

**MAKOBÄ GmbH & Co. KG,
Von-Drais-Str. 18, 77855 Achern, Germany**

GENERAL CONDITIONS OF PURCHASE

1. General Provisions

- 1.1 Our Conditions of Purchase apply exclusively. Supplier's conditions contrary to or deviating from our Conditions of Purchase shall not be acknowledged without our express written consent.

Our Conditions of Purchase also apply without specific consent to all future purchases and even, if we accept delivery with actual notice of contrary or differing Supplier's conditions.

- 1.2 All agreements between us and the Supplier regarding performance of this contract require written form or written confirmation.

Modifications, amendments or further subsidiary agreements to these Conditions or to concluded contracts or order releases require written form.

2. Order, Offer, Documents

- 2.1 The Supplier must accept orders within ten days from the date of the order by written confirmation.

- 2.2 We reserve all proprietary rights and copyrights regarding informations – also in electronic form - pictures, drawings, calculations, and other documents. Those documents may only be used for productions according to our order. They must remain confidential and be returned to us without demand after performance of the order (refer to No. 10.).

3. Prices, Terms of Payment

- 3.1 A price contained in the order is binding regardless of fluctuations in the currency exchange rate and does not contain the legal value-added tax in case of inland suppliers. The price includes delivery „free domicile recipient“ (in case of import contracts „DDP, Incoterms 2010“) including packing, transportation and insurance. The return of packing materials requires specific agreement.
- 3.2 Invoices can only be processed, if they contain the order number according to the requirements of our order. The Supplier is responsible for all consequences resulting from non-performance of this obligation.

- 3.3 Unless otherwise agreed in writing, we shall pay the purchase price within 14 days, calculated from acceptance of delivery and invoice with 3% discount, or within 60 days upon receipt of the invoice net.

4. Date of Delivery, Delay

- 4.1 The date of delivery and other deadlines or periods fixed in the order are binding. The positive result of the Pre-Delivery Inspection (PDI) conducted by us and the on-time delivery are the determining factors for having met the deadline agreed upon in our contracts and orders.
- 4.2 In the event of delay in delivery, we hold the legal claims. Specifically, we are entitled to demand compensation for non-performance after fruitless expiration of an adequate additional period – in compliance with legal exceptions also without an additional period. In the event of delay we are additionally entitled to claim liquidated damages of 0,5% of the value of delivery per completed week, but not to exceed 10% of the total value of the delivery. We are entitled to claim the liquidated damages in addition to performance. We are obliged to notify to the Supplier of the reservation of the penalty within 10 working days calculated from the acceptance of the delayed delivery.
- 4.3 Partial deliveries are only permissive after prior agreement.
- 4.4 If the Supplier foresees difficulties in manufacturing or in the supply of preliminary materials, or if circumstances beyond his control occur which foreseeably could prevent the timely delivery in the agreed quality, the Supplier must inform our order department without delay.
- 4.5 Unless an alternate verification exists, the number of units, weights and measures as confirmed in our delivery receipt control are applicable.

5. Incoterms, Documents, Dispatchment

- 5.1 Unless agreed otherwise in writing, delivery must be „free domicile recipient“ – DE-77855 Achern. In case of import contracts “DDP 77855 Achern” (Incoterms 2010) is applicable.
- 5.2 The Supplier is obligated to specify our order number, article number and his production code on all dispatchment and delivery documents; if he fails to do so, a delay in processing, for which we are not responsible, will be unavoidable. The Supplier Lot-Nr.; the Lot-No. and the CE-mark have to be indicated on the invoices in order to guarantee a tracking of the goods of the Supplier according to our directions.

- 5.3 Our dispatchment address is as follows:

MAKOBÄ GmbH & Co. KG
Von-Drais-Str. 18
77855 Achern
Germany

6. Examination for Defects, Liability for Conformity of the Goods, Quality Requirements

- 6.1 When accepting the delivered goods we reserve our right to examine them for conformity and quality. We are obliged to examine all delivered goods for possible non-conformity in quality and quantity on a random basis within an adequate period. Any complaint is on time if it reaches the Supplier within 7 working days (outside the European Union within 10 working days) upon the discovery of defects.
- 6.2 The legal claims resulting from non-conformity of the goods are held for us without restrictions. Nevertheless, we are entitled to demand at our discretion the remedy of defects or substitutional delivery by the Supplier.
- In such an event, the Supplier is obliged to bear all expenses necessary for the remedy of defects or substitutional delivery. Our right to compensation for damages, particularly to compensation instead of performance, is reserved expressly.
- 6.3 The period of warranty and guarantee is 12 months calculated from the passing of risk.
- 6.4 Unless otherwise agreed the goods delivered by the Supplier meet the generally accepted rules of technology, environmental protection, health and safety at work as well as safety-related and occupational medicine regulations in Germany.
- 6.5 On our demand quality control agreements regarding quality relevant products have to be concluded.
- 6.6 We are entitled to make inspections and product tests in the works of the Supplier. In case of agreed inspections the Supplier indicates his readiness for them at least one week prior to the agreed date. If the item or system to be delivered is not ready for inspection and product test on the given date, the Supplier has to bear the costs of our personnel. The latter also applies, if due to defects repeated or further examinations/inspections and tests become necessary.

7. Product Liability, Indemnification, Liability Insurance

- 7.1 As far as the Supplier is responsible for any damages caused by defective products, he must indemnify us on first demand against claims of any third party to the extent that the cause of such damages lies within the Supplier's sphere of domain and organisational power.
- 7.2 In this context, the Supplier is also obliged to refund us any expenses resulting from any recall actions implemented by us.

We shall inform the Supplier on demand about the possible and reasonable extent of the content and scope of any recall measures which must be executed. The Supplier shall have the opportunity to make a statement.

- 7.3 The Supplier is obliged to obtain product liability insurance with a minimum cover of EUR 5 million being the total amount insured for each personal injury and property damage. Should we hold further damage claims, then these will not be affected.

8. Acts of God, Bankruptcy, Insolvency

- 8.1 Acts of God, employee strikes, operating trouble arising through no fault of either party, disturbances, governmental measures, and other unavoidable events give us the right to rescind the contract if such events substantially reduce our demand.
- 8.2 Should one contractual partner stop payments, or if bankruptcy proceedings are initiated over his assets, or if a court proceeding or mediation be proposed, then the other party to the contract is entitled to cancel the outstanding portion of the contract.

9. Proprietary Rights, Software, Services

- 9.1 The Supplier is liable for ensuring that the contractual products do not infringe any trademarks, copyrights or other industrial property rights (including trade secrets) of third parties. If we incur responsibility based on use or possession of the delivered goods, the Supplier is obliged to indemnify us on first written demand for all claims.
- 9.2 The duty of the Supplier to indemnification applies to all expenses which we reasonably incur out of or in connection with such claims of third parties.
- 9.3 The Supplier grants to us a worldwide exclusive, assignable, timely not limited license regarding his services or software developments. He is obliged to transfer the source code to us.

- 9.4 The Supplier is responsible to check the requirement specification for the services mentioned in no. 9.3 with regard to correctness and completeness. This also applies, if the requirement specification has been elaborated together with us.

The Supplier is bound to his offer and the agreed payment regarding the services. The exceedance of the agreed payment requires our prior written consent.

10. Secrecy

The Supplier is obliged for strict secrecy regarding all obtained pictures, drawings, calculations, and any other documents and information. Such documents may only be disclosed to third parties with our prior written consent. This secrecy obligation continues to apply after completion of the contractual duties and shall only expire when the obtained know-how has become public domain.

11. Further Liability

Unless expressly stipulated in these conditions, all further contractual or legal claims against us, especially claims for compensation including compensation for indirect or consequential damages are excluded.

We are liable, however, for gross negligence, but only for typical damages resulting therefore, or in other cases of strict legal liability.

12. Place of Fulfilment, Legal Venue and Jurisdiction, Applicable Law

- 12.1 Unless otherwise stipulated in the Specification place of fulfillment shall be our plant in 77855 Achern, Germany.

- 12.2 All disputes arising out of or in connection with contracts under these Conditions must be decided finally and conclusively according to the Rules of Arbitration of the International Chamber of Commerce, Paris by one or more arbitrators appointed in accordance with the said Rules. Place of arbitration shall be 68159 Mannheim, Germany.

If the Supplier has its head-office in the European Union, Iceland, Norway or Switzerland such disputes must be decided finally and conclusively by the State Courts which are competent for our headquarters in 77855 Achern, Germany.

- 12.3 In any case we are also entitled to invoke the state courts that have jurisdiction over the Supplier's headquarter's location.

- 12.4 All contracts concluded under these Conditions shall be subject to German law. The UN Convention on Contracts for the International Sale of Goods of 11 April 1980 with priority applies to international contracts.

13. Miscellaneous

- 13.1 Contractual rights and duties of the parties are not assignable without prior written consent.
- 13.2 The Supplier may not have the right to set-off or suspend contractual performance other than to claims which have been awarded in court.
- 13.3 Any contract concluded under these Conditions shall remain valid, although single clauses should be or later become invalid.