

General terms of purchase of NEXTRUSION GMBH



1. *General information*

- 1.1 These General Terms of Purchase shall apply to all of our – also future – enquiries and orders as well as to all – also future – supply contracts concluded with the supplier and other agreements, which are reached with the supplier in connection with orders. Possible terms and conditions of the supplier are hereby also objected to for the event that they are transmitted to us in a letter of confirmation or in any other manner or we accept the delivery or service of the supplier without objecting to his terms and conditions once again.

2. *Offers and orders*

- 2.1 Our enquiries are non-binding. Our order number and the order date are to be quoted in all correspondence.
- 2.2 Offers of the supplier are free and non-binding for us. The supplier must inform us of deviations from the enquiry documents in the offer.
- 2.3 No remuneration will be paid for visits as well as the drawing up of plans, drawings, expert's opinions, etc. without an express written agreement.
- 2.4 Orders must be made in writing. Oral collateral agreements concerning the order shall only be binding if we confirm these in writing. This shall also apply to subsequent addendums and amendments.
- 2.5 In the event that machines or systems, which are to be produced, are ordered we can control the execution of the order at the supplier and his components suppliers at all times after prior notification. The supplier must insofar impose a corresponding obligation upon his components suppliers. The supplier shall make the equipment, aids and services which are necessary for the inspection available free of charge.
- 2.6 If the supplier does not essentially create the object of the order in his plant he must inform us thereof immediately before start of production and obtain our consent.

3. *Delivery time*

- 3.1 Agreed delivery or service dates and deadlines are binding.
- 3.2 Decisive for observing the delivery date or the delivery deadline is the hand-over of the whole service to us as per contract. If delivery „free house“ or „free place of use“ has not been agreed the supplier must make the service available by observing the customary time for transport or despatch.
- 3.3 If the agreed delivery or service dates are exceeded the supplier shall also be in default without a reminder from us unless the delivery or service is delayed owing to a circumstance for which the supplier is not responsible.
- 3.4 As soon as the supplier has reasons to assume that he cannot carry out the order in full or in part in time he must report this immediately by stating the reasons and the expected duration of the delay. Our statutory rights are not affected by this notification.

- 3.5 If the supplier does not observe the delivery date for reasons, for which he is responsible then we are entitled without setting a further deadline and at our own choice to demand subsequent delivery, damages instead of the service or to cancel the contract. For the event of a delay in delivery a conventional penalty shall be agreed in the maximum amount of 0.5% of the order value per started week of delay, limited to a maximum of 5% of the agreed remuneration. The assertion of further rights remains unaffected hereby. The conventional penalty is to be offset against the actually occurred and asserted damages on default. The right to demand the payment of the conventional penalty is not forfeited through the acceptance of the delayed delivery without a reservation.

4. *Prices*

- 4.1 If not expressly agreed otherwise the prices are fixed prices and are free our receiving plant or free receiving station as stipulated by us including packaging, transport insurance from house to house and other expenses.
- 4.2 The price includes the applicable rate of value added tax.

5. *Shipment*

- 5.1 Our shipment instructions are to be complied with carefully by the supplier. Insofar as not otherwise stipulated the shipment possibility which is most favourable for us is to be chosen.
- 5.2 Partial services are only permitted with our express consent. This shall have no effect on our right to demand partial services from the supplier.
- 5.3 The supplier shall be liable for the suitability of the used packaging as well as the compliance with statutory labelling obligations.

6. *Assumption of risk - place of performance*

- 6.1 The supplier shall bear the risk with regard to the deliveries and services of the supplier until the delivery arrives or the service is provided at the aforementioned place of performance.
- 6.2 The place of performance for all reciprocal deliveries and services is the receiving plant respectively named by us or another place of receipt determined by us; if a destination has not been named the place of performance is Bobingen.

7. *Examination for defects - liability for defects*

- 7.1 Defects, which can be detected during a proper inspection of the goods after delivery, must be reported within one month after delivery; other defects are to be reported by us within two weeks after they have been discovered. This shall also apply if another good than that which was agreed as per contract or another quantity of goods than that which was agreed as per contract is delivered insofar as the delivered does not obviously deviate substantially from our order to the extent that the supplier has to consider a consent of the goods to be excluded.
- 7.2 We shall be entitled to the statutory warranty claims in full; in any case we are entitled to demand from the supplier at our choice remedy of the defect or delivery of a new object. We expressly reserve the right to damages, in particular that to damages instead of the service.
- 7.3 There is no right to subsequent improvement insofar as the supplier does not maintain any own repair operation. The supplier must bear the expenses incurred in connection with the subsequent improvement or substitute delivery.
- 7.4 We are entitled to remedy the defects ourselves at the supplier's costs or to have these carried out by a third party if there is a danger in delay or there is a special need for urgency.

- 7.5 The supplier shall also be responsible for ensuring that the stated service and consumption figures as well as the stated emission values are observed and that the deliveries and services comply with the latest generally recognised rules of technology and the labour protection and accident prevention regulations which apply to us and the European directives (e.g. CE). Upon request we shall make the labour protection and accident prevention regulations which apply to us available. Approvals of drawings and calculations of the supplier which are granted by us shall not restrict his warranty obligations.
- 7.6 The statute of limitations is 36 months beginning from passing of risk. Not affected hereby is still the statutory five-year warranty period for buildings.

8. Product liability - indemnification

- 8.1 Insofar as the supplier is responsible for damages to products he undertakes to indemnify us insofar from claims for damages of third parties upon first request to the extent that the cause can be found in his field of control and organisation and he is personally liable in the external relationship.
- 8.2 Within the framework of his liability for damaging events within the meaning of Par. 1 the supplier also undertakes to reimburse possible expenses according to §§ 683, 670 BGB [German Civil Code] as well as according to §§ 830, 840, 426 BGB, which arise from or in connection with a recall action carried out by us.
- 8.3 The supplier undertakes to insure corresponding risks with a reasonable amount and shall provide proof thereof upon request by submitting his insurance policy.
- 8.4 Incidentally, the supplier shall be liable within the framework of the statutory provisions.

9. Industrial property rights

- 9.1 The supplier shall be liable for the fact that no rights of third parties are infringed through the delivery, use and the operation of the offered objects.
- 9.2 If a claim is asserted against us in this respect by a third party the supplier undertakes to indemnify us from these claims at the first written request; we are not entitled to reach any agreements with the third party – without the consent of the supplier – in particular not to reach a settlement.
- 9.3 The indemnification obligation of the supplier refers to all expenses which are incurred to us from or in connection with the claim by a third party.
- 9.4 The statute-of-limitations for these claims is 10 years beginning with the conclusion of the respective contract.

10. Invoices, payment

- 10.1 The invoice may not be enclosed with the goods, but is to be sent to us by post immediately after despatch of the goods separately for each order in duplicate including the full order data. The invoice copy is to be clearly marked as such.
- 10.2 In the absence of deviating agreement payments shall be due and payable within 60 days after receipt of invoice and goods; with payment within 30 days after receipt of the invoice and goods we are entitled to a cash discount of 3 %.
- 10.3 We are entitled to rights to offset and of retention to the statutory extent.

11. Non-disclosure obligation

- 11.1 All information, drawings, blueprints, samples, models, etc., which are handed over to the supplier for producing an object of delivery are our intellectual property and may not be used or reproduced for other purposes or made accessible to third parties. The same applies to drawings, which the supplier prepares according to our information. The supplier must consider the order and the work which refers thereto as business secrets and treat these confidentially. He shall be liable for all damages suffered by us due to the

infringement of our property and industrial property rights. All documents which are made accessible to the supplier are to be handed over to us together with all copies and/or reproductions thereof without request within 14 days after settlement of the order. The supplier shall not retain or store any copies, duplicates, etc. unless he is obliged to archiving owing to statutory regulations. A right of retention of the supplier is insofar excluded.

- 11.2 Employees and sub-suppliers are to be obliged accordingly.
- 11.3 The non-disclosure agreement shall also apply after the processing of the contract; it shall expire if and insofar as the production know-how contained in the provided diagrams, drawings, calculations and other documents has become general knowledge.

12. Advertising

An evaluation of the business relationship existing with us for competition purposes is only permitted with our written consent.

13. Forms, tools, equipment

Forms, tools and similar items which were produced in full or in part at our costs shall become our property. These objects are to be stored carefully by the supplier so that they can be used at all times and if applicable can be handed over to us. Our property is to be clearly marked on these objects by the supplier. Our consent is to be obtained before scrapping these objects.

14. Offsetting, retention, assignment

- 14.1 The supplier shall only be allowed to a right to set-off with regard to undisputed claims, which are declared final and absolute or are ready for decision. The supplier shall only be entitled to a right of retention with regard to such undisputed or claims which have been declared final and absolute or which are ready for decision, which stem from the same contractual relationship with us.
- 14.2 The assignment of claims of the supplier against us to third parties is excluded; § 354a HGB [Commercial Code] remains unaffected.

15. Work assignment of third party companies

- 15.1 In case of an assignment of employees of a third party company or a subcontractor commissioned by a third party company on the plant site of IWB or NEXTRUSION GmbH the provisions relating to labour protection for third party companies are to be complied with.
- 15.2 These provisions relating to labour protection for third party companies will be sent to you by our purchasing department with the order.
- 15.3 Should no signed return confirmation have been received from the third party company when the order begins or should the demands contained in the labour protection conditions not be complied with we reserve the right to prevent the commencement of the work. This also includes financial consequences (e.g. claims for damages, compensation) in case this should lead to non-scheduled standstills within our production or other work is delayed thereby.

16. Certification

NEXTRUSION GmbH is certified according to DIN ISO 9001 / ISO 14001. The safety, environmental and quality policies can be called in the Internet under WWW.NEXTRUSION.DE and are enclosed as an annex. Certified suppliers shall be given preference within the framework of our purchasing policies.

17. Data protection

Data of our suppliers shall be saved and processed by us using IT means insofar as this is necessary for the proper processing of the contractual relations.

18. Other provisions

- 18.1 The law of the Federal Republic of Germany shall apply under the exclusion of the provisions of the Convention of the United Nations concerning contracts relating to the international sale of goods (UN law on purchases).
- 18.2 Insofar as the supplier is a merchant, legal entity under public law or special fund under public law the registered seat of the purchasing company is the exclusive place of jurisdiction for all disputes ensuing directly or indirectly from the contractual relationship; we are however entitled to bring the matter before any other court of jurisdiction according to the statutory provisions instead of the court of the afore-mentioned place of jurisdiction.
- 18.3 Oral collateral agreements, the exclusion and amendments or addendums to these terms of purchase require the express written confirmation of our purchasing management in order to be valid. This shall also apply to the exclusion of this written form requirement. Deemed as sufficient for safeguarding the written form requirement are also notifications by written telecommunication means (telex, teletex, fax, telegram, e-mail).

Bobingen, 22 July 2010