

# Bernhard Ide GmbH & Co. KG, Liebigstrasse 16, 73760 Ostfildern

## General Terms and Conditions of Purchase

### 1. Application

- 1.1 These Conditions of Purchase shall apply to all business transactions between Bernhard Ide GmbH & Co. Kg (hereinafter: "IDE") and the supplier, even if they are not referred to in subsequent contracts. Terms and conditions of the supplier that conflict with, supplement or deviate from these Conditions of Purchase shall not become part of the contract, unless their application is expressly approved by IDE in writing. These Conditions of Purchase shall apply even if IDE receives a delivery from the supplier without reservations while being aware of the supplier's conflicting or deviating terms and conditions.
- 1.2 Agreements which supplement or deviate from these Conditions of Purchase and which are made between IDE and the supplier for the performance of a contract must be set out in writing in the contract. This shall also apply to the cancellation of this requirement of the written form.
- 1.3 Any rights beyond these Conditions of Purchase to which IDE is entitled by law shall remain unaffected.

### 2. Formation of contract and amendments

- 2.1 Unless otherwise agreed in writing, the supplier shall provide all offers and cost estimates free of charge.
- 2.2 Purchase orders, changes or additions to purchase orders and other agreements made at the time of conclusion of the contract shall not become binding until placed or made by IDE in writing or – if purchase orders are placed orally, by telephone or using other means of telecommunication – until duly confirmed in writing. Purchase orders that are generated using automatic devices and, therefore, do not contain a name and signature shall be deemed written purchase orders. If IDE does not respond to offers, requests or other declarations from the supplier, this shall only be deemed approval if an express written agreement to this effect has been made between IDE and the supplier. To the extent that a purchase order contains obvious mistakes, misspellings or calculation errors, it shall not be binding upon IDE.
- 2.3 The supplier shall, without delay and in any case no later than three (3) working days after the receipt of the purchase order, issue an order confirmation in which the delivery date and – if possible – the price are expressly stated. Should the order confirmation deviate from the purchase order, the deviations shall not be deemed agreed unless and until they are expressly confirmed by IDE in writing. The same shall apply to any subsequent changes to the contract.
- 2.4 If it turns out during the performance of a contract that deviating from the originally agreed specifications is necessary or advisable, the supplier shall so advise IDE without delay. IDE shall inform the supplier without delay of whether it wishes the supplier to make changes to the original purchase order and, if so, what changes. If, as a result of such changes, there is a change in the costs incurred by the supplier in performing the contract, both IDE and the supplier shall have the right to demand an appropriate adjustment of the agreed prices.

### 3. Delivery

- 3.1 The delivery must correspond to the purchase order in terms of execution, scope, and scheduling. The delivery periods and delivery dates set out in the order shall be binding. Delivery periods shall commence on the day the purchase order is issued.
- 3.2 The time of receipt of the goods by IDE shall be decisive in determining whether the delivery date or the delivery period has been met. Unless delivery "free works" (DAP or DDP, as defined by Incoterms® 2010) has been agreed, the supplier shall make the goods available in a timely manner, taking into account the time needed for loading and shipment, as agreed with the forwarding agent.
- 3.3 If the supplier realises that the delivery period cannot be met, the supplier shall so advise IDE without delay in writing, stating the reasons for and the expected duration of the delay. In the event of a delay in delivery, IDE shall have the right to rescind the contract, regardless of whether or not

there was any negligence or wilful misconduct on the part of the supplier.

- 3.4 In the event of default of the supplier, IDE may demand liquidated damages in an amount equal to 0.5% of the net order value for each commenced week of delay, but not more than 5% of the net order value in total. This shall not affect any further claims of IDE. The loss caused by default that has to be compensated by the supplier shall be reduced by the liquidated damages paid. IDE's claim for delivery shall not cease to exist until the supplier has paid damages in lieu of the delivery at the request of IDE. IDE's acceptance of the late delivery shall not constitute a waiver of claims for damages.
- 3.5 Making a delivery before the agreed delivery date shall only be permitted with the prior written consent of IDE. IDE may return any goods that are delivered early at the supplier's expense or store them at the supplier's expense until the agreed delivery date.
- 3.6 Unless otherwise agreed, partial deliveries and deliveries of larger or smaller quantities shall not be permitted. IDE reserves the right to recognise such deliveries in individual cases.

### 4. Transfer of risk and shipment

- 4.1 The supplier shall bear the risk of accidental loss or destruction of, or of an accidental deterioration in, the goods until IDE takes delivery of the goods (DAP or DDP, as defined by Incoterms® 2010). If the supplier is obliged to carry out the set-up or assembly of the goods in IDE's business premises, the risk shall not pass to IDE until after the goods have been put into operation.
- 4.2 Each delivery must be accompanied by a delivery note which contains the order and materials number, a list of the lots supplied, the designation of the goods and the quantities supplied. Any failure to comply with these documentation requirements shall constitute a material breach of contract by the supplier. The supplier must compensate IDE for any damage or loss that is suffered by IDE as a result of such failure.
- 4.3 The goods must be packed in such a manner as to prevent damage in transit. Packaging materials may only be used to the extent required for this purpose. Only environmentally friendly, recyclable packaging materials may be used.

### 5. Prices and payment

- 5.1 Unless otherwise agreed in writing, all the agreed prices shall be "free works", duty paid (DAP or DDP, as defined by Incoterms® 2010), including packaging. All prices stated are net prices; statutory value-added tax shall be stated separately in the invoice, at the rate applicable at the time the invoice is issued.
- 5.2 The supplier's invoices must state the purchase order references (number and date of the purchase order, quantity and price), the number of each single item (lot), and the number of the delivery note. Otherwise, the invoices cannot be processed and, therefore, will be deemed not received. Copies of invoices shall be marked as duplicates.
- 5.3 Payment shall be made upon IDE taking delivery of the goods and receipt of the invoice within ten (10) days with a 3% discount or within thirty (30) days net unless otherwise agreed. Payment will be made subject to review of the invoice. If a shipment is defective, IDE may withhold payment until the supplier has properly performed its obligations, without IDE forfeiting its right to rebates, discounts or similar price reductions. To the extent that the supplier is obliged to provide materials tests, inspection reports, quality documents or other documents, the receipt of these documents shall be a further prerequisite for the acceptance of the goods. The time allowed for payment shall not commence until all defects have been fully remedied. If goods are delivered early, the time allowed for payment shall not commence until the agreed delivery date.
- 5.4 Ownership of the goods shall be transferred to IDE free of any encumbrances when the goods are paid for, at the latest. All payments shall be made to the supplier only. Extended or prolonged retention-of-title clauses shall not be permitted. The supplier shall have no right to set its own

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claims off against claims of IDE unless the supplier's claims have been established in a judgment that cannot be appealed against or are undisputed. The supplier may only assert a right to retain if its own claims and the claims of IDE are based on the same contract.

## 6. Warranty and claims for defects

- 6.1 Unless otherwise agreed, the statutory warranty rights shall apply.
- 6.2 The supplier warrants that the goods supplied are state of the art and that they correspond to the agreed specifications, the applicable legal provisions and the (in particular product safety law) regulations and guidelines issued by public authorities, employers' liability insurance associations and professional associations. The supplier must particularly comply with the EU Chemicals Regulation REACH (Regulation (EC) No. 1907/2006). The supplier must inform IDE without delay in writing if the supplier has any concerns about the purchase order being performed as requested by IDE.
- 6.3 To the extent feasible in the proper course of business, IDE shall examine without delay after taking delivery of the goods whether the goods received correspond to the purchase order in terms of quantity and type and whether any damage has been sustained in transit that can be identified externally.
- 6.4 If a defect is discovered during such examinations or at a later point in time, IDE shall, to the extent feasible in the proper course of business, so advise the supplier without delay after the examination for obvious defects or after the discovery for hidden defects.
- 6.5 IDE's approval of drawings, calculations or other technical documents of the supplier shall not affect the supplier's responsibility for defects or the supplier's liability under any guarantee it has given.
- 6.6 If the goods contain defects, IDE may, without prejudice to its statutory claims for defects, demand that the supplier repair the defects or, at IDE's option, that the supplier deliver goods which are free from defects. The supplier shall bear all necessary expenses for the repair or replacement delivery.
- 6.7 Except in cases of fraudulent intent, claims for defects shall become time-barred within three (3) years unless the item has been used for a building in accordance with its normal use and has caused such building to be defective. The limitation period shall commence with the delivery of the contractual items.
- 6.8 If the supplier performs its obligation to take remedial action by making a replacement delivery, the limitation period shall commence anew for any goods supplied as a replacement after IDE has taken delivery of these goods.
- 6.9 Suppliers of goods for which replacement parts are needed shall be obliged to supply IDE upon expiry of the limitation period for another ten years with the required replacement parts, accessories and tools.

## 7. Product liability

- 7.1 If the supplier is responsible for damages under product liability law, the supplier is obliged to indemnify and hold IDE harmless from and against any claims for damages by third parties on first demand insofar as the cause lies within the supplier's sphere of control and organisation and the supplier itself is liable in the external relationship. The obligation to indemnify also applies to all expenses incurred in connection with the claim. Further claims of IDE remain unaffected.
- 7.2 The supplier is, within the scope of its own liability for cases of damage within the meaning of Clause 7.1 above, also obliged to reimburse IDE for any and all expenses which IDE incurs as a result of or in connection with any product warnings, exchange of products or product recalls lawfully taken by IDE. Where possible and not unreasonable for IDE, IDE shall in a timely manner in advance advise the supplier about the content and scope of such a measure to be taken and give the supplier the opportunity to comment on it.
- 7.3 The supplier undertakes to take out and maintain a product liability insurance policy for an adequate amount, which also covers the risk of product recalls and shall present the insurance policy to IDE as evidence, if requested to do so.

## 8. Supplier's indemnity obligation

If and to the extent that the supplier is obliged under these General Terms and Conditions of Purchase to indemnify IDE against the claim of a third party, the following provisions shall also apply:

- 8.1 IDE shall without undue delay notify the supplier of any claims by third parties. In addition, IDE shall provide the supplier with all the necessary information required to fulfil its indemnification obligation.
- 8.2 The supplier must also indemnify and hold IDE harmless against unjustified third party claims.
- 8.3 In the event that the supplier considers a claim made against IDE to be unjustified, the supplier shall assume the defence of the claim and bear any costs incurred by IDE in connection with the claim. Furthermore, in the event that a judgment is passed against IDE, the supplier shall, at the discretion of IDE, either
  - draw up an enforceable deed with a notary in which the supplier consents to immediate execution in the event of a potential judgment and the amount determined by the potential judgment, or
  - provide security in the event of a potential judgment and the amount determined by the potential judgment.
- 8.4 If the supplier does not fulfil its obligation to indemnify IDE and IDE settles the claim of a third party, the supplier cannot object to IDE's resulting claim for compensation that the third party's claim has been wrongly satisfied.

## 9. Third-party property rights

- 9.1 The supplier warrants that the delivery and use of the goods do not infringe any patents, licences or other third-party property rights.
- 9.2 If, due to the delivery and use of the goods, IDE is held liable by a third party for infringement of any such rights, the supplier shall be obliged to indemnify and hold IDE harmless from and against these claims on first demand. This duty to indemnify shall apply to all costs and expenses which are incurred in connection with IDE or IDE's customers being held liable.
- 9.3 The period of limitation for these claims is three (3) years, beginning with the delivery of the contractual object.

## 10. Provision of items by IDE

- 10.1 IDE shall retain title to all samples, models, drawings, artworks, tools, and other items which IDE provides to the supplier for the manufacture of the goods ordered or for any other purpose. The supplier is obliged to use these items only for the manufacture of the goods ordered or as otherwise specified by IDE. The items may not be made available to third parties. The supplier must return the items to IDE unasked and without delay at its own expense if and when they are no longer needed.
- 10.2 Any processing or transformation by the supplier of the items provided shall be made on behalf of IDE. If such items are processed together with other items which do not belong to IDE, IDE shall acquire co-ownership of the new item in proportion to the ratio of the value of the item provided by IDE to the value of the other processed items at the time of processing.
- 10.3 The supplier is obliged to handle and store all items provided with due care. The supplier must insure the items provided at its own expense at replacement value against damage by fire, water, and theft. The supplier hereby assigns to IDE all claims for compensation arising from such insurance. IDE hereby accepts the assignment. The supplier is obliged to carry out all necessary maintenance and inspection work and all servicing and repair work with respect to the items provided in a timely manner at its own expense. The supplier must advise IDE without delay of any damage.
- 10.4 Goods which the supplier manufactures in whole or in part according to IDE's specifications, or using the items provided by IDE, may be used by the supplier itself, or be offered, supplied, or otherwise made available to a third party, only with the prior written consent of IDE. This also applies to goods which IDE has legitimately refused to accept from the supplier. The supplier must pay IDE liquidated damages in

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an adequate amount for each and any breach of these provisions. This shall not affect any further claims of IDE.

## 11. Force majeure

- 11.1 If an event of force majeure prevents IDE from performing its contractual obligations – in particular, from taking delivery of the goods – IDE shall be released from its obligation to perform for the duration of the impediment and a reasonable start-up period, without being liable to the supplier for damages. The same shall apply if the performance of its obligations by IDE becomes unreasonably complicated or temporarily impossible because of unforeseeable circumstances for which IDE is not responsible, in particular, because of official acts, energy shortage or major disruptions of operations. This also applies if IDE is affected by industrial action.
- 11.2 IDE may rescind the contract if an impediment within the meaning of clause 11.1 above lasts longer than two months and if, as a result of such impediment, the performance of the contract is no longer of interest to IDE. At the request of the supplier, IDE shall declare after the expiry of the aforesaid four-month period whether it will make use of its right to rescind the contract or whether it will take delivery of the goods within a reasonable period of time.

## 12. Confidentiality

The supplier must treat all information about IDE that becomes available to the supplier and is designated as confidential or can be identified as a trade or business secret due to other circumstances as confidential for an unlimited period of time and, except where required for the delivery to be made to IDE, shall not record, disclose or exploit any such information. The supplier shall enter into adequate contractual agreements with the employees and agents working for it to ensure that they, too, refrain at least for the duration of the business relationship from any exploitation, disclosure or unauthorised recording of such trade and business secrets for their own purposes.

## 13. Social responsibility and protection of the environment; Quality management

- 13.1 The supplier undertakes to comply with the respective regulations on how to deal with employees, the protection of the environment, and safety at work and to work towards reducing the long-term effects of its activities on human beings and the environment. For this purpose, it is recommended that the supplier implements a management system according to ISO 14001 and further develop such system, as far as possible. Furthermore, the supplier shall observe the principles of the Global Compact initiative of the United Nations. These principles essentially concern the protection of international human rights, the right to collective bargaining, the elimination of forced and compulsory labour and the abolition of child labour, the elimination of discrimination in employment and occupation, environmental responsibility and the prevention of corruption. Further information about the UN Global Compact initiative is available at [www.unglobalcompact.org](http://www.unglobalcompact.org).
- 13.2 If, in individual cases, this is separately requested in writing by IDE, the supplier shall also be obliged to set up a quality management system according to ISO 9001:2015 or set up a comparable quality management system to maintain the quality requirements of IDE.

## 14. Governing law and place of jurisdiction

- 14.1. The legal relations between the supplier and IDE shall be governed by the laws of the Federal Republic of Germany. If the supplier and IDE are located in different counties, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall take precedence.
- 14.2. The exclusive place of jurisdiction for all national business relations with businesspersons and legal persons under public law shall be Stuttgart, Germany. However, IDE shall additionally have the right to sue the supplier at the supplier's registered office or at any other permissible place of jurisdiction.

- 14.3 If the supplier and IDE are located in different counties, whenever a legal dispute arises out of or in connection with the business relationship or the individual agreement and its implementation, the parties may choose whether to turn to the ordinary courts of law or whether to bring the matter before an arbitral tribunal.
- 14.4 If the parties turn to the ordinary courts of law, Clause 14.2 shall apply.
- 14.5 If the parties turn to an arbitral tribunal, all disputes arising out of or in connection with the present agreement shall be finally decided in accordance with the Arbitration Rules of the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit e. V.* (DIS)). The DIS Arbitration Rules are available in German, English, French, Spanish, Chinese, Russian and Turkish, amongst other languages, at <http://www.dis-arb.de/de/16/regeln/uebersicht-id0>.
- 14.6 The arbitral tribunal shall consist of three arbitrators. Unless otherwise agreed between the parties, at least one of the individual arbitrators must have studied law and completed such studies successfully. The arbitrators must be in command of the language of the arbitral proceedings.
- 14.7 The language of the arbitral proceedings shall be German unless the parties agree on another language for the arbitral proceedings.
- 14.8 The place of arbitration shall be Stuttgart, Germany.

## 15. Miscellaneous

- 15.1 The supplier shall not be authorised to employ a third party to carry out an order, or any material parts of an order, unless IDE has given its prior written consent.
- 15.2 Any transfer or assignment of rights and obligations of the supplier to third parties shall require the written consent of IDE.
- 15.3 The language of the contract shall be German.
- 15.4 The place of performance for all obligations that are to be performed by the supplier and by IDE shall be IDE's registered office in Ostfildern, Germany.
- 15.5. Data protection compulsory information in accordance with Article 12 ff. DSGVO please refer to our privacy policy at: <https://www.ide-extrusion.de/de/dsgvo>