*BGB*), a legal entity under public law or a special fund under public law (section 310 German Civil Code (*BGB*)).
- d) Even if these T&C Purchase are provided in English, only the German version is authoritative.

## 2. Orders and contracts

- a) If our orders or other offers to contract do not expressly contain a binding period, we will be bound by them for one week from the date of the offer. Receipt of the declaration of acceptance by us will be decisive for determining whether acceptance took place in due time.
- b) We have a right to change the time and place of delivery as well as the type of packaging at any time by giving written notice of at least seven calendar days before the agreed delivery deadline. The same applies to changes to product specifications if these can be implemented within the framework of the supplier's normal production process without significant additional effort/costs, whereby in these cases the notification period pursuant to the preceding sentence will be at least four weeks. We will reimburse the supplier for the respective additional costs incurred as a result of the change providing these costs are proven and reasonable. If such changes result in delays in delivery which cannot be avoided in the supplier's normal production and business operations by way of reasonable effort, the originally agreed delivery deadline will be postponed accordingly.
- c) We have a right to terminate the contract at any time by way of a written declaration stating the reason if we can no longer use the ordered products in our business operation due to circumstances arising after the contract is concluded. In this case, we will compensate the supplier for the partial performance the supplier has already provided.
- d) The supplier's cost estimates are binding and are not subject to remuneration by us, unless otherwise expressly agreed in writing.
- e) The supplier has a duty to point out to us any inaccuracies, ambiguities or gaps in the technical and commercial documents provided by us.

## 3. Prices, terms of payment, information in invoices and other relevant documents

- a) The price stated in our order is binding, unless another price is expressly agreed.
- b) In the absence of an agreement to the contrary, the price includes delivery and transport to the shipping address stated in the contract, including packaging, and the term of delivery DDP Prutting (Incoterms 2020) applies.
- c) If the price does not include packaging according to the reached agreement and the remuneration for the packaging – which is not only provided on loan – is not expressly determined, the packaging must be charged at the cost price to be verified by the Supplier. The supplier must take back the packaging at its own cost upon our request.
- d) Unless otherwise agreed, we will pay the agreed price within 14 days of delivery/performance and receipt of the invoice with a 3 % discount or within 30 days net. For the determination whether payments owed by us are timely, the receipt of our transfer order by our bank in due time is sufficient.
- e) All order confirmations, delivery documents and invoices must state our order number, the part number, delivery quantity and delivery address. If one or more of these details is missing and this delays processing by us in the normal course of business, the payment terms stipulated in d) will be extended by the period of the delay.
- f) A single copy of the invoice must be sent to the address stated in our order. It may not be enclosed with the delivery.
- g) In the case of default with payment, we will owe default interest of five percentage points above the base interest rate in according to section 247 German Civil Code (*BGB*).

## 4. Delivery period and delivery, passage of risk

- a) The delivery period (delivery date or deadline) which we state in the order or which is otherwise applicable under these T&C Purchase is binding. Early deliveries are not permissible.
- b) The supplier has a duty to inform us without undue delay in writing if circumstances occur or become apparent which mean that the delivery period cannot be met.
- c) If the day on which the delivery is to be made (at the latest) can be determined on the basis of the contract, the supplier will be in default on expiry of this day, without this requiring a reminder on our part.
- d) In the event of a delay in delivery, we will be entitled to the statutory claims without restriction, including the right to rescind the contract and the claim for damages instead of performance after fruitless expiry of a reasonable subsequent period.
- e) In the event of delays in delivery, we also have a right, after sending a prior written warning to the supplier, to demand a contractual penalty of 0.3 %, maximum 5 %, of the respective net order value, i.e. excluding VAT, for each week of the delay in delivery commenced, unless the supplier proves that we have not incurred any damage or have incurred significantly less damage. The contractual penalty will be offset against the default damage to be paid by the supplier. Unconditionally accepting the delayed delivery or service does not constitute a waiver of the claims for compensation to which we are entitled due to the delayed delivery or service.
- f) The supplier is not entitled to make partial deliveries without our prior written consent.
- g) If, by way of an exception, the supplier has also assumed responsibility for installation or assembly, it will bear, in the absence of any agreements to the contrary, all ancillary costs required for this, such as travel expenses, costs for the provision of tools and accommodation allowances.
- h) Even if shipment by the supplier has been agreed, the risk will only pass to us when the goods are handed over to us at the agreed place of destination and, exceptionally where acceptance has been agreed, after acceptance has taken place.
- i) If a contract on continuing obligations is agreed with the supplier, whereby goods are ordered on the basis of delivery schedules, call-offs or regular orders, the following applies:
  - a delivery call-off will become binding at the latest if the supplier does not object in writing within 5 working days of receipt. An objection is only

permissible if there is a justified reason (e.g. exceeding agreed capacities, not complying with agreed lead times, force majeure, statutory rights of retention of the supplier).

- The supplier must maintain the necessary capacity in order to be able to deliver the quantities pursuant to the delivery schedule including projected quantities for the next three months from receipt of the delivery call-off.
- We have a right to postpone binding call-offs that have been issued. If the delivery date is postponed by no more than four weeks as a result, we will have a duty to pay a compensation to the supplier.
- In the absence of a separate written agreement to the contrary, we will have a right, at any time, to terminate the supply relationship without notice for good cause or with notice including a phasing-out period. Our duty to pay compensation in this case will be limited to acceptance of and payment for the goods ordered for the four weeks following receipt of the notice of termination and compensation for the actual costs incurred by the supplier for raw / primary material for a further period of three months as well as other costs where agreed in writing. No compensation for lost profit is owed.

## 5. Reservation of rights, title

- a) We reserve title or copyright in orders and contracts placed by us as well as in drawings, illustrations, calculations, descriptions and other documents we have made available to the supplier. The supplier may neither make them available to third parties nor use or reproduce them itself or allow them to be used or reproduced by third parties without our express consent. Upon our request, it must return these items in full and destroy any copies made if they are no longer required by it for the purpose of the proper course of business or if negotiations do not lead to the conclusion of a contract. In this case, any copies made by the supplier must be destroyed; the only exceptions to this are retention within the scope of statutory retention obligations and the storage of data for backup purposes within the scope of normal data backup processes.
- b) Tools, equipment and models with which we provide the supplier or which are manufactured for contractual purposes and for which the supplier charges us separately, will remain our property or title in these will pass to us. They must be clearly marked as our property by the supplier, stored carefully, kept safely to guard against damage of all kinds and only used for the purpose of the contract. On request, the supplier must return the items to us in a proper condition once it no longer requires them for the purpose of performing the contracts with us.
- c) The provisions stipulated in section 10. of these T&C Purchase also apply.
- d) Reservations of title by the supplier only apply to the extent that they relate to our payment obligation for the respective products in which the supplier reserves title. In particular, extended or prolonged reservations of title are not permitted.

## 6. Warranty claims

- a) In the event of defects, we will be entitled to the statutory claims without restriction.
- b) The warranty period is 36 months.
- c) Deliveries or services will be deemed to be defective if (i) they do not comply with the specifications and drawings or are otherwise not of the agreed quality, (ii) they do not correspond to the samples provided by the supplier, (iii) they are not free from construction errors (unless the mode of construction was stipulated by us), (iv) they are not free from manufacturing or instruction errors, (v) they are not manufactured in accordance with the current state of the art in technology, (vi) they do not comply with the applicable statutory requirements, (vii) they do not comply with the relevant DIN standards or other generally recognised standards, (viii) they infringe the rights of third parties, or (ix) (where the supplier has not developed or manufactured the goods in accordance with our express specifications) they are not suitable for their intended use (where this is known to the supplier). The statutory concept of a "defect" is not restricted by this provision.
- d) The supplier undertakes to only deliver goods which have been inspected by it for freedom from defects and, in particular, for compliance with the agreed specifications and the agreed dimensions and for freedom from defects in terms of their function. Against this background, within the scope of the incoming goods inspection, the supplier agrees that we will only subject the goods to a quantity and identity check as well as an inspection to ensure that there is no external damage and that we will otherwise initially accept them without further inspecting them. Externally directly comparable quality and quantity deviations will be deemed to have been notified in due time if we notify the supplier of them within 10 working days of when we receive the goods. Hidden defects will in any case be deemed to have been notified in due time if the notification is made to the supplier within 10 working days after discovery.
- e) In the case of quantities, weights and measures, where there is no other form of evidence, the values determined by us at the time of our incoming goods inspection will be decisive.
- f) We do not waive warranty claims by accepting or approving samples or specimens provided.
- g) Upon receipt of our written notice of defects by the supplier, the limitation period for warranty claims will be suspended until the supplier rejects our claims or declares the defect remedied or otherwise refuses to continue negotiations with regard to our claims.
- h) In the case of replacement delivery, the warranty period for replaced or improved items will begin to run again, unless we must assume, on the basis of the supplier's behaviour, that it did not consider itself to have a duty to carry out the measure but only carried out the replacement delivery or remedied the defect as a gesture of goodwill or for similar reasons.
- i) In the event of a defective delivery, the supplier will have a right to subsequent performance where this is reasonable for us in view of the circumstances. In urgent cases, in particular if a production stop is imminent at our customers or further up the supply chain and/or, when viewed objectively, the imminent overall damage will be reduced as a result, we will have a right, after informing the supplier in advance (where possible), to carry out any possible subsequent performance as well as other appropriate measures (inspection, sorting, etc.) at the supplier's expense, whereby we will have a duty to mitigate the damage and the supplier will always only have to reimburse reasonable costs.

## 7. Product liability

The supplier will be responsible for all claims by third parties on grounds of personal injury or damage to property which were caused by the product it supplied being faulty and will indemnify us against the resulting liability. If we have a duty to carry out a recall action as against third parties due to a defect in a product supplied by the supplier or if a recall action is carried out further up the supply chain for this reason in order to prevent personal injury or further damage to property, the supplier must bear the costs associated with the recall action if the recall action was caused by a product defect caused by the supplier or by another breach of duty by the supplier. We will remain under an obligation to mitigate the damage and

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any contributory negligence on our part will be taken into account for the benefit of the supplier.

## 8. Property rights

- a) In accordance with the provisions under b) below, the supplier will be liable for ensuring that no third-party property rights are infringed.
- b) The supplier will indemnify us against all claims which third parties file against us on grounds of infringement of property rights and will reimburse us all costs necessary in connection with such claims.
- c) Our further statutory claims on grounds of defects in title with regard to the products delivered to us remain unaffected.
- d) In addition to the right to use the software that is part of the scope of delivery and service, including its documentation, within the scope of what is permitted by statute, we have the right to use the software with the agreed performance features and to the extent required for use in accordance with the contract. We may also make backup copies without an express agreement.

## 9. Spare parts

- a) The supplier has a duty to keep spare parts for the products delivered to us in stock for a period of at least ten years after delivery.
- b) If the supplier intends to discontinue the production of spare parts for the products delivered to us, it must inform us without undue delay after making the decision to discontinue production. This decision must – subject to the obligation under a) – be taken at least six months prior to the time when production is to be discontinued. In this case, the supplier will grant us the option to place a last order for our anticipated future requirements ("last time buy") before production is discontinued.

## 10. Provisions, transfer of title, reservation of title

- a) Materials, parts, containers and special packaging provided by us will remain our property. These may only be used for their designated purpose. Materials will be processed and parts assembled for us. It is agreed that we will become co-owners of the goods manufactured using our materials and parts on the basis of the ratio between the value of the materials provided and the value of the entire product; such goods will be stored safely for us by the supplier.
- b) If and to the extent that we reimburse the supplier for costs of items (e.g. equipment) in whole or in part, we will become the owner or, in the case of partial reimbursement, co-owner of such items.
- c) An extended (*verlängerter*) or a prolonged (*erweiterter*) reservation of title (*Eigentums-vorbehalt*) is rejected by us/can only become effective by means of a separate written agreement.

## 11. Assignment

The supplier is not entitled to assign its claims arising from the contractual relationship to third parties. This does not apply if the claims concerned are monetary claims.

## 12. Force majeure

- a) In the event of *force majeure*, the affected party will be released from its obligation to perform for the duration of this disruption to the extent of its effect. *Force majeure* means events which are unforeseeable and unavoidable and beyond the control of the affected party and for which the affected party is not responsible. The affected party must inform the other party without undue delay of the circumstances that have led or may lead to a *force majeure* event as soon as these circumstances become known to that party.
- b) The party affected by a *force majeure* event must do everything reasonable to overcome or mitigate it. Notwithstanding the foregoing, during the period during which the supplier is affected by *force majeure*, we will be entitled to procure the delivery item from third parties or to have it manufactured by third parties and to reduce the quantities ordered, without having to pay compensation to the supplier for this.
- c) If the event that *force majeure* lasts for more than 30 days without interruption or for more than 90 days over a total period of 365 days with interruptions, we will have a right to rescind the affected contract (or the part which has not yet been performed). In this case, neither party may claim compensation from the other party for any losses incurred. The existing obligations for delivery items already delivered will remain unaffected.

## 13. Confidentiality, data protection, data security

- a) The supplier undertakes to not pass on to third parties and to treat as business secrets all commercial and technical details which are not in the public domain and which become known to it through the business relationship.
- b) Drawings, models, templates, samples and similar items, which belong to us or of which we are co-owner, may not be handed over or otherwise made available to unauthorised third parties. Such items may only be reproduced within the framework of operational requirements and copyright regulations.
- c) Both parties undertake to comply with the statutory data protection provisions, in particular in accordance with the General Data Protection Regulation (*Datenschutzgrundverordnung*). In particular, they will use personal data transmitted by the other party exclusively for the agreed purpose and erase them completely if they are either no longer necessary for the specific purpose or if the other party so requests. The parties assure one another that their employees are bound to data secrecy in accordance with statutory data protection regulations.
- d) The parties will maintain appropriate state-of-the-art technical and organisational safeguarding measures with respect to the security of the information that is transmitted between them.

## 14. Quality, documentation

- a) The supplier must ensure that its deliveries comply with the recognised state of the art in technology, the safety regulations and the agreed technical data. Changes to the delivery item, to a production process that has already been approved or relocating it to another production site require our prior written consent.
- b) We may conduct reasonable inspections and quality audits of production processes and facilities of the supplier at any time after giving reasonable advance notice and during normal business hours.
- c) The supplier will continuously check the quality of the delivery items. In addition, the parties will inform one another about the possibilities for further quality improvements.

## 15. Compliance with laws, hazardous substances

- a) The supplier undertakes to comply with all laws, ordinances and other binding public-law regulations applicable to its business operation and the products to be delivered by it.

- b) For products, materials and processes which, due to laws, ordinances, other regulations or due to their composition or their effect on the environment, require special treatment with regard to, among other things, transport, packaging, labelling, storage, treatment, manufacturing and disposal, the statutory requirements of the country of manufacture as well as the country of distribution must be met by the supplier as mandatory. In this case, the supplier will provide us with the necessary paperwork and documents in good time. In particular, all hazardous substances and substances hazardous to water may only be delivered after submission of an EC safety data sheet and approval by us.

## 16. Insurance

- a) The supplier undertakes to take out and maintain business, product and extended product and recall cost liability insurance with cover amounts which are sufficiently high. The sums insured must be at least EUR 2.5 million per damage event and a total of EUR 5 million per insurance year.
- b) The insurance policies must also cover dismantling and installation costs and a warranty period of at least 3 years from delivery to us.
- c) At our request, the supplier must provide us with proof of such insurance policies by providing confirmation of insurance.
- d) The fact that insurance exists does not limit any liability of the supplier.

## 17. Subcontractors

- a) Unless otherwise agreed in writing, the supplier will place obligations which correspond to those arising from duties arising from the delivery and service relationships with us on all of its sub-suppliers or sub-contractors.
- b) Unless otherwise agreed in writing, sub-suppliers or sub-contractors of the supplier will be deemed to be the supplier's vicarious agents and the supplier will assume the same responsibility for their actions or omissions as for its own actions or omissions.

## 18. Place of performance, place of jurisdiction, applicable law, severability clause

- a) The place of performance for both parties is our registered office in Prutting. The exclusive place of jurisdiction for all disputes arising from the contractual relationship is Rosenheim provided the supplier is a merchant. In addition, we are also entitled, at our discretion, to bring claims against the supplier at its general place of jurisdiction.
- b) The contracts concluded between us and the supplier are subject to the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- c) Should individual provisions of these T&C Purchase be or become invalid in their entirety or in part, this will not affect the validity of the remaining provisions of these T&C Purchase. The parties will replace the invalid provision with a valid or enforceable provision which reflects, as closely as possible, the economic purpose of the original provision. This applies accordingly to any lacunae.

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