

Purchasing Conditions of CONRAC GmbH

1. General

(1) The Purchasing Conditions detailed below shall exclusively govern all orders made by CONRAC. They shall also apply to all future transactions with the supplier. Changes and additional agreements, verbal agreements and conditions of the supplier that vary from these Purchasing Conditions shall only apply if they are expressly acknowledged by CONRAC in writing to be a supplement to the CONRAC Purchasing Conditions. Any general terms and conditions provided by the supplier shall not be binding on CONRAC even if CONRAC has not objected to them. Confirmation or execution of an order shall constitute acceptance of the CONRAC Purchasing Conditions.

(2) To the extent that the supplier supplies his deliveries or services pursuant to a valid framework agreement with CONRAC, the regulations of the framework agreement shall have priority over the regulations of these Purchasing Conditions.

2. Order confirmation

The supplier shall issue prompt written acceptance of our order, at the latest within a period of 7 working days, and confirm it without reservation. This period will be calculated on the basis of the day on which the order was sent by CONRAC and the day on which the order is received by the supplier. Varying confirmations concerning delivery date, price or quantity, or any other element of the order, and any restrictions or changes to the CONRAC Purchasing Conditions by the supplier shall not be binding unless agreed by CONRAC in writing.

3. Correspondence

Orders, order confirmations and any other declarations or agreements shall only be made in writing. Verbal agreements shall only be valid if they are confirmed by CONRAC in writing. All correspondence with CONRAC shall include the order number and the article numbers.

4. Orders, delivery schedules and delivery volumes

(1) Prices, delivery schedules and delivery volumes stated in the order are binding. Delivery schedule means the day of delivery to CONRAC. The supplier shall inform CONRAC promptly if circumstances arise or become expected that indicate that the delivery schedule cannot be kept.

(2) In the event of agreed call-off purchase orders, i.e. individual partial volumes of an order to be called off by CONRAC, the supplier shall be authorised, unless otherwise agreed with CONRAC, to purchase the materials needed for delivery no more than 6 months prior to delivery of the call-off volume and to process the materials no more than 3 months prior to delivery. Any discrepancy from this specification requires the approval of CONRAC.

(3) Deliveries may be made up to 3 working days before the delivery date stated, or up to 5% above the delivery volume stated without the prior consent of CONRAC. If the supplier is unable to keep to the delivery schedule or delivery volume, CONRAC shall be entitled to withdraw from the contract after setting a reasonable period of grace.

(4) If the supplier is in default of delivery, CONRAC shall be entitled to demand lump-sum damages totalling 1% of the delivery value for each full week of default. However this lump-sum shall not total more than 10% of the delivery value. Further statutory rights (withdrawal and compensation in lieu of delivery) remain unaffected. The supplier shall have the right to demonstrate to Conrac that notwithstanding the delay no damage incurred or that it amounted to less than 10% of the delivery value.

5. Transport, transfer of risk and ownership

Unless otherwise agreed in writing, deliveries shall take place at the expense of the supplier to CONRAC's premises or to another shipping address stipulated in the order in compliance with DDP Incoterms (2000). The risk for the ordered goods shall be passed on to CONRAC with the handover of the goods. Ownership of the ordered goods shall be transferred to CONRAC with the handover of the goods. Insurance costs shall be borne by the supplier. Each consignment shall be accompanied by a dispatch note containing unambiguous information concerning the CONRAC order numbers and article numbers and the actual delivery items. If the supplier fails to fulfil this obligation CONRAC shall not be liable for any resulting delays in processing. The CONRAC goods receiving department is open working days from 7 am to 12 am and from 1 pm to 3:30 pm.

6. Defects, product liability

(1) Conrac shall examine deliveries within a reasonable period of time for any quality or quantity discrepancies. Any complaint shall be considered to be prompt providing it is received by the supplier within a period of 7 working days, calculated from the date of receipt of goods, or in the case of concealed defects, from the date of their discovery.

(2) In the event of delivery of defective goods, CONRAC shall be entitled to demand the following, providing the necessary statutory conditions and the conditions laid out below are fulfilled and unless otherwise agreed in writing: A. Before commencing further processing (machining or installation), CONRAC shall first grant the supplier the opportunity to sort out the defective parts and to rectify the defects by means of secondary/substitute delivery unless this would be unreasonable for CONRAC. If the supplier is unable to perform this, or if he fails to perform this promptly, CONRAC shall be entitled to return the defective goods to the supplier, at the risk and expense of the supplier, and to withdraw from the contract without the need to set a deadline for compliance, or to rectify the defect itself or have the defect rectified by a third party. Any resulting costs shall be borne by the supplier. In this regard, it is agreed that such costs shall be settled against the supplier's own accounts. If the same goods are delivered again in a defective condition, CONRAC shall be entitled after giving written notice, to cancel any still undelivered parts of the order and to demand compensation. B. If a defect is discovered only after production has started, CONRAC shall be entitled to demand subsequent performance and refund of any costs necessary for subsequent performance, costs for removal and installation (labour costs and material costs) or to reduce the purchase price accordingly. In addition, CONRAC shall be entitled to claim damages from the supplier.

(3) On demand and at the expense of the supplier CONRAC shall return to the supplier any parts to be replaced. Should the supplier intend to return retrieved parts back to CONRAC after repair, these parts shall be specially marked and subjected to a special quality control examination to be agreed with CONRAC unless otherwise agreed by the parties. The mandatory markings and quality control examinations described above shall also apply in the event of defects being eliminated in the course of subsequent performance by CONRAC.

(4) Claims resulting from liability for defects shall cease to be valid after a period of 24 months after sale to the end customer or the installation of the spare part. However, at the latest they shall cease to be valid 30 months after delivery to CONRAC.

(5) If CONRAC is obliged to take back goods it has produced and/or sold as a result of defects in the goods provided by the supplier, or if CONRAC is forced to reduce its selling price for the same reason, or if any other claims are made against CONRAC for the same reason, CONRAC reserves the right of redress against the supplier. The otherwise necessary setting of a deadline shall not be required for such defect rights. CONRAC may demand from the supplier compensation for all expenses incurred by CONRAC in relationship to its customers due to replacement or compensation being claimed against CONRAC for subsequent performance, in particular for transport, travel, labour and material costs. Notwithstanding the regulations described in section 7 (4) of these Purchasing Conditions, the limitation of action for cases described in this subsection (5) shall become effective no sooner than two months after the date on which CONRAC fulfils claims made against it by its customers, but no later than five years after delivery by the supplier.

(6) In the event of defective deliveries, CONRAC's rights emanating from product liability legislation, tort and agency of necessity shall remain unaffected by this section 6. Guarantees for composition, condition or constitution, and durability shall be expressly agreed in writing and detailed as such.

(7) The supplier shall take out public and product liability insurance covering his responsibilities and risk, or comparable risk coverage insurance with an appropriate level of liability. Insurance documents and policies shall be presented to CONRAC on demand.

(8) Any delivery of goods by supplier is in compliance with all applicable legal obligations, e.g. Directive (EC) No. 1907/2006 (REACH). The supplier shall inform CONRAC without delay about changes concerning the delivered products, their availability and their quality, especially

resulting from REACH, and agree on suitable measures on a case-by-case basis. The same applies, once and as far the supplier detects or should have detected that such changes could occur. A legal obligation of the purchaser to pre-register or register the delivered goods does not exist.

7. Liability

(1) The supplier shall be liable in accordance with statutory stipulations.

(2) In case a claim is filed against CONRAC on the basis of no-fault liability in accordance with a non-negotiable right vis-à-vis third parties, the supplier shall defend CONRAC to the extent that he himself would be directly liable. Statutory principles of contributory negligence shall be applied accordingly to define compensation between CONRAC and the supplier. The same shall also apply in the event a claim is made directly against the supplier.

(3) Claims made by CONRAC are excluded to the extent that damage is caused by non-observation of operating, maintenance and installation specifications, inappropriate or incorrect use, incorrect or negligent handling, natural wear and tear or incorrectly performed repairs falling within the responsibility of the ordering party.

(4) To the extent that the supplier is responsible for product damage, he shall hold CONRAC harmless against claims for damages made by third parties if the cause is identified as being within his domain or organisation and if he himself is liable in relation to third parties. Within the framework of this liability, the supplier shall reimburse any expenses incurred in connection with any recall campaign performed by CONRAC. CONRAC shall inform the supplier about the content and extent of the recall campaign – to the degree that this is possible and reasonable – and give him the chance to comment. Other statutory rights remain unaffected.

(5) CONRAC shall inform and consult the supplier promptly and comprehensively if it intends to make use of the regulations described above. CONRAC shall grant the supplier the opportunity to examine the damage involved. The contractual parties shall agree measures that are necessary, in particular in conciliation proceedings, to the extent that this is possible and reasonable.

8. Industrial property rights

(1) The supplier shall be liable for any claims arising from violation of industrial property rights and pending applications for such rights, provided the object of delivery is used in compliance with the contract.

(2) The supplier shall hold CONRAC and its customers harmless from all claims resulting from the use of such industrial property rights.

9. Force Majeure

Force majeure, industrial action and lawful lockouts, unrest, official actions and other unforeseeable, unpreventable and serious incidents shall release the supplier and CONRAC from their mutual obligations for the duration of the incident and to the extent of its effect.

10. Terms of payment

Invoices shall state the CONRAC order numbers and article numbers and the actual items delivered. Invoices not bearing these details shall not be payable. Advance payments shall not be made. In case CONRAC executes payment within 14 days of delivery and receipt of invoice, CONRAC shall be entitled to a discount of 3%. This discount shall be 2% for payments executed within 30 days of delivery and receipt of invoice. No discount shall apply for payments executed within 60 days of delivery and receipt of invoice. All prices stated are net prices excluding statutory value-added tax.

11. Supply of supplementary parts

(1) CONRAC shall retain ownership of any supplementary parts provided to the supplier. Processing or modification shall be performed by the supplier for CONRAC. The supplier shall ensure that the supplementary parts are stored properly and shall be liable for any deterioration or decay of these parts in accordance with section 7 of these Purchasing Conditions.

(2) If these goods under reservation of title are processed with other objects that do not belong to CONRAC, CONRAC shall acquire joint ownership of the new object in the ratio of the value of the goods provided by CONRAC (purchase price plus value-added tax) to the other objects processed at the time of processing.

(3) If the object provided by CONRAC is inseparably mixed with other objects that do not belong to CONRAC, CONRAC shall acquire joint ownership of the new object in the ratio of the value of the reserved object (purchase price plus value-added tax) to the other objects mixed at the time of mixing. If parts are mixed in such a way that the object of the supplier is to be regarded as the primary object it is agreed that the supplier shall transfer to CONRAC proportional joint ownership. The supplier shall keep safe the goods under sole ownership or joint ownership on behalf of CONRAC.

12. Tools, samples, drawings, non-disclosure

(1) All tools, fixtures, profiles, samples, drawings, templates and other aids provided by CONRAC for the purpose of completing the order shall be marked as the property of CONRAC. Neither they nor the objects they are used to produce shall be duplicated or sold or made available to third parties without the express written consent of CONRAC, nor shall they be used for any purpose other than the contractually agreed purpose. They shall be kept so that they cannot be accessed or used by unauthorised persons and shall be returned to CONRAC unpromptly upon termination of contract. CONRAC shall be entitled to demand their return if the supplier violates these obligations. The supplier shall not make any information supplied by CONRAC accessible to third parties unless this information is already in the public domain or is regularly made known in any other way.

(2) The supplier shall insure at his own expense all tools belonging to CONRAC at replacement value against fire, water and theft. At the same time, the supplier shall assign to CONRAC all claims for indemnity under the coverage of this insurance. CONRAC hereby accepts this assignment. In order to uphold operational readiness and use, the supplier shall perform in a timely manner any necessary maintenance or inspection work and any repair operations on all CONRAC tools. All costs thus incurred shall be considered to be adequately settled with the agreed prices for production, processing or remodelling. The supplier shall advise CONRAC promptly of any problems. If he culpably fails to do so, CONRAC's rights to claim compensation remain unaffected.

13. Transfer of rights and obligations

Orders to the supplier and other rights and obligations shall only be transferred to third parties with the prior written consent of CONRAC. However, monetary claims may also be assigned without consent, providing the underlying legal transaction constitutes a commercial transaction for both parties.

14. Place of performance, jurisdiction, applicable law

(1) The place of jurisdiction shall be at the registered office of CONRAC. However, CONRAC shall be entitled to initiate proceedings against the supplier at the supplier's domicile.

(2) The place of performance for deliveries shall be the agreed place of delivery. Unless otherwise expressly agreed, this shall be the registered office of the ordering party.

(3) Should these Purchasing Conditions be translated into English or any other language, the German language version shall be the sole authoritative version in case of discrepancy between the different language versions.

(4) German law shall apply to any and all disputes arising directly or indirectly from this contract. The UN Convention on Contracts for the International Sale of Goods shall be excluded.

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