

General purchase conditions



1. General - Scope

These purchase conditions apply to the legal relationship between the supplier and pmdtechnologies ag (in the following referred to as "pmd"). In addition, the legal provisions apply. Conditions to the contrary or supplier's conditions deviating from these purchase conditions are not recognised or only apply if they have been expressly accepted in writing by pmd. Silence or unconditional acceptance of the delivery by pmd is not considered as recognition.

2. Offer - Order - Order confirmation

Offers are made free of charge and are not binding for pmd. The supplier's offer must be based on pmd's enquiry concerning quantity, characteristics of the goods and other indications.

Orders are placed in writing. Oral collateral agreements are only effective if they are confirmed in writing. The contents of the orders are binding for the supplier. The supplier is obliged to confirm every order in writing within 5 (five) working days. Otherwise, pmd has the right to cancel.

Any deviations from or additions to the order must be expressly stated in the order confirmation and require pmd's written confirmation to become an integral part of the contract. The unconditional acceptance of deliveries and services or a payment constitute no consent of pmd.

If the supplier of pmd is informed about the purpose of the deliveries or services or if this purpose is obvious to the supplier without having been pointed out expressly, the supplier is obliged to inform pmd without delay if the deliveries or services are not suitable for fulfilling this purpose.

The order number, article number and order line number of pmd must be indicated in the entire correspondence. If this information is not or not completely given or no proper dispatch documents are available, pmd has the right to refuse the acceptance of shipments without being in default of acceptance. The cost resulting from this is for the supplier's account.

3. Delivery time – Delivery delay

Agreed dates and periods are binding. Adherence to the delivery date is given with the receipt of the goods or approval of the manufactured work at the indicated destination. A premature delivery and/or partial delivery by the supplier require pmd's express consent. However, pmd is entitled to call off the ordered goods in partial shipments.

The supplier must immediately notify pmd in writing of a delay or exceeding of the agreed dates and periods that become apparent, indicating the reasons and the presumable duration. Damage resulting from a violation of this duty must be compensated for by the supplier.

If the supplier has delayed the delivery, pmd can claim a compensation for every started week of delay of 0.5 % but no more than 5 % of the order value irrespective of the evidence of the actual damage. The supplier is entitled to present evidence to pmd that the delay resulted in no or only much smaller damage. The right to present evidence for a greater damage and to assert further legal claims remains reserved. The determined lump sum is set off against the damages for a delayed service.

The unconditional acceptance of the delayed delivery or of the service constitutes no waiver of pmd's above-mentioned rights related to the delayed delivery or service.

The supplier shall not be liable by reason of force majeure only where immediate notification and evidence of such have been presented to pmd indicating the exact circumstances and presumable duration of exceeding the period. Delayed or non contractual deliveries of the subsupplier to the supplier are not considered as force majeure.

4. Prices – Terms of payment

The prices are fixed and include delivery "franco domicile" as well as all packaging, transport, insurance cost and all other delivery charges unless otherwise agreed.

If carriage forward has been agreed (ex works, ex warehouse), the supplier must choose a reasonably priced mode of dispatch unless otherwise agreed.

On pmd's request the supplier must take back the packing or parts of it free of charge at the address of dispatch.

Two invoice copies must be separately sent to pmd after every delivery according to the legal requirements and indicating the order number, article number and order line number.

Payments are made within 14 (fourteen) days less 2 % or within 30 (thirty) days net unless otherwise agreed. The period allowed for payment starts following the complete receipt of goods in a good condition and receipt of the properly issued invoices. Payments are considered to be made with sending the cheque or debiting an pmd account.

In case of a faulty delivery or service pmd is entitled to hold back the proportionate amount of the payment until proper fulfilment.

All payments are only made to the supplier. The supplier is not entitled to assign claims against pmd to third

parties. Claims can only be set off by the supplier against the supplier's undoubted or legally confirmed claims.

5. Transfer of risk - Duty of examination and notice of a defect - Retention of title

The risk of accidental loss or accidental deterioration of the product under contract shall pass to pmd on acceptance of the delivery or approval of the work. In case of force majeure such as strikes, lock-outs and interruption of operations, etc. pmd is entitled to postpone acceptance or approval.

An incoming goods inspection is only carried out with respect to externally visible damage and deviations concerning identity and quantity. Other defects are notified by pmd within a reasonable period after determination according to the business practices. The supplier waives the defence of the late notice of defects.

Notwithstanding other evidence, the values determined by pmd for quantity, weight and dimensions during inspection prevail.

A prolonged or extended retention of title is not accepted.

6. Subcontracting

The supplier is liable for his subsuppliers' and his own products. If customer-specific products are concerned, subcontracting orders to third parties is only allowed with pmd's written consent. Otherwise pmd is entitled to withdraw from the order in whole or in part or to claim damages.

7. Liability for defects

The supplier guarantees the faultlessness of his deliveries and services. He especially warrants the careful and proper processing and workmanship as well as the perfect and reliable function of the product under contract and the materials used. A defect also is when the product under contract does not comply with the agreed purpose, the recognised state of the art and the applicable legal and official provisions, especially the approval regulations, health and safety at work regulations as well as regulations for the prevention of accidents and the packaging and marking regulations if hazardous substances are ordered.

The same regulations also apply to the set-up of installations and to the removal of defects, if any.

pmd is entitled to the legal claims resulting from a defect. All expenses for the removal of defects are for the supplier's account. In case of a delayed or failed supplementary performance pmd is entitled to withdraw from the order in whole or in part, to reduce the price or to claim damages due to non fulfilment and possibly delay without setting a new date. The right to claim reimbursement of vain expenses remains reserved.

In urgent cases pmd can remove the defect on its own or have it removed by a third party for the supplier's account after notification.

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The warranty period is 24 (twenty-four) months commencing with the set-up or first use of the product under contract by pmd but no longer than 36 (thirty-six) months commencing with handing over the product or acceptance of the service unless otherwise agreed. In case of deliveries or services directly carried out at pmd's customer the warranty period starts with the customer's acceptance.

In case of rectifications, new deliveries or removal of defects according to section 3 the limitation period starts again at the time when the claims for supplementary performance or supplementary delivery have been fully met.

8. Industrial property rights

Irrespective of his fault, the supplier guarantees that the product under contract is free of defects of title, especially free of third party rights. In case of an infringement of such property rights the supplier is obliged to compensate pmd or pmd's customers for all the damage occurred. On the first request the supplier is also obliged to exempt pmd from all claims of third parties against pmd arising from or out of the delivery or use of delivered products. Further legal claims remain unaffected.

The limitation period for claims from property right infringements is 10 (ten) years starting with handing over the product or acceptance of the service.

In case of an infringement pmd is also entitled to obtain from the holder of such property rights the required permission to deliver, set up, use, resell, etc. the product under contract for the supplier's account.

9. Objects and material of pmd

Material supplies and objects of pmd the supplier receives for modification shall remain pmd's property and may only be used for pmd orders. The supplier is obliged to separately store, to identify and to manage these objects free of charge. The supplier is liable for loss, deterioration and improper use and is obliged to take out corresponding insurances for his own account. pmd is entitled to assert all claims even if no material breach of contract can be imputed to the supplier.

The processing or alteration of material is carried out for pmd. pmd becomes the direct owner of the new or altered object on a proportionate basis depending on the production progress. If this is not possible on legal grounds, the supplier and pmd agree when the order is placed that the title to the new or altered object is transferred to pmd at the moment of production or alteration. The supplier stores the new or altered object free of charge with the care of a prudent businessman.

10. Drawings, models, tools, etc. - Secrecy

Drawings, models, moulds, samples, profiles, standard sheets, artwork, gauges, other documents or tools provided by pmd or made for pmd's account remain pmd's property or become pmd's property on production and have to be clearly marked as pmd's property. The reproduction of such objects is only allowed within the scope of the operating requirements and copyright regulations. They must not be transferred to any unauthorised third parties or be used for a purpose other than the fulfilment of the order. They must be protected against unauthorised inspection or use. Notwithstanding further rights pmd can demand their return if the supplier violates his duties. The same duties apply to the sub-suppliers.

The supplier has to store the above-mentioned objects carefully and to insure them against fire, theft or other loss for his own account. He has to return them to pmd without being asked immediately after completion of the order without keeping copies, duplicates, etc.

If it has been agreed that the cost for tools is for pmd's account, these tools will become pmd's property immediately after payment of the full or, if agreed, proportionate cost. They remain with the supplier on loan until completion of the order unless otherwise stipulated. This also applies to tools whose cost was included in the price of the ordered articles as agreed. The supplier is obliged to keep such tools and equipment operational free of charge and to return them on request after completion of the order.

The supplier is obliged - and shall also impose this obligation on all employees involved in the cooperation or consulted third parties - to use all the documents, knowledge and other information obtained from the cooperation only for the activities related to the cooperation, to treat them as strictly confidential and not to make them accessible to any third party. In case of a violation of the duties of secrecy the supplier is liable for all the resulting direct and indirect damage.

11. Product liability

The supplier shall exempt pmd from any claims of third parties and relating to a product damage on the first demand if the cause of this lies within the supplier's domain and organisation. The supplier is also obliged to reimburse all expenses incurred to pmd arising from or out of a recall action carried out or other measures.

The supplier is obliged to take out and maintain a product liability insurance with an amount of coverage common in industry. However, pmd's claims are not limited to the amount of coverage.

12. Quality assurance

The supplier is obliged to maintain a quality management system to DIN EN ISO 9000 et seq during the entire business relationship, to monitor it regularly by internal audits and to take the required measures without delay in case of non conformity.

pmd is entitled to check the supplier's quality assurance at any time after prior notice. The supplier allows pmd to inspect certification and audit reports as well as test procedures carried out.

The supplier has to inform pmd about any product change separately in writing.

13. Data protection

The supplier's personal and company-related data transferred under the contractual relationship or become known otherwise are saved and processed electronically by pmd for the intended purpose of the contract and for the fulfilment of the business purpose.

14. Company principles

Within the framework of its responsibility for humans and the environment pmd undertakes to comply with the following principles:

- Legal compliance;
- Prohibition of corruption and bribery;
- Respect for the basic human rights of employees;
- Prohibition of child labour;
- Responsibility for the health and safety of employees;
- Promotion of environmental protection;
- Adherence to the Embargo-provisions of the EU;

The supplier agrees with these principles of pmd and assures to keep and promote them.

15. Final provisions

Place of performance shall be pmd's head office.

Place of jurisdiction shall be Siegen.