

GENERAL TERMS AND CONDITIONS OF PURCHASE

GTC OF PURCHASE



§ 1 SCOPE OF APPLICATION

- 1.1 The General Terms and Conditions of Purchase stipulated below apply solely to all correspondence with the supplier (hereinafter referred to as „Supplier“) excluding any conflicting terms or conditions.

Moreover, individually agreed general or contractual terms taking precedence over the said General Terms and Conditions of Purchase shall apply in the event of collision.

- 1.2 These General Terms and Conditions of Purchase are also deemed to apply where the Supplier makes reference to his own terms of business, in particular with regard to the acceptance of contracts or in any confirmation of order, unless the latter have been expressly approved by us.
- 1.3 Our General Terms and Conditions of Purchase shall only apply to companies as defined in Section § 310, Paragraph 1 of the German Civil Code (BGB).

§ 2 CONTRACTS.....

- 2.1 Contracts for the supply of merchandise, service agreements and work contracts (commissioned orders, purchase orders, quantity contracts and daily delivery call-offs, hereinafter referred to as „Contracts“) as well as modifications and amendments shall always be in writing.
- 2.2 Delivery call-offs and purchase orders are required to be confirmed by us in writing within a period of 7 days commencing from the date of the relevant call-off or purchase order. Otherwise the delivery call-off or purchase order concerned is deemed to have expired.
- 2.3 Purchase orders, scheduling lines and daily call-offs can also be by fax or by electronic data transmission. These are valid without a signature and need no confirmation on the part of the Supplier. Written notification must be given of modifications and amendments within 3 working days.

§ 3 PRICES / BILLING

- 3.1 The price quoted in the order is binding.
- 3.2 The statutory value added tax (VAT) must be shown separately in all invoices.
- 3.3 Invoices must be issued in duplicate stating the invoice number and order number, the period of delivery and other allocation data, and forwarded to the address of effidur; they must not be enclosed with the consignment.

§ 4 PAYMENT

- 4.1 Payment will only be made if the goods are received in a faultless state and - as regards work contracts or work supply contracts - if the service as well as final acceptance thereof undergoes completion in compliance with the order and subsequent presentation of the invoice is consistent with such order.
- 4.2 In the absence of any other agreement, effidur will pay the invoice within 10 days subject to deduction of a 3 % discount or within 30 days net without discount. Requests for payment before expiry of 30 days after receipt of the invoice shall not be interpreted as a delay in payment.
- 4.3 The period for payment of the invoice is deemed to commence on the date on which the invoice is received by effidur and is subject to the conditions stipulated in Clause 4.1.
- 4.4 The decisive criterion for the fulfilment of payment is the date of the electronic payment medium or advice note issued by us.
- 4.5 In the event of any faulty delivery being received, Effidur shall be entitled to withhold payment in whole or at least to a reasonable extent until proper fulfilment has taken place in conformity with the contract and removal of the defect or defects has been effected. Effidur shall be entitled to maintain and offset all claims, regardless of what nature, against all claims asserted by the Supplier.
- 4.6 Claims asserted on us by the Supplier shall only be assignable to third parties with our express approval. Supplier's rights and obligations arising from contracts with us shall not be transferable unless expressly approved by us in writing.

§ 5 DELIVERY / PERIODS OF DELIVERY/ DELIVERY DEADLINES.....

- 5.1 All dates and delivery deadlines quoted in the order are binding. The delivery deadlines (daily deadlines) refer in each case to arrival at the effidur premises or the stipulated delivery location.
- 5.2 In the event of circumstances arising or becoming noticeable resulting from which it becomes apparent that the stipulated delivery deadline cannot be met, the Supplier undertakes to notify us in writing immediately of all circumstances relating thereto, stating reasons for such delay and the duration thereof.
- 5.3 In the event of any delay in delivery we shall be entitled to demand lumpsum damages from arrears to the amount of 2.5 % of the delivery value per completed week of delay, however limited to a maximum of 5 % of the net order value and/or delivery value. Further-reaching claims remain reserved.

The Supplier shall have the right to demonstrate to us that no damage or substantially lower damage has occurred as a result of the delay. The said lumpsum damages shall then be reduced accordingly.

- 5.4 Partial or premature deliveries are not permitted without our approval.
- 5.5 The place of fulfilment is deemed to be that venue to which the goods are stipulated to be delivered in accordance with our contract.
- 5.6 Unless proof is furnished to the contrary, the values in respect of quantities, weights and measures determined by effidur in the process of incoming goods inspection shall be decisive.

§ 6 CLAIMS FOR DEFECTS / LIABILITY FOR DEFECTS / HANDLING OF DEFECTS

- 6.1 The Supplier undertakes to comply fully with our specifications, in particular with order documents pertaining to our contracts, thereby satisfying the stipulated properties of the items due for delivery.
- 6.2 Acceptance of the merchandise delivered shall take place subject to inspection for absence of defects as well as accuracy, completeness and suitability for the intended purpose.
- 6.3 Unless deviating stipulations have been made in separate agreements and contracts, liability for defects shall be governed by current statutory provisions.
- 6.4 In cases of urgency or in the event of the Supplier failing to meet his obligation of subsequent performance immediately where new goods arrive revealing defects, we shall be entitled - after prior consultation with the Supplier - to remedy such defects ourselves or to have them remedied by third parties or to procure replacements elsewhere. The Supplier shall bear the costs thus incurred.
- 6.5 The obligation pertaining to merchandise inspection and notification of defects is deemed to be discharged by us as soon as notification of the defect or defects has been sent in writing or by electronic data transmission within 5 working days from arrival of the goods or, in the event of hidden defects, with effect from discovery of any such defects by us.
- 6.6 The Supplier shall guarantee the traceability of his deliveries and undertakes to furnish us with all information pertaining thereto.
- 6.7 The Supplier undertakes to deliver his goods or to render services in compliance with acknowledged rules of technology and engineering as well as in accordance with EN, VDE, VDI, DVGW or equivalent standards where these exist or apply. Moreover, the deliveries and services of the Supplier made or rendered on the day of delivery shall comply with all statutory and official provisions including those pertaining to environmental protection and regulations for the prevention of accidents.

§ 7 WARRANTY

Statutory warranty and liability regulations shall apply as laid down in the version of the Amendment to the Law of Obligations dated 01.01.2002.

§ 8 LIABILITY

Statutory warranty and liability regulations shall apply as laid down in the version of the Amendment to the Law of Obligations dated 01.01.2002. Moreover, the following shall apply:

- 8.1 Provided that no other liability provision has been made elsewhere, the Supplier undertakes to effect compensation for damages incurred by effidur directly or indirectly due to faulty delivery, violation of official safety regulations or any other legal grounds imputable to the Supplier.
- 8.2 In the event of claims being filed by third parties against effidur on the basis of strict liability caused by violation of the Supplier's contractual obligations towards Effidur, the Supplier shall assume direct liability towards such third parties to the extent the Supplier would assume liability towards Effidur.
- 8.3 Measures undertaken by Effidur to avert damages (e.g. recall operations) shall be to the debit of the Supplier after he has been called upon to take action himself as governed by statutory provisions.
- 8.4 In the event of Effidur intending to assert claims on the Supplier in accordance with the aforementioned rules, Effidur undertakes to notify the Supplier immediately thereof and to consult with him in detail. The contracting parties shall agree between themselves on the measures to be implemented, in particular with regard to settlement negotiations.

§ 9 RESERVATION OF OWNERSHIP

effidur reserves ownership rights on any parts or materials it provides to the Supplier. Processing, bonding or blending of such parts or materials by the Supplier shall be undertaken in the name and on behalf of effidur.

§ 10 SECRECY AND CONFIDENTIALITY

- 10.1 The Supplier undertakes to maintain secrecy and confidentiality concerning all business processes and operating procedures that may become known to him or to his employees through us in the course of implementing the contracts. He expressly undertakes to draw the attention of all those employed by him to adhere to the said secrecy and confidentiality obligations.
- 10.2 All models, samples, drawings and information shall be treated as strictly confidential and shall only be used for executing our orders. On no account whatsoever may they be duplicated or made accessible to third parties and shall be returned without demand upon completion of the order or contract without any rights of retention.
- 10.3 The Supplier is liable for any infringement of patents and proprietary rights relating to the delivery item. Any contraventions are deemed to establish claims for compensation by us on the Supplier.
- 10.4 The obligation to maintain secrecy shall also continue to apply for a period of two years after termination of business relations.

§ 11 WITHDRAWAL

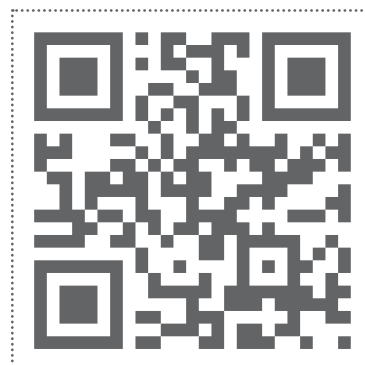
- 11.1 In the event of any substantial worsening of the economic and financial circumstances of the Supplier occurring, in particular in the event of a petition for judicial settlement or insolvency proceedings being filed against his assets, we shall be entitled to withdraw from the contract if handling thereof might appear to be jeopardized by the said circumstances.
- 11.2 The acceptance of partial deliveries and partial services following any of the aforementioned circumstances shall not affect the right to terminate the remainder of the contract.
- 11.3 Notwithstanding our other rights, force majeure, operational disruptions for which we are not responsible, riots, official measures and other circumstances beyond control shall entitle us to withdraw from the contract - in whole or in part - as far as these are of considerable duration and result in substantial reduction of our requirements.

§ 12 GENERAL PROVISIONS

- 12.1 In the event of any provision in these terms and conditions and/or the additional agreements entered into being or becoming invalid, this shall have no effect on the validity of the remaining contract. In that case the contracting parties undertake to replace the invalid provision by a ruling approximating its economic purpose and success as closely as possible.
- 12.2 Unless anything is agreed to the contrary German Federal Law shall apply exclusively.
- 12.3 The place of performance for delivery shall be effidur GmbH domiciled in Chemnitz.
- 12.4 The legal venue is Chemnitz.



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