
GENERAL CONDITIONS OF PURCHASE

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GENERAL CONDITIONS OF PURCHASE

§ 1 General remarks – area of application

- (1) Our conditions of purchase are valid for all companies of the PWK Automotive Group, they apply exclusively. Supplier's conditions diverging from our conditions will not be acknowledged unless otherwise expressly stipulated by us in writing. Our conditions of purchase shall also apply if a supplier's delivery has already been unreservedly accepted by us despite our awareness of supplier's conditions which diverge from our purchasing conditions.
- (2) All agreements between the supplier and ourselves must be recorded in writing. Correspondence has to be done with the purchasing department. Arrangements with other departments, as far as its agreements might cause changes of already fixed contract items, strictly require written confirmation by certain supplements closely added to the contract in question by purchasing department.
- (3) Our purchasing conditions apply for entrepreneurs, for legal entities of the public right and publicly operated fund.
- (4) These conditions of purchase also apply to all future business with the supplier.

§ 2 Conclusion of contract, call offs, changes to delivery item

- (1) Delivery contracts, call offs and their alteration or amendment must be made in writing. For delivery on calls this requirement of written formality will also be fulfilled if documents are produced by computer and do therefore not contain a handwritten signature. Call offs can also be done by data transmission.
- (2) The supplier is obliged to accept our order within five working days after his receipt of the order. The term of acceptance is only ensured if confirmation of the order by the supplier has been received by us before its expiry. Contracts for an indefinite period are subject to notice with a period of 6 months.
- (3) Concerning delivery contracts, based on delivery on calls, we are obliged to order on call the binding quantity at least 3 months before final delivery date, if nothing else is arranged.

§ 3 Prices – conditions of payment – assignment of claim

- (1) The price stated in the order shall be binding. Failing written agreement to the contract, the price shall include delivery CIP (due to incoterm of 2010) and packaging. Return of packaging shall require a special agreement. Supplier has to bear freight – and packing costs, caused by urgent - and top urgent deliveries, due to required reasons, for which supplier has to assume full responsibility.
- (2) The legal value added tax will be added to the agreed prices. Value added tax must be disclosed separately in the invoice according to the regulations required by tax laws.
- (3) Invoices can only be processed by us if these – in correspondence with the requirements in our order – include the order number disclosed therein. The supplier shall take responsibility for all consequences of the failure to observe this obligation insofar as he is unable to demonstrate that he is not responsible.

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- (4) Unless otherwise agreed in writing, we shall pay the purchase price as follows:
- Upon receipt of invoice before 04th of month
Before 25th of month with 3% discount or before 05th of month after next due net.
 - Upon receipt of invoice before 14th of month
Before 05th of following month with 3% discount or before 15th of month after next due net.
 - Upon receipt of invoice before 24th of month
Before 15th of following month with 3% discount or before 25th of month after next due net.
 - Upon receipt of invoice before end of month
Before 25th of following month with 3% discount or before 05th of the following third month due net.
- (5) We shall be entitled to the legally stipulated set-off rights and rights of retention
- (6) In the event of acceptance of a premature delivery, payment shall be based on the agreed delivery date.
- (7) In the event of the delivery of faulty goods, we shall be entitled to withhold payment until proper fulfilment has taken place.
- (8) Without our written agreement, which is not allowed to be refused unreasonably, the supplier is not allowed to assign his claim or to sue for payment of his debts by a third party. If the supplier assigns his claim to a third party without our given agreement, assignment is nonetheless valid. But we have the choice to serve the supplier or the third party with released effect.

§ 4 Delivery times

- (1) The delivery times stated in the order shall be binding.
- (2) The supplier is obliged to inform us immediately if circumstances occur or can be foreseen which will result in the failure to meet the agreed delivery schedule.
- (3) In case of delay in delivery we shall be entitled to our statutory rights. In particular we shall be entitled after the fruitless expiry of a reasonable period of time to demand damages in place of performance and cancellation. If we demand damages, the supplier shall have the right to also provide evidence of the fact that the breach of duty was beyond his control.
- (4) The supplier shall not be entitled to deliver the goods in their entirety or in part before the agreed time of delivery. In the event of premature delivery we shall be entitled to refuse to accept the goods and to return these to the supplier at his expense.

§ 5 Certificates of origin, proof of fiscal turnover and export restrictions

- (1) The supplier will provide certificates of origin requested by us with all necessary data and will make available duly signatoryly. Appropriate applies to legal proofs of value added tax in the case of deliveries to foreign markets and supplies within the community.
- (2) The supplier will immediately inform us if a delivery is completely or partly export restricted due to German law or any other application of law.
- (3) Suppliers from member states of the European Union are obligated to submit us in each case, within 30 days starting from order acceptance, and then within the first two months of each calendar year, without being asked, with long-term supplier explanations in accordance with the valid European regulation in each case. If this cannot take place for individual deliveries, then we receive certificates of origin from the sales party at the latest with issuing of invoice.

§ 6 Place of delivery, passage of risk

- (1) Place of delivery is the place determined by us.
- (2) Place of payment is the place of our particular enterprise of the PWK Automotive Group.
- (3) The supplier is obligated to indicate on all shipping documents and delivery notes accurately our part / order number, if not delays in treatment are not to be represented by us.

§ 7 Quality and documentation

- (1) The supplier shall comply with the generally well known technical procedures, safety regulations and the technical details which have been agreed with regard to his deliveries. If poisonous or potentially poisonous substances or / and substances potentially hazardous to health are used, the supplier shall be obliged to familiarise himself with the provisions of our customers with regard to such substances and to observe these provisions. We shall, if required, assist the supplier with regard to the determination and procurement of these provisions. Changes to the delivery item shall only be permitted with our previously written agreement.
- (2) Deliveries to us shall require the fulfilment of the preconditions contained in our "Technical Supplier Development Manual" with which the supplier is familiar and which can be obtained from us. Contractual parties shall mutually acquire information relating to quality improvement opportunities.
- (3) If type and scope of the inspections as well as means and methods of examination should fail to be determined according to clause 2 of the written documents applying, we shall, if requested by the supplier, be prepared to enter into discussions with him using our available knowledge, experience and possibilities to determine the required level of measuring and testing technology. We will be helpful to the supplier in determination of the relevant safety regulations if desired.
- (4) In the case of parts which have been specifically marked in the technical documentation or have been marked with "D" due to specific agreements, the supplier shall also by means of special reports and documents keep a record of when, how and by whom the delivery item has been checked for characteristics requiring documentation and the results of the required quality tests. The quality inspection documents must be retained for 16 years and made available to us if required. Previous suppliers must be placed under the same obligation within the framework of legal possibilities. Guidelines are contained in the Association of German Automobile Manufacturers (VDA) documentation ***** "Dokumentationspflichtige Teile bei Automobilherstellern und deren Zulieferanten – Durchführung der Dokumentation --, Frankfurt/Main 1973"*****,
- (5) The supplier undertakes in his own company to grant the same rights and to provide all possible support to employees involved in motor vehicle safety, to those involved in the observance of exhaust provisions or similar authorities as well as to our customers who may demand to see our inspection documents for the purpose of checking specific requirements.
- (6) With regard to numbers of items and weights, the figures which we have determined shall apply unless incorrectness has been proven by the supplier.

§ 8 Examination of defects – liability for defects

- (1) The goods must fulfil the agreed upon specifications and what must be presupposed with knowledge of the targeted application, at least however the compelling legal requirements and the well-known technical level. For the contractual condition of the goods the time of the passage of risk is crucial.
- (2) We are obliged within a reasonable period of time to examine the goods with regard to differences in quality or quantity. Notice of defects shall be regarded as in due time if this information has been received by the supplier within 3 working days beginning with the receipt of the goods or in case of hidden defects when these defects have been detected. Inspection of the goods by us according to the Skip Lot Procedure shall be regarded as proper fulfilment of our examination obligations. This also applies to identity checks as well as to checking for transportation damage based on packaging and distinctive features detected during unloading if we have agreed with the supplier upon the so-called delegated product inspection. In the event of the detection of defects to materials which are to be added either directly or indirectly to our products or which are connected to their manufacturing or treatment and complaints resulting from these defects, the supplier shall refund us with a lump-sum which is currently fixed at 150 euros plus the statutory value added tax. This shall be the supplier's contribution to the costs incurred by us due to the inspection and by the creation of quality statistics which is required in this case in addition to the work involved handling the complaint. The supplier shall be released from this obligation if he can provide proof either that no damage or almost negligible damage has been incurred by us in this case. In individual cases possible additional direct costs e.g. for sorting work, follow-up activities, shut down times and other costs resulting from the complaint shall not be covered by the lump-sum.
- (3) We shall be entitled to the full statutory warranty claims; we shall be entitled in any case to demand from the supplier either the removal of the defect or the delivery of new goods. We expressly retain the right to compensatory damages in particular compensatory damages in place of the performance.
- (4) With being to blame for the supplier we are entitled to make at expense of the supplier a sorting work of damage-afflicted goods and/a defect removal, or by suitable third, if danger is in delay or special express is needed.
- (5) The period of limitation is 36 months starting from transfer of risk. This does not apply, as far as the law plans longer periods, in particular to damages on buildings and for goods, which were used according to correct purpose for a building causing its defectiveness.
- (6) With his deliveries the supplier strictly sticks to the current statutory Regulations of the European Union and the Federal Republic of Germany e.g. REACH Regulation (EC Regulation No. 1907/2006), the law concerning the withdrawal and environmental friendly disposal of electric- and electronic equipment (electric G) as the national implementation of the guideline 2002/95/EC (RoHS) and guideline 2002/96/EC (WEEE) and the old/used car law conditions as the national implementation of EU guideline 2000/52/EG.
The supplier will immediately inform us about relevant changes of the products by law, in particular caused changes through the REACH regulation, its delivery capability, utility or quality and to make an arrangement with us for appropriate actions in each individual case. The same applies if and so far as the supplier would recognize or must recognize that such changes could happen.

§ 9 Product liability – indemnity – third party liability insurance

- (1) Should the supplier be responsible for product damage, he shall be obliged upon first demand to indemnify us from claims for damages from third parties as the cause of damage lies in his area of control and organization and he is liable himself within the external relationship.
- (2) Within the framework of the supplier's liability for cases of damage in the sense of item (1), the supplier shall also be obliged to refund any costs according to Articles 683, 670 of the German Civil Code (BGB) as well as Articles 830, 840, 426 of the German Civil code (BGB) which result from or in connection with recall measures carried out by us. We shall inform the supplier – as far as possible and reasonable – with regard to the content and extent of the recall measures to be carried out and shall provide him with an opportunity to make comments. Any other statutory claims shall remain unaffected.
- (3) The supplier is obliged to maintain a product third party liability insurance. Further reaching claims for damages to which we are entitled shall remain unaffected.

§ 10 Compliance with the Minimum Wage Act (MiLoG)

The contractor guarantees that he and his subcontractors pay the minimum wage in accordance with section 1 MiLoG on time and in full to his or their employees. In the event that the contractor's employee or his subcontractors have a claim against us, the contractor is obliged to pay compensation to us; section 774 BGB shall remain unaffected.

§ 11 Rights of protection

- (1) The supplier stands for the fact that all deliveries are in particular free of rights against third parties. Deliveries and use of goods shall not hurt patents, licenses or other patent rights in the country of the agreed upon place of delivery and - as far as known by the salesman – the intended country of use.
- (2) Should we be faced with a claim by a third party in this respect, the supplier shall be obliged upon first demand to indemnify us from these claims. We shall not be entitled to make any agreements with the third party without permission from the supplier, in particular to effect a composition.
- (3) The supplier's obligation to indemnify, refers to all expenses which we necessarily incur from or in connection with demands made on us by a third party.
- (4) This does not apply insofar as the supplier has produced the delivery items according to drawings, models or other descriptions of a similar nature provided by us or according to our specifications and is not aware or - in connection with the products developed by himself - must not be aware that this may result in the infringement of the right of protection. If for this reason the supplier is not liable, he shall be indemnified by us from claims by third parties.
- (5) The period of limitation shall amount to ten years starting from conclusion of the contract.
- (6) The contractual partners shall be obliged to familiarize themselves immediately with infringement risks which are becoming known and with supposed cases of infringement and shall use the opportunity to take mutual countermeasures according to the claims involved.
- (7) The supplier shall inform us of the use of published and unpublished own and licensed rights of protection and the registration of rights of protection to the delivery item.

§ 12 Confidentiality

The supplier is obliged to keep all illustrations, drawings, calculations as well as any other documents and information which he has obtained strictly confidential. These may be revealed to third parties only with our expressed approval. The confidentiality obligation is also valid after the contract has been carried out and shall expire only when and as far as the production knowledge contained in the illustrations, drawings, calculations and other documents has become common knowledge. The supplier is only allowed to multiply them in context of operational requirements by considering the copyright regulations and may not use them for the fabrication of items to be delivered to third parties.

§ 13 Samples and tooling, drawing and description

- (1) Tooling instruments (devices, measuring- and inspection instruments, templates, samples and similar articles) and documents (descriptions, drawings, norm sheets, models and data sheets) which we have made available to the supplier in order to carry out our order or which have been obtained at our expense or which are used to produce parts on which we have commercial rights of protection may not be passed on or made available to third parties who are not employees or sub-suppliers of the supplier.
- (2) The supplier will properly mark models, tools, instruments, measuring- and inspection instruments, templates, samples and similar articles which are in his possession, but however in our property.
- (3) Should the supplier bear the costs for manufacturing or procurement of the aforementioned items completely or in part and should these items not serve the purpose of producing parts to which we have commercial rights of protection, the supplier may transfer these items or make them available to third parties who are not his employees or sub-suppliers only with our prior written permission and he may use these items for production in connection with deliveries to third parties only with our prior written consent.
- (4) We shall retain the right of possession of tools; the supplier is obliged to use the tools exclusively for the production of the goods ordered by us. The supplier is also obliged to ensure the tools belonging to us at replacement value against damage by fire, water and theft. At the same time the supplier shall forthwith assign to us all claims for damages resulting from this insurance; we hereby accept the assignment. The supplier is obliged to carry out any in due time and at his own expense any necessary maintenance and inspection work and all preventive maintenance and repair work on the tools. Possible cases of damage must be reported to us immediately. Should the supplier deliberately fail to fulfil this requirement, claims for damages shall remain unaffected.
- (5) The supplier is obliged to store even after the last partial delivery all operating equipment and documents which are required for the manufacture and inspection of parts delivered to us and to keep them in ready for use condition. On our certain request tooling and documents are to be handed over to us.

§ 14 Retention of proprietary

The supplier itself keeps up the property for the supplied goods until complete payment (simple retention of proprietary).

§ 15 Contract resignation, cancellation / notice of contract

- (1) If a contracting party stops its payments, the other party is entitled to legally withdraw from the contract.
- (2) Force majeure, labour disputes, undeserved operational disturbances, unrests, official measures and other inevitable events entitle us to withdraw without prejudice to our other rights, totally or partly from the contract as far as they are not from insignificant duration and the dates of delivery, originally agreed upon with the supplier, are exceeded. The same is valid, if aforementioned events entail a substantial decrease of our need.
- (3) We are entitled to the cancellation without notice of the contract, if the opening of the insolvency procedure is requested for the asset of the supplier or in case of a judicial or balance procedure out of court.

§16 Applicable right and court of jurisdiction

- (1) Unless otherwise agreed the Law of the Federal Republic of Germany shall apply exclusively. The use of the convention of the United Nations of 11th April 1980, concerning contracts for goods purchase, (CISG "Viennese purchase right") is impossible.
- (2) If the supplier is a merchandiser, our registered place of business is area of jurisdiction. We are however entitled to sue the supplier also at its domicile court.

§ 17 Partial effectiveness

If one or more regulations of these purchasing conditions are invalid or should become invalid, the remaining regulations remain unaffected by it. The supplier and we commit ourselves to replace these by legally effective regulations by which the purpose pursued with the invalid regulation can be achieved as far as possible.

Note:

Data of the contracting parties or third participants are stored and processed by us by electronic data processing (EDP), as far as this is necessary for the normal completion of the contractual relations.