

## General terms and conditions of purchase

### Jünger+Gräter GmbH

(08/2014)

#### 1. Exclusivity of our general terms and conditions of purchase

- 1.1 These "general terms and conditions of purchase" shall apply exclusively to orders in the case of deliveries and services. Special conditions included in the written order are given priority.
- 1.2 General terms and conditions of the contractor are not part of the contractual relationships.
- 1.3 These general terms and conditions of purchase shall also apply if the principal, having knowledge of conflicting or deviating terms set out by the contractor, accepts delivery by the contractor without reservation.
- 1.4 All agreements concluded for the purpose of executing the contract are to be stipulated in writing in the contract.

#### 2. Basis of contract

- 2.1 We are only bound by orders given in writing. Agreements made verbally or by phone are only effective if we confirm them in writing.
- 2.2 We shall reserve proprietary rights and copyrights for illustrations, drawings, calculations and other documents; they may not be made available to third parties without our express written consent. They are to be used exclusively for production on the basis of our order; after completion of the order they are to be returned to us without being promoted to do. They are not to be disclosed to third parties, accordingly the provision of item 10 shall additionally apply.
- 2.3 For construction-related contractual services, the current version of the German Construction Contract Procedures (VOB/B) as of the order date shall apply.
- 2.4 Transfer of the service contract deliverables agreed with us to third parties by the contractor requires our prior approval. A breach thereof entitles us to termination of the contract without notice and to demand compensation due to non-fulfilment.
- 2.5 In relation to a contract for the delivery of movables to be manufactured or created (e.g., shaped bricks), changing the production facility, tool or the supplier of raw materials is not permissible without prior written approval by the principal.
- 2.6 The transfer of claims made against us by the contractor is not permissible. Offsetting our claims with counterclaims is only permissible if they are legally established or are indisputable.

#### 3. Prices

- 3.1 The price stated in the order is binding. In the absence of an alternative written agreement, the price includes delivery "duty paid" (Incoterms 2010: DDP) and packaging. The statutory value-added tax is included in the price.
- 3.3 Invoices are only processed and due for payment when these – in accordance with the specifications of the order – indicate the order and job number stated therein; the contractor is liable for all consequences arising from non-compliance of this obligation.
- 3.4 Unless agreed otherwise in writing, we shall pay the purchase price within 14 days calculated from delivery and receipt of the invoice with a 2% cash discount, or net within 30 days of receipt of the invoice.

#### 4. Delivery

- 4.1 In principle, all deliveries of materials up to the place of fulfilment are to be carried out free of freight charges unless otherwise stipulated in the order (Incoterms 2010: DDP). The contractor assumes liability for the transport risk up to the place of fulfilment.
- 4.2 Our job numbers must be clearly visible on the dispatch notes, waybills, package labels and delivery notes.
- 4.3 The delivery time and completion period stated in the order is binding.
- 4.4 In the event of a failure to meet the agreed delivery and completion deadlines (delayed delivery), for which the contractor is responsible, the principal is entitled to demand a lump sum for the damage caused by the delay in the amount of 1% of the delivery value per complete week, however, not more than 10% of the delivery value; further legal claims (cancellation and compensation for damages in lieu of service) shall be reserved. The contractor has the right to prove that no damages or considerably less damages occurred as a result of the delay.

#### 5. Test documentation

- 5.1 The test documentation required by the quality management department is an important integral part of the contract and included in the scope of delivery. Invoices are only paid once the complete test documentation is available.
- 5.2 The deadline for the cash discount is also calculated once the complete test documentation is available.

#### 6. Contractual penalty

If a contractual penalty has been agreed, the principal shall continue to be entitled to assert such a claim even if a corresponding reservation has not been made with regard to acceptance of the delivery of goods or services rendered.

#### 7. Investigation of defects – liability for defects

- 7.1 If drawings, calculations and other documentation of the contractor are approved by us, which prove to be incorrect, the contractor is nevertheless fully liable.

- 7.2 The principal is obliged to check the goods for any deviations in quality or quantity within a reasonable period of time and report them immediately upon discovery.
- 7.3 We are entitled to the statutory claim in full in the case of defects; in each case, the principal is entitled to request from the supplier, at the principal's discretion, that the defect be eliminated or a new replacement be provided. The right to compensation for damages, in particular for damages in lieu of performance, remains expressly reserved.
- 7.4 If defective goods are delivered, the contractor shall also be liable towards the principal for the compensation of any costs related to assembly and removal.
- 7.5 The principal is entitled to resolve the defects himself at the supplier's expense if the supplier is in default.
- 7.6 The warranty period stipulated in the German Civil Code (BGB) applies to delivered materials. The time limit shall commence only with the intended use of the material by the principal.
- 7.7 Unless stated otherwise in the order, the warranty period for construction services is five years. If it turns out that the construction services are not in accordance with the contract or defective and subsequent improvement or renovation is necessary, the contractor shall also bear all costs incurred by us in relation to the defectiveness. This also applies to costs in connection with independent, judicial proceedings for the taking of evidence.
- 7.8 Construction downtimes due to subsequent improvement suspend the expiration of the warranty period.

#### **8. Product liability – indemnification – liability insurance protection**

- 8.1 To the extent that the supplier is responsible for damages to a product, it is obliged to indemnify us at first request against any claims for compensation by third parties insofar as the cause lies within its organization and sphere of control and it is liable in relation to third parties.
- 8.2 Within the scope of its liability for claims in the meaning of paragraph (1), the supplier is also obliged to reimburse any expenses pursuant to sections 683 and 670 of the German Civil Code (BGB) or sections 830, 840 and 426, which result from or in connection with one of the recall campaigns carried out by us. The principal will inform the supplier – insofar as possible and reasonable – with respect to the content and scope of the recall measures to be implemented and give it an opportunity to make a statement. Other legal claims remain unaffected.
- 8.3 The supplier undertakes to maintain product liability insurance with a lump sum coverage amount of EUR 10 million per personal/property damage; if we are entitled to further damages, these remain unaffected.

#### **9. Industrial property rights**

- 9.1 The supplier ensures that there will be no violation of the rights of third parties within the Federal Republic of Germany as a result of the delivery.
- 9.2 If a third party asserts claims against the principal for the violation of industrial property rights, the contractor is obliged to indemnify the principal of these claims upon first written request; the principal is not authorised to conclude any agreements with the third party – in particular to conclude a settlement – without approval of the contractor.
- 9.3 The duty of the contractor to indemnify relates to all expenses which we necessarily incur from or in connection with claims asserted by a third party.
- 9.4 The statute of limitation is 36 months, calculated from the time the risk was transferred.

#### **10. Confidentiality**

The supplier is obliged to keep all received illustrations, drawings, calculations and other documentation and information strictly confidential. They may only be disclosed to third parties with our express consent. The obligation to maintain confidentiality also applies after conclusion of this contract; it shall expire if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents provided becomes common knowledge.

#### **11. Place of performance and jurisdiction**

- 11.1 The place of performance for the deliveries is the place of delivery stipulated in the order. If this is not specified, the place of performance is our headquarters in Schwetzingen.
- 11.2 The exclusive jurisdiction agreed upon for all legal disputes are the competent courts of law responsible for the corporate headquarters of Jünger+Gräter GmbH.
- 11.3 As agreed, the exclusive applicability of German law also applies with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).