

General terms and Conditions of Purchase of Verseidag-Indutex GmbH

Krefeld / Germany – Last updated: January 2008



1. General

- a) Our terms and conditions of purchase exclusively apply to all our orders; any contractor's terms and conditions conflicting with or deviating from our terms and conditions of purchase shall only apply if approved by us in writing. Our terms and conditions of purchase shall also apply if we accept delivery of or pay the contractor's products and services (hereinafter referred to as "object of the contract") with the knowledge of the contractor's terms different to or deviating from our terms and conditions of purchase.
- b) Our terms and conditions of purchase shall also apply to all future transactions with the contractor.

2. Conclusion and Modification of Contract

- a) Orders, conclusions and call-offs as well as modifications and amendments shall be made in writing. Orders and call-offs may also be forwarded through remote data transmission or facsimile.
- b) Any orders shall be confirmed in writing in order to make valid any oral agreements made before or upon conclusion of the contract. 2.1, sentence 2 shall remain unaffected.
- c) Oral agreements after the contract was concluded, namely, subsequent modifications and amendments to our terms and conditions of purchase including this written form clause – as well as supplementary agreements of any kind – shall also be confirmed in writing to become valid.
- d) The contractor's quotations shall be binding and non-remunerable unless expressly agreed otherwise.
- e) The contractor shall confirm in writing our orders stating our order number, the binding prices and delivery dates. If the contractor does not accept an order within two weeks after receipt, we shall be entitled to revoke such order. Call-offs shall be become binding if the contractor does not refuse within five working days after receipt.

3. Deliveries

- a) Deviations from our specifications and orders shall only be valid upon our prior written consent.
- b) Agreed date and time periods shall be binding. The date of receipt of the object of contract shall be relevant for meeting the delivery date or the time of delivery. If no "free" delivery (DDU or DDP according to Incoterms 2000) was agreed, the contractor shall make the object of contract available in time for loading considering the time to be agreed with the forwarding agent.
- c) If the contractor is responsible for installing or assembling, he shall – subject to deviating provisions – bear all necessary additional costs such as travel expenses, provision of tools.
- d) If agreed deadlines are not complied with, the legal provisions shall apply. The contractor shall immediately inform us in writing if the contractor anticipates difficulties with the manufacturing, pre-material procurement, compliance with the delivery date, or other factors, which might prevent him from delivering in due time or from delivering the agreed quality.
- e) The implicit acceptance of delayed deliveries or performances shall not be deemed as our waiver of the claims, to which we are entitled in case of late delivery or performance; this shall apply until payment of the full remuneration to be paid by us for the respective delivery or performance.
- f) In principal, partial deliveries will not be accepted unless such were expressly approved by us.
- g) The quantities, weights and dimensions determined by us upon inspection of the incoming goods shall be relevant unless other kinds of proof apply.

4. Third Party Property Rights

The contractor shall ensure that we will not infringe copyrights, patents or other property rights of third parties by using or processing or selling his deliveries and/or services as contractually agreed. He shall release us from any claim asserted against us for the infringement of an industrial property right, and shall bear all costs for the protection of rights if such claims result from his culpable breach of obligation. We will immediately inform the contractor of any related claim against us.

5. Force Majeure

Without prejudice to our general rights, events of force majeure (in particular, industrial action measures as well as other circumstances which we are not able to anticipate or influence) shall entitle us to fully or partially withdraw from the contract if such circumstances last for a significant period of time and will result in a considerable reduction of our volume requirements.

6. Notification of Shipment and Invoice

The specifications given in our orders and call-offs shall apply. Invoices shall be sent in duplicate and stating the invoice number and other characteristics, to the address respectively printed upon full defect-free delivery and/or performance. They must not be included in the shipment. The contractor is obligated to state the order number used by us on all shipping documents. Invoices shall be sent in due course, the latest by 5th January of the following year. We reserve the right to return incomplete invoices; the contractor shall be

deemed responsible for all consequences arising from the non-compliance with this obligation.

7. Pricing and Passing of Risk

The prices stated in our order shall be binding. If no separate agreement was made, the prices shall be deemed inclusive of "free" delivery, duties (DDU or DDP according to Incoterms 2000) and packaging. Such prices shall be exclusive of value added tax. Subject to separate agreement, the contractor shall take back any packaging material free of charge at the place of receipt. The contractor shall bear the risk for accidental loss and incidental deterioration until acceptance by us or our agent at the place to which the goods are to be delivered as contractually agreed.

8. Off-set/Assignment

The contractor shall only be entitled to off-set against uncontested receivables or receivables res judicata. The assignment of receivables shall only be valid upon our written consent.

9. Terms of Payment

Unless agreed otherwise, all invoices shall be settled within 14 days with 3% cash discount or within 60 days net. Such time period shall commence upon receipt of the invoice, however, not before performance of contract without defects and/or acceptance inspection. Such periods shall also apply if different terms of payment were agreed with the contractor. Payment shall be made subject to invoice assessment. We are customers exempted from forwarding, logistics and warehousing insurance. Invoiced amounts will be reduced accordingly.

10. Claims for Defects and Recourse

- a) If acceptance is legally provided for or agreed, the contractor shall bear the risk until acceptance.
- b) We shall only be obligated to accept deliveries if such have the agreed composition characteristics. Acceptance shall be subject to checks for non-existence of defects and, in particular, for correctness, completeness and fitness. We shall be entitled to inspect the object of contract if and when such is expedient according to regular course of business. We will reprove found defects immediately after they were found.
- c) In principal, we shall have the right to choose the type of subsequent performance.
- d) If the contractor does not commence to remedy the defects immediately after our request for the remedy of defects, we shall have the right – in particular, for preventing acute risks or for avoiding greater loss – to remedy such defects ourselves or to have such remedied by third parties. Claims for defects of quality shall become statute-barred after 2 years unless the item was used for a building according to its typical type of use and has caused the building to be defective. The statute of limitations for claims for defects of quality shall commence when the object of contract (passing of risk) is handed over.
- e) The contractor shall indemnify us from any third party claims possibly applicable in case of defects of title. As regards defects of title, the statute of limitations shall be 10 years.
- f) The statute of limitation for parts of the delivery, which were restored or repaired within the statute of limitations for our claims for defects, shall re-commence at the time at which the contractor has fully satisfied our claims for subsequent performance.
- g) If we incur any costs, in particular, transport, working, material costs, tolls or costs for any inspection of incoming goods, which exceeds the common extent of an inspection, the contractor shall bear such costs.
- h) If we are required to take back products manufactured and/or sold by us due to the defectiveness of the object of the contract supplied by the contractor or if the purchase price was reduced to our detriment or if we were claimed against in any way, we reserve recourse as regards the contractor while the normal setting of a period for our defect rights shall not be required.
 - i) We shall be entitled to request the contractor to reimburse any expenses we have to bear in relation to our customers if such can claim against us for expenses required for subsequent performance, in particular, transport, working, material costs and tolls.
 - j) If a defect of quality is found within 6 months after passing of risk, the defect shall be deemed to have already existed at the time of passing of risk unless that such assumption contradicts the type of item or defect.
 - k) For all other cases, the legal provisions shall apply.

11. Product Liability and Recalls

If we are claimed against on grounds of product liability, the contractor shall be obligated to indemnify us from such claims if and when the damage can be attributed to a defect of the object of contract supplied by the contractor. In cases of strict liability, however, such shall only apply if the contractor was in default. If the contractor is responsible for causing the damage, he shall bear the respective burden of proof. In this case, the contractor shall bear all costs and expenses including all costs for possible prosecution and recalls. For all other cases, the legal provisions shall apply.

12. Performance of Works

Persons, working together with the contractor at our factory premises to perform a contract, shall comply with the provisions of the respective plant regulations. Our liability for accidents,

which occurred to such persons at the factory premises, shall be excluded unless such can be attributed to wilful or grossly negligent breach of obligation on the part of our legal representatives or vicarious agents.

13. Data Protection

We shall be entitled to store and process all data, which the contractor requires for the performance of the contract concluded with him, even if such is personal data.

14. References/Advertising

The contractor shall be entitled to use information on planned or existing contractually agreed cooperation for reference and marketing purposes only upon our written consent. Photographs of our plants or our products as well as their use and/or publishing in any way shall also require our written consent.

15. Product and Environmental Regulations

- a) Upon acceptance of our order, the contractor undertakes to comply with the relevant product and environmental regulations applicable within the EU- market. As regards the object of contract, this shall particularly apply to the following laws and regulations: chemicals law with statutory regulations, water management act, ordinance on operational safety as well as all German hazardous materials regulations.
- b) To the extent that substances, for which EC safety data sheets exist or are mandatory, are used for the ordered object of contract and/or the ordered service, the contractor shall send an updated version of such without prior request.

16. Documents and Confidentiality

- a) The contractor shall keep confidential all and any business and technical information (including characteristics which can be taken from possibly provided objects, documents, formulas or software as well as other knowledge and experience) made accessible by us, as regards third parties and must only provide such to those persons who need to be involved for the purpose of performance and who shall also be subject to this confidentiality requirement. All information shall remain our exclusive property. This information must not be reproduced or used commercially without our prior written consent with the exception of deliveries to us. Upon our request, the information provided by us, (if applicable), including copies or records made and items provided by us on loan shall be immediately and fully returned to us or destroyed. We reserve all rights in the information (including copyrights and the right to apply for industrial property rights such as patents, industrial designs, etc.). To the extent that such information was provided to us by third parties, such reservation of right shall also apply in favour of these third parties.
- b) The contractor must neither himself use nor offer or deliver to third parties any products, which were manufactured according to documents prepared by us, such as drawings, formulas and suchlike, or according to our confidential data.

17. Place of Performance

The place of performance shall be such place to which the goods are to be delivered as contractually agreed.

18. General Provisions, Place of Jurisdiction, Applicable Law

- a) If a provision of these terms or another agreement made with the contractor is or becomes invalid, the validity of the remaining terms or the agreement shall remain unaffected. The contractual parties shall be obligated to replace such invalid provision with a provision similar to its economic meaning and success.
- b) The place of jurisdiction for all legal disputes, which directly or indirectly arise from the contractual relationship based on these terms and conditions of purchase, shall be the seat of Verseidag-Indutex GmbH in D-47803 Krefeld. We shall be entitled to sue the contractor, at our discretion, at the court competent for his seat or branch or at the court competent for the place of performance.
- c) We reserve the right to secure transactions through credit insurance and to forward the required contractor data to the insurer.
- d) In addition to these terms, the Incoterms 2000, including all subsequent amendments, shall apply.
- e) Our contractual relations with contractors shall be exclusively governed by German law excluding possible conflicts of law as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG).