

PURCHASING CONDITIONS OF ISSELGUSS GMBH GIESSEREIERZEUGNISSE

Applicable Conditions

These purchasing conditions apply to all business transactions with the supplier, even if they are not specifically referred to in subsequent contracts. They also apply if the supplier refers to its own terms and conditions of business, particularly upon acceptance of the order or in the order confirmation, unless these have been explicitly accepted.

1. Placement of the Order

An order is only deemed to have been placed if it is drawn up in writing by us and signed. Orders placed orally or by telephone are only binding for us if we have confirmed them by the subsequent transmission of a written order. Alternative arrangements only apply if we have explicitly confirmed them in writing. Only orders placed in writing are binding upon us.

2. Prices

Unless otherwise explicitly agreed, the prices that have been accepted are fixed prices unless the supplier generally reduces the prices in question. Price changes have to be expressly accepted by us in writing. The prices agreed between the parties to the contract are confidential and may not be made known to third parties.

3. Order and Order Confirmation

Every order is to be confirmed in writing by the contractor immediately upon receipt using the duplicate copy of our order form; otherwise we are entitled to revoke the order. In the case of self-evident errors there is no obligation on our part. The supplier is obliged to inform us of such errors, so that our order can be corrected and renewed.

4. Assignment

The assignment of claims of the contractor to us requires our written consent.

5. Set-off

The contractor declares its acceptance of the setting-off of its claims and liabilities with respect to the ordering party. All conditions are to be assessed according to the time of the accrual and not the maturity of the claims. Insofar as claims are due on various dates, settlement is based on the value date. In the case of current account relationships the offsetting agreement relates to the balance.

6. Deliveries

The agreed delivery dates are binding. As soon as the contractor becomes aware of circumstances which might result in the delivery being delayed, we are to be notified thereof without delay in order that we can take a decision on whether we wish to cancel with the order. Insofar as the supplier is in default, we are entitled to impose a contractual penalty of 0.5% of the net order value for each week and part thereof up to a maximum of 5% of the net order value. Irrespective of the above, after the setting of a reasonable period of grace we are entitled to withdraw from the contract or assert claims for damages due to non-fulfilment.

7. Shipping and Assumption of Risk

Unless otherwise agreed, delivery is ex-works loaded on truck, including standard commercial packaging by IHI contract carrier to the mailing shipping address. Transport insurance is provided by us, unless alternative arrangements are agreed. Every delivery is to be accompanied by a delivery note (duplicate) stating our order number, the quantity, article designation and part number if applicable. The invoice is to be sent with the same details to our Invoice Processing Department. The IHI contract carrier shipping instructions form part of our purchasing conditions. Any shipping costs incurred as a result of non-compliance with these instructions are to be borne by you.

8. Quality/Documentation

The items to be delivered must be in accordance with the documents on which the order is based, as well as the statutory regulations in force at the time, the Equipment Safety Act (equipment safety law), the accident prevention regulations, the VDE regulations, the DIN standards, the relevant ordinances and guidelines and the latest generally recognised rules of technology. The contractor is to perform quality control in accordance with the current state of the art which is appropriate in terms of type and extent. Our special conditions apply to initial samples.

We expect the contractor to continually adapt the design and quality of its products to be delivered to us to the latest state of the art and to inform us of possible improvements. Any change to the delivery item requires our express prior agreement. Documents are to be stored for 10 years and surrendered to us upon request.

9. Manufacturing Documents/Manufacturing Equipment

All drawings made available to you for the execution of orders, other technical documents and materials remain our property and are to be returned to us without delay after completion of the order without a specific request or stored on our behalf. The costs of this are included in the purchase price. The documents may only be used to the extent approved by us and may not be copied or made available to third parties without our prior written consent.

Products manufactured with manufacturing equipment which belongs to us or is financed by us (models, dies, etc.) may only be supplied to us. The contractor is liable for damage to or the loss of tools, dies and devices etc. that have been made available.

10. Warranty/Liability

The supplier guarantees that the goods conform to our order and our requirements and are free of defects of quality and defects of title. Insofar as the supplied goods or service contain(s) a defect, we can - at our discretion - request rectification of the defect or the delivery of a defect-free item.

All resulting expenses, in particular transport, call-out, labour and material costs, are to be borne by the supplier. This does not affect the right to assert additional claims for damages. In cases where defective articles are delivered, we shall - at the request of the supplier - return the defective items to the supplier at the supplier's expense. Insofar as the supplier does not comply with our request to rectify the defect or supply a defect-free item within a period of 8 days, we are entitled at our own discretion to withdraw from the contract or demand a price reduction. It is not necessary for a deadline to be set if the supplier refuses supplementary performance, if this is not reasonably acceptable for us or if it has already passed once without success. Withdrawal from the contract does not affect claims for damages.

Warranty claims come under the statute of limitations after 2 years in all cases, with the exception of items which are used in a building structure or services associated with a building structure, in which case this period is 5 years. The statute of limitations begins upon the transfer or acceptance of the service.

The supplier exempts us from all claims asserted against us as a result of the delivery of faulty goods. For faults which are attributable to the default of the supplier, the latter shall exempt us from any resulting product liability to the extent that the supplier would itself also be directly liable.

The supplier is liable for ensuring that the items it supplies and their utilisation by us does not infringe any patents or other industrial property rights of third parties. The supplier exempts us and our customers from all claims arising out of the use of such industrial property rights. This does not apply insofar as the supplier has manufactured the supplied items in accordance with drawings, models or other equivalent descriptions or configurations supplied by us and does not know - or cannot know with respect to the products it has manufactured - that industrial property rights are being infringed as a result.

11. Force Majeure

War, civil war, export restrictions and trade restrictions resulting from a change to the political situation, as well as strikes, lockouts, interruptions to business operations, operational restrictions and similar events which make it impossible or unreasonable for us to fulfil the contract are deemed to be force majeure and exempt us for the duration of their occurrence from the obligation of timely acceptance. The parties to the contract are obliged to inform one another of the above and adapt their obligations to the altered conditions in good faith.

12. Non-disclosure

The supplier is obliged to treat our orders and all associated commercial and technical details as a business secret and subject its subcontractors to a similar obligation.

13. General Provisions

- Insofar as a provision of these purchasing conditions is or becomes invalid, this shall not affect the remaining provisions.
- German law shall apply exclusively to all legal relationships between the supplier and ourselves, even if the supplier has its registered office abroad, to the exclusion of the United Nations Convention on the International Sale of Goods (CISG).
- The place of performance is Isselburg. Alternative arrangements may be agreed for deliveries in specific cases.
- The place of jurisdiction is Bocholt. However, we are entitled to assert our claims at your general place of jurisdiction.

Date: February 2003