

General Terms and Conditions of Purchasing of Cofely Deutschland GmbH

1. Scope of Validity

- 1.1 The terms and conditions of purchasing that follow apply to all our orders unless otherwise specifically agreed in individual cases. Suppliers' contradictory or deviant terms and conditions of sale do not apply even if not specifically objected to by us.
- 1.2 Suppliers' order confirmations are considered acceptance of these terms and conditions even if a supplier attached their own general terms and conditions of business to said confirmation.
- 1.3 These terms and conditions apply only toward companies within the meaning of § 14 German Civil Code (BGB), legal persons in public law and public law special estates.

2. Order

- 2.1 Only orders issued by us in writing are valid.
- 2.2 Each and every order must be confirmed promptly by the supplier in writing. The supplier must specifically point out all and any deviations from our order, particularly as regards price, in their order confirmation. Same are only valid and applicable if confirmed by us in writing.
- 2.3 Oral provisions are only valid and applicable if confirmed by us as such in writing.

3. Prices, shipping costs

- 3.1 All prices given in all orders are fixed unless otherwise specifically and individually agreed in writing.
- 3.2 The cost of shipping and of packaging, including disposal of the latter, will be born by the supplier. DDP (Incoterms 2010) apply to all international shipments.
- 3.3 Should we bear the cost of shipment under the provisions of any specific individual agreement then standard German railway freight charges apply. The costs of any and all shipment insurance policy/policies will be born by the supplier.

4. Delivery

- 4.1 Deliveries must be made on the date/s given in the relevant order/s or as agreed or within a week of receipt of our call.
- 4.2 We are entitled to delay any delivery date just the once by up to 6 weeks if notice of same is given at least a week in advance of the original such delivery date. The supplier is not entitled to assert any claim/s whatsoever arising herefrom.
- 4.3 Once the supplier becomes aware that they will be unable to meet the original delivery date/s either in whole or in part they must advise us of same promptly with reason/s and the expected duration of such delay/s. Neither this advice nor our silence constitute any acceptance of any new delivery date/s or affects our legal rights in any way whatsoever. Additional costs for shipping in the event of part shipment/s will be born solely by the supplier.
- 4.4 If the supplier's shipment/s is/are delayed or short shipped our acceptance of same does not affect our legal right/s to assert claim/s in any way whatsoever.
- 4.5 The supplier must obtain written acknowledgement of receipt of the goods and/or services in question from us or our authorised agent/s.
- 4.6 Should the supplier's shipments be delayed we are entitled to assert interest of 0.25% of the net delayed order value per day of delay after the agreed delivery/shipment date up to a total not exceeding 5% of said value. This does not apply if the supplier can prove in each and every individual such case that less or no damage was incurred by us. We reserve the right to prove higher damage/s.

5. Shipment, packaging

- 5.1 Readiness for shipment is always to be advised us beforehand. Duplicate delivery notes must be issued for each and every shipment. Our commission and order number/s, delivery location and shipment content/s are to be clearly shown on all delivery notes and shipment advices.
- 5.2 The supplier undertakes to use the most economical shipment mode. Packaging must be appropriate to the character of the goods, the shipment mode and the shipment route so that it meets all the requirements of said shipment without deleteriously affecting the goods in question. The supplier bears the sole risk of shipment.
- 5.3 Delivery location is also the place of performance for all return obligations under all law/s concerning packaging. The supplier undertakes at their expense to collect said packaging at that location by prior arrangement and to properly dispose of same.

6. Invoicing and payment

- 6.1 Invoices are to be issued as single copies for each individual order and sent the central accounting office responsible for same separately. They must be auditable and include our commission and order number/s. VAT must be shown separately. Excess delivery/performance of goods and/or services must be shown separately in said invoice/s together with reference/s to the prior written agreement/s applicable.
- 6.2 Purchase prices, unless otherwise agreed in skeleton or individual agreements, become due and payable 60 days after delivery/performance of the goods and/or services concerned and receipt of the relevant auditable invoicing. We pay invoices within 14 days with 3% deducted from the gross amount or within 60 days net.
- 6.3 Payment does not imply acceptance of the goods and/or services concerned or of their condition.
- 6.4 Advance or later payment will only be rendered according to the provisions of any specific individual prior agreement made in writing.

7. Acceptance inspection and guarantee

- 7.1 Details of the condition any goods and/or services rendered (e.g. in drawings, plans or other specifications) are herewith agreed - even if not required for the contractually agreed purpose - to be part of the contract within the meaning of § 434 paragraph 1 sentence 1 BGB (German Civil Code)
- 7.2 Changes in performance or quality of the goods and/or services rendered compared to any agreement/s made on the matter or prior performance rendered may only be made by the supplier if we have previously sampled and released same in writing. This applies even if any such change/s does/do not affect the value or suitability for intended use either at all or materially.
- 7.3 The supplier's goods and/or services must comply with all applicable occupational safety, safety and accident prevention rules in law. The supplier must adhere to all applicable and valid legal requirements and technical rules and tender relevant conformity declarations on request. This particularly applies to the German Machine Safety Code.
- 7.4 The supplier undertakes to make inspection of the proof of origin by the customs feasible, to give all the information needed to do so and to obtain any and all official documentation and confirmation required for the purpose. They are obliged to recompense us for any damages we may incur if the declared origin is not accepted by the responsible authority/authorities due to incorrect proof or any lack of means of checking same insofar as they have any liability for this.

- 7.5 When supplying products including REACH (Registration, Evaluation, Authorisation and Restriction of Chemical substances) candidate list substances of very high concern (SVHC) in a concentration exceeding 0.1 percent by weight (w/w) in a product or in any packaging adequate information per Article 33 of the REACH regulations on SVHC and on safe handling of same must be provided us without our having to request this.
- 7.6 The supplier must render state-of-the-art quality control of appropriate scope and type. We are entitled to check the type and scope of same at the supplier location/s in question. Our clients, their authorised agents and we ourselves are entitled to monitor the production of the goods to be rendered in the seller's works and/or those of any sub-contractor/s used.
- 7.7 Unforeseen events for which we cannot be held liable and that result in the goods and/or services in question ceasing to be of interest to us relieve us of any and all obligation to accept shipment and/or performance of the goods and/or services involved and entitle us to withdraw from the relevant contract/s.
- 7.8 The period during which defect advice per §377 HGB (German Commercial Code) must be rendered is a fortnight.
- 7.9 In the event of delayed performance the supplier is liable for all costs associated therewith and for the cost of any removal/installation of the goods and/or services purchased that may therefore be necessary. Delayed performance and/or remedy is/are considered to have failed after the first attempt.
- 7.10 In urgent cases in which it is not possible to advise the supplier of any defect/s and the impending resultant damage and set them a period of grace, however short, in which to remedy same we are entitled to correct such defect/s ourselves, have them corrected, or obtain replacement at the supplier's expense.
- 7.11 The guarantee term for any goods and/or services repaired or replaced begins when such remedy/replacement is rendered unless the defect/s in any goods and/or services supplied is/are minor and the remedy can be rendered by the supplier at inconsiderable expense by replacement or repair. In all other cases the guarantee term is extended by the period of time during which the goods and/or services rendered was/were not in contractually acceptable condition due to any defect/s subject to said guarantee.

8. Commission documentation

- 8.1 All commission documents, especially the maker's regulations and technical information such as plans, calculations, designs etc. that we hand over to any supplier for them to use in submitting their offer/s / tender/s or perform any order or that they draft according to our instructions remain our property.
- 8.2 The supplier may only use commission documentation to perform the relevant contract/s.

- 8.3 They may not make same accessible to any third party and must keep them confidential toward all such parties unless we have agreed otherwise in writing beforehand. In such case the supplier must ensure any and all such third party/parties is/are subject to the foregoing obligations.
- 8.4 The commission documentation is to be returned to us without this having to be requested once the order/s in question has/have been fulfilled.
- 8.5 If the supplier is a service provider in German waste disposal law, all relevant approvals and certificates in environmental waste disposal law must also be provided us without our having to request same.

9. Assignment and setoff

- 9.1 Claims against us may only be assigned with our express prior agreement.
- 9.2 The supplier may only set off claims that are undisputed or *res judicata* against our claims.

10. Assignment of commissions

Commissions may only be assigned others to fulfil obligations toward us with our prior written permission. Doing so without such permission entitles us to withdraw from the contract/s in question either in whole or in part.

11. Third party rights

Should claims be asserted in law against us for breach of third party rights, especially patent and/or other industrial property rights or copyright, then the supplier is obligated to indemnify us against same to the extent of their own liability.

12. Reservation of title and other security interests

- 12.1 Suppliers' reservations of title are only effective in simple form. All forms going above and beyond same (extended reservation of title) are excluded.
- 12.2 All other security interests are also excluded.
- 12.3 Assertion of reservation of title by a supplier entitles us to withdraw from the contract/s in question unless we caused same by our culpable breach of contract.

13. Liability

- 13.1 The supplier is unrestrictedly liable to us in law and hereunder. Any and all restriction/s and/or limitation/s of this liability is/are explicitly excluded.
- 13.2 The supplier undertakes to exempt us from claims under manufacturer and/or product liability law insofar as any good and/or service rendered by the supplier and/or behaviour for which they can be held liable is the cause. This also applies if the good and/or service acquired within the meaning of § 4 paragraph 2 German Product Liability Act was imported into the area subject to the European Economic Area agreement. The right to exemption includes the cost of any recall campaign in particular.

14. Final Provisions

- 14.1 Place of performance for all goods and/or services rendered hereunder is the shipment address given by us.
- 14.2 Place of judicature for merchants, legal persons in public law and public legal special estates is the head office location of the Cofely subsidiary/office/branch placing the order/s in question. We are, however, entitled to institute legal proceedings against a supplier in the court having jurisdiction over their location.
- 14.3 German substantive law applies. The UN Convention on the International Sale of Goods is excluded.
- 14.4 The supplier agrees that their data may be stored and processed according to German data protection law insofar as this is necessary to properly handle contractual relations between the parties hereto.
- 14.5 Should any provision herein be or become null and void for any reason whatsoever this shall not affect the validity of the remainder.