

## General Conditions of Purchase by Metecno Bausysteme GmbH

As from: 11/2012

### I. Contract Formation / Formal Requirements

1. The following general conditions of purchase apply for all commercial legal relationships between Metecno and their suppliers. Conditions of supply and payment only apply for suppliers if Metecno agreed to them in written form. They do not apply to contracts where Metecno is the supplier.
2. The supply contract as well as any alternations that may arise, subsidiary agreements, declarations concerning its end, and further declarations and statements need to exist in written form provided that nothing else has been established in these general conditions of purchase. If the supplier does not accept an order within two weeks after its receipt, Metecno has the right of withdrawal. Employees of Metecno are not authorised to make oral corrections of orders determined in written form. The supplier must confirm the reception of goods immediately regarding all its parts.

### II. Duties of the Supplier

1. The supplier is obliged to ensure to have every data and facts that are needed to fulfil their legal duties. The supplier is responsible for the goods being appropriate for the use intended, for the goods being state-of-the-art and complying with legal requirements as well as for the compliance with regulations concerning transport and accident prevention. In case of a misdelivery resulting from the supplier not ensuring to have all the necessary data, the supplier must inform Metecno about it and then deliver the goods again and bear the damage resulting.
2. Even after the formation of a contract, Metecno can demand alternations of the delivery item (provided that these alternations are reasonable). The contract partner will find a mutual solution concerning additional or reduced costs.
3. The supplier warrants to be able to provide spare parts of products they deliver up to ten years in the future.
4. As soon as the goods are conveyed, the supplier must inform Metecno about it in written form specifying order number, quantities and the exact description of the goods.

### III. Prices / Payment Terms

1. The agreed prices are fixed prices. If there are no other agreements, payment takes place within 30 days with 3% cashback, within 60 days with 2% cashback or within 90 days without cashback. The stated period begins with the receipt of the service determined in the



contract and a correct and verifiable invoice. When goods arrive early, the stated period begins with the earliest delivery time scheduled.

2. If Metecno performs a justifiable retention of an invoice, they are authorised to discount a cashback from the actual payment in accordance with III.1.
3. Invoices must specify order number, order position, account distribution, unloading area, supplier number, unit number, quantity, price per unit and quantity per delivery without counting carbon copies. The supplier agrees to take part in credit entry procedures if Metecno demands it.
4. The supplier is not permitted to assign claims they have against Metecno or to have them collected by third parties. The regulation of Section 354a HGB remains unaffected by that.
5. By paying for the delivered goods, they become property of Metecno. A further reservation of ownership is not agreed.

#### IV. Delivery Conditions

1. So far as nothing else is agreed, the goods must be delivered to the premises of Metecno (or another address specified) without any extra charges. With the receipt of goods, the responsibility regarding the goods is transferred to Metecno.
2. The supplier must provide proper packaging of the goods. The supplier is liable to any damages that can be traced back to inadequate packaging even if the damage occurs after the receipt of the goods by Metecno. The supplier is obliged to take back any packaging.
3. If a delivery of goods has been agreed to, the supplier must take out cargo insurance that covers the risk of transport to the addressee stipulated.

#### V. Deadlines / Delay

1. Agreed deadlines are binding. The receipt of the goods at Metecno or at an addressee determined by Metecno decides on the adherence of the delivery date.
2. If a delivery is delayed, the supplier must give notice immediately specifying the reasons and the approximate duration of the delay in written form. The supplier can only plead for not being the reason for the delay if they did their duty of giving notice. In the event of a delay, Metecno is entitled to demand a contractual penalty of their supplier. This penalty amounts to 0,5 % per week or part thereof, but not exceeding 5% of the total value of the order. This agreement pertaining to the contractual penalty or enforcement thereof shall not affect any justified legal claims for a delay in delivery. Any contractual penalties paid shall be offset against any claims for compensation. The contractual penalty can be claimed any time until the delayed delivery is paid for and offset against the invoice of the supplier.



## VI. Secrecy / Information

1. So far as nothing else is agreed on, the ownership and copyright of information and documents Metecno leaves to a supplier in order to fulfil their contract stays reserved by Metecno. These information and documents must be treated confidentially. The supplier is not permitted to copy or reproduce any analogous or digital data regardless of form, sample, models or manufacturing means, or to give them to any third parties without the explicit consent of Metecno. If Metecno allows a reproduction, all copies produced are owned by Metecno.
2. The supplier stores the copies for Metecno. The supplier must secure, maintain and assure all documents and items provided as well as all copies at their own expense. If Metecno demands a return or destruction of those documents, items or copies, the supplier must comply. Under no circumstances has the supplier a right of retention.
3. The supplier is obliged to treat enquiries and orders by Metecno confidentially as well as all commercial and technical details that are connected with enquiries or orders. Especially drawings, specification sheets and other development documents by Metecno must be treated confidentially as business secrets. Subcontractors are to be bound accordingly. Suppliers and subcontractors are only allowed to reveal their business relationship with Metecno if they have explicitly agreed to this in written form.
4. This still applies after the termination of the business relationship. The supplier is obliged to substitute for damages which result from a breach of confidentiality.
5. In case of a breach of these obligations, for any violation, a contract penalty of 25,000€ must be payed immediately.
6. The supplier reserves the right to have the contractual penalty determined by a court decision. The contractual penalty paid can be offset against the damage compensation claims.

## VII. Quality Management / Incoming Goods Inspection

1. The supplier shall constantly monitor the quality of his deliveries and services. Alternations of the object of delivery must be agreed to by Metecno. The supplier is responsible for the exact adherence of all requirements made by Metecno concerning the technical and physical state of objects, measurements, quality, design, and completeness. For all products, the supplier must write down when, how and through whom the flawless production of a delivery was provided. Subcontractors are to be bound accordingly.
2. An incoming goods inspection by Metecno will only be performed concerning damages or variations recognizable from the outside and regarding identity and quantity. Metecno will chide such deficiencies immediately. Metecno reserves to perform any further incoming goods inspections to themselves. Furthermore, deficiencies will be chided as soon as there are detected in accordance with the conditions of the ordinary course of business. In this

respect, the supplier foregoes objection to delayed complaints. If deficiencies are detected, Metecno has the right to return goods.

### VIII. Warranties / Reimbursement of Expenses / Deadlines / Assurance

1. In the case of a deficiency concerning an object of delivery, Metecno's claims are in compliance with legal regulations as far as there are no other regulations determined in the following. When the operational safety or severe damages are at risk, or in order to maintain the delivery capacity to their customers, Metecno can make subsequent improvements themselves or have third parties do it without the need of giving the supplier a chance to do it or setting a deadline. The supplier will bear any costs arising because of this. The supplier is liable for all direct or indirect damages and expenses incurred by Metecno concerning deficiencies of goods delivered. Expenses for an inspection of incoming goods which exceeds the usual scope also must be compensated (this happens if at least one unit of the delivery is identified as being deficient) as well as the inspection of this delivery by Metecno and their customers in the further course of business. If the supplier uses a delivery service of a third party, the supplier is still liable for the delivery in every respect.
2. The supplier must refund expenses which arise due to situations in connection with the liability for defects to avoid, prevent or mitigate damages (i.e. recalls) to consumers or Metecno.
3. The supplier refunds expenses that Metecno is obliged to make in order to pay back customers if deficiencies can be traced back to the delivery by the supplier.
4. The supplier releases Metecno from any internal product liability claims even when and as far as Metecno does not reveal the supplier as a producer. In this regard, legal disputes will be held by Metecno according to instructions and paid for by the supplier.
5. If nothing else is required by law, the supplier is liable for deficiencies which are detected within 60 months starting with the receipt at Metecno. In the case of a supplementary performance, this deadline will be prolonged for the period of time in which it could not be used according to the contract. The same deadlines apply for supplementary performances. A statute of limitations on claims concerning defects or deficiencies inure not before two months after the claims of the final customer have been met.
6. Under the terms of VIII., the supplier is obliged to cover assurance regarding any risks concerning the delivery for the period of the delivery.
7. At request, a verification of this must be given.

### IX. Provisions

As far as Metecno provides any materials, forms, packages, tools or other goods for the

supplier, all of those remain under the ownership of Metecno. If those goods are manufactured, jointed or mixed with others, Metecno has a joint ownership of the newly produced goods for the extent of the part provided in comparison to the whole. The supplier does not have a right of retention concerning any goods provided by Metecno.

## X. Tools

If Metecno pays for the production or the purchase of tools by the supplier, Metecno owns these tools. If Metecno pays for parts of the production or the purchase of tools, Metecno has a joint ownership to the extent of their expenses in comparison to the whole. If nothing else is agreed on, the right of ownership is determined in the loan agreement.

## XI. Software

If any non-standard software is part of a delivery, the supplier agrees to improve and modify this software according to defaults by Metecno for a period of 5 years starting with the receipt of the object of delivery for a suitable refund of expenses. If the software belongs to any subcontractors, the supplier will bind them accordingly.

## XII. Force Majeure/Long-term Inability to Deliver

1. Industrial disputes, riots, official interventions and other unpredictable and unpreventable occurrences dispense the supplier and Metecno from their obligation to perform for the time of the disturbances and to the extent of their effect. The person concerned must give profound information to their contract partner(s) immediately and must do everything they can in order to diminish the disturbance within the bounds of reasonableness. The person concerned must inform their contract partner(s) as soon as the disturbance is over.
2. In case of a long-term inability to deliver, a suspension of payments, insolvency proceedings, the refusal of such proceedings for lack of quantity, or the initiation of similar proceedings regarding a contract partner, the other contract partner has the right to rescind from the contract concerning the part that has not yet been fulfilled. If the supplier is affected by any of the events stated above, they will help Metecno as good as they can to relocate the production of the object the supplier would have provided either to Metecno or to a third party including the licensing of customary commercial protection rights that are necessary for the production.

## XIII. General Requirements

1. The place of fulfilment of deliveries and services is the place determined by Metecno.
2. For this contractual relationship, only German law applies excluding UN sales law (CISG). The place of jurisdiction is Metecno, unless another exclusive place of jurisdiction is stipulated.

3. Metecno points out that personal data will be stored in accordance with legal regulations and processed within the course of business.

Management

Registry Court

Bank Details

