

Chiron Conditions of Purchase 2009

1. Generally, Scope of Application

- Our Conditions of Purchase solely apply. We do not accept conditions of the supplier conflicting with or different from our Conditions of Purchase unless we have expressly agreed their application in writing. Our Conditions of Purchase also apply if we accept without reservation the consignment from the supplier in knowledge of conflicting conditions or conditions different from our Conditions of Purchase.
- Correspondence is to be conducted with the purchasing department placing the order. Agreements with other departments require express formal confirmation by the department placing the order for their validity.
- Our Conditions of Purchase only apply to businesses.

2. Quotation, Quotation Documentation, Acceptance of Order

- Quotations are to be made without charge.
- We reserve rights of ownership and copyright in illustrations, drawings, calculations and other documents, and they may not be made available to third parties without our express written consent. They are to be used solely for manufacture on the basis of our order, and are to be returned to us immediately after processing the order, without request or upon demand by us. They are to be kept secret as regards third parties. The provisions contained in section 10 (3) additionally apply in this respect.
- The supplier is bound to accept our order within a period of 4 working days from receipt. In addition, our order is to bear your company stamp, be signed so as to be legally binding, and returned to us.

3. Prices, Terms of Payment

- The price shown in the order is binding. The price includes delivery "free house" (DDP pursuant to Incoterms 2000) and proper packaging, unless otherwise agreed. Return of the packaging requires separate agreement.
- The supplier bears all possible customs duties, taxes, levies and costs of import arising on the occasion of the order.
- Prices are subject to value-added tax where legally applicable.
- We can only process invoices if (according to the requirements given in our order) they state the order number shown there. The supplier is responsible for all consequences arising on account of non-observance of this duty, unless he can show that such is beyond his control.
- We make payment within 14 days of receipt of the consignment and invoice with 3% discount, or net within 30 days following receipt of the consignment and invoice, unless otherwise agreed in writing.
- The supplier may not to assign his claims against us or allow them to be enforced by a third party without our express written consent.
- We are entitled to rights of set-off and retention, to the statutory extent.

4. Delivery

- The delivery time stated in the order is binding.
- The supplier shall inform us in writing without delay if circumstances occur, or become apparent to him, from which it appears that the determined delivery time cannot be observed. The agreed delivery time shall not be extended on this information.
- Irrespective of this, Chiron may demand from the supplier a contractual penalty of 1.0% per commenced week, but with a maximum of 10% of the total value of the order, from the time of delay in delivery. Claim to further damages remains expressly reserved.
- Early deliveries, part deliveries and excessive deliveries may only be made on our written agreement. We reserve the right to return goods with discrepancies not agreed, at the supplier's expense.
- For an incorrect delivery, we charge an all-inclusive expenditure fee of a minimum of EUR 50.00 per order item.
- The warranty period is in principle 24 months and if an agreement shall be made to the contrary it shall require written form. It only comes into force if we or our customer is in possession of the complete documentation (product specification, operating instructions etc.).

5. Force Majeure, Interruption and Faults

- Force majeure, industrial disputes, equipment failure without fault, civil unrest, official measures, economic conditions in sales market and other unavoidable events release us from the duty of acceptance within due time, for the period of their duration. We may cancel the contract wholly or in part (without prejudice to our other rights) during such occurrences as well as within two weeks of their cessation, unless these occurrences are of insignificant duration and our needs do not substantially diminish on account of the acquisition from another source necessary for this reason. This also applies to framework, bulk and value agreements.

6. Passing of Risk, Documents

- Delivery shall be made "free house" (DDP pursuant to Incoterms 2000) (in accordance with section 3.1), unless otherwise agreed in writing.
- The supplier shall state exactly our order number on all dispatch papers and delivery notes. We shall not be responsible for delays in processing if he shall fail to do this.

7. Examination for Defects, Liability for Defects

- We shall examine the goods within a reasonable period for any apparent discrepancies in quality and quantity. The complaint shall be made in due time provided that it is sent to the supplier within a period of 14 days calculated from receipt of the goods, or from discovery in relation to latent defects which are not recognisable on inspection upon receipt.
- The period shall be increased by a further 14 days if the goods are delivered directly to our customers.
- We are entitled to the full statutory claims arising from defects. We may in every case demand from suppliers, at our option, elimination of defects or delivery of a new item. The right to damages, in particular damages instead of performance, remains expressly reserved.
- We may ourselves carry out elimination of defects at the expense of the supplier if a danger in delay or a particular necessity for speedy action shall exist.
- The period of limitation for actions amounts to 36 months calculated from passing of risk. This does not apply if the law provides for longer periods.
- Payment by us does not mean that we accept the delivery as being in accordance with contract or without defects.
- Our approval of technical documentation and/or calculations of the supplier do not affect his liability for defects.

8. Product Liability

- In the event that a claim is made against us by reason of product liability, the supplier shall indemnify us for such claims including for all consequential damages, or reimburse us for all losses including all consequential damages, in as far as and to the extent that the damage shall have been caused by a defect in the contract item delivered by the supplier. In cases of strict liability however this only applies if the supplier is at fault. The supplier bears the onus of proof in this respect in as far as the cause of damage lies within his area of responsibility.
- The supplier shall accept all costs and expenditure including the costs of any litigation in the cases in sub-section 1.
- Furthermore, the statutory provisions shall apply.
- We shall notify the supplier in order to give him the opportunity of co-operating and exchanging views with us about an efficient performance prior to a recall of products which is wholly or in part the consequence of a fault in the contract item delivered by the supplier, unless notice to or co-operation on the part of the supplier is not possible on account of a necessity to act speedily. The supplier bears the costs of a recall in as far as a recall is the consequence of a defect in the contract item delivered by the supplier.

9. Industrial Property Rights

- The supplier is responsible that no third party rights are infringed in connection with his delivery.
- If rights of third parties are infringed in connection with the delivery made by the supplier and if a claim is made against us by a third party on this account, the supplier shall indemnify us for these claims or reimburse us for all losses, including consequential losses, on first written demand. We are not authorised to enter into any kind of agreement with the third party (without the consent of the supplier), in particular, to enter into a compromise.
- The duty of the supplier to indemnify relates to all expenditure arising of necessity for us from or in connection with the claim by a third party.
- The period of limitation for action amounts to ten years calculated from conclusion of contract.

10. Reservation of Ownership in Materials and Tools Provided, Maintenance of Secrecy

- The parts supplied by us remain our property. They may only be used as agreed. Processing and assembly of parts is carried out for us. It is agreed that we are co-owner in the products incorporating our parts in the ratio of the value of the items provided to the value of the complete product, which in this respect is held in safe custody by the supplier on our behalf.
- We reserve ownership in tools and/or models belonging to us. The supplier is under a duty to employ the tools and/or models belonging to us solely for the manufacture of goods ordered by us.
- The supplier is under a duty to maintain strict secrecy in all illustrations, drawings, calculations and other documentation and information received. They may only be disclosed to third parties with our express consent. The duty to maintain secrecy also applies after completion of this contract and lapses if and to the extent that the manufacturing know-how contained in the illustrations, drawings, calculations and other documentation provided has become generally known.

11. Social Responsibility and Environmental protection

- The supplier is under a duty to observe the particular statutory regulations when dealing with employees, protection of the environment and on-the-job safety, to work towards improving these, and to reduce a detrimental impact on persons and the environment during his work. In addition, the supplier shall establish and further develop within the limits of his possibilities, a management system in accordance with ISO 14001. It remains a basic principle that the volume of packaging is to be reduced as far as possible. Packaging material must not contain additives which prevent re-cycling. Furthermore, the supplier shall observe the basic principles of the UN Global Compact Initiative. This essentially concerns protection of international human rights, the right of collective pay bargaining, abolition of forced labour and child labour, elimination of discrimination in appointments and during work, responsibility for the environment, and the prevention of corruption. Further information on the Global Compact Initiative can be obtained under www.unglobalcompact.org.

12. Performance of Work

- Persons who carry out work in factory premises to fulfil the contract shall observe the terms of current company regulations. Liability for accidents occurring to these persons on factory premises is excluded unless these have been caused by wilful or grossly negligent breach of duty by our legal representatives or sub-contractors.

13. Jeopardy to Performance

- We may cancel the unfulfilled part of the contract if the economic position of the supplier deteriorates during the period of the order in a manner which seriously endangers performance of the contract, he ceases his payments (including temporarily), or if application is made for insolvency proceedings or a judicial or out-of-court composition with creditors. We may cancel completely if part performance is of no interest to us.

14. Import and Export Regulations, Customs Duties

- Your EU value-added tax identification number is to be stated for consignments and services which are made from a member country of the EU outside Germany.
- Imported goods shall be delivered after customs clearance. You are responsible to make any declarations required and provide information, to allow inspection by customs authorities and to supply any official confirmations required within the scope of Order (EC) No. 1207 / 2001, at your own expense.
- You are under a duty to notify us in respect of any requirement of official approval for (re-) exports pursuant to German, European and US export and customs regulations, as well as export and customs regulations of the country of origin.

15. Technical Documentation

- Delivery of technical documentation and all required records shall be a constituent part of the main delivery, if not otherwise agreed.
- Delivery of technical documentation is made as follows, if not otherwise agreed: Format A4 and A3 in digital form as data carrier (e.g. CD), larger formats and special formats (e.g. large plans) in paper form. Supply of digital data must be made in an unprotected form. If the "Adobe PDF" format is used, no data protection measures are to be activated, which prevent integration in our total documentation. All fonts used are to be embedded in the document.
- Defects may only be detected some time after start-up of the installation, by reason of the complexity of documents. The supplier shall make corrections to documents without delay, also in the event of such delayed complaints.
- Technical documentation must be prepared in conformity with the current EC Machine Directive and DIN ISO 62079 and accord with all generally recognised rules of technology.
- Technical integration of the documents supplied in the Chiron total documentation shall not release the supplier from his liability for completeness and correctness of his documents.

16. Software

- Software is to be provided to us on commercially available data carriers in machine-readable code together with user documentation.
- Software specially developed for us is additionally to be supplied to us in source coding with manufacturer's documentation. Copies of source coding and manufacturer's documentation are to be delivered to us on acceptance and must correspond with the program version at the end of the test phase.
- The measures carried out to the software within the scope of liability for defects are to be taken up by the supplier into the source coding and the manufacturer's documentation without delay. A copy of the particular updated version shall be made available to us immediately.

17. Right of Exploitation

- We irrevocably acquire an exclusive, comprehensive right of exploitation in software or parts of it developed for us, and in all other results of work, unrestricted in terms of time and territory, and every known type of use including the right to alter, duplicate, modify, extend and grant simple licences to third parties, unless a restriction shall ensue from the following paragraphs.
- The extent of our rights of exploitation is be correspondingly agreed in the contract, if rights of third parties in programs of others, or other results of work of external persons, which enter into the work preclude acquisition of a right of exploitation according to the above paragraph.
- The supplier remains authorised in future to use related standard programs, program components, tools and know-how contributed by him in the achievement of the results of work, including for orders from third parties. Duplication, processing or other use of the results of work and solutions produced for us wholly or in part, is not permitted for the supplier.
- The supplier is only authorised to publish results of work of any kind produced for us (including in parts) following written consent of the principal.

18. Data Protection

- Data relating to persons shall be processed by the supplier in observance of statutory provisions.
- Data relating to persons will be stored by us in observance of statutory provisions.

19. Place of Jurisdiction, Place of Performance, Applicable Law

- The place of jurisdiction is the location of our registered office. We reserve the right to commence proceedings at the statutory location for jurisdiction of the supplier.
- The place of receipt stated in the order is the place of performance, or alternatively the location of our registered office, unless it otherwise ensues from the order.
- The law of the Federal Republic of Germany shall apply to the exclusion of conflicting rules of private international law and the United Nations Treaty concerning international sale of goods.
- The supplier is under a duty to comply with all legal provisions.

20. Miscellaneous

- If individual provisions of these terms and conditions of business or the contract entered into between us and the supplier shall be or become wholly or in part ineffective, the remaining provisions shall remain thereby unaffected.
 - The parties to the contract shall agree a fresh condition which most closely approaches the intention pursued by the correct provision.
 - We are only released from the duty to deduct tax pursuant to section 48 (b) (1) EStG [German income tax law] if the supplier produces to us a valid exemption certificate in his name, from the tax office appropriate to him. Production of a copy exemption certificate will suffice unless the exemption certificate has been issued in relation to a specific contract.
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