

Conditions of Purchase

der M&S Combustion Technologies GmbH

Lastly amended 05/2023

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Lastly amended 05/2023



1. In General

1.1

Our purchases and order placings (hereinafter called "orders") shall exclusively be subject to the following conditions. Until revoked by us, they shall also apply to any future order.

1.2

The business conditions of contractor shall not apply. Any deviations from the order, especially due to a forwarding of conditions of sale or delivery with other wordings or modifications in order confirmations shall be subject to our explicit written confirmation in order to be effective. If we fail to give any comment this must not be interpreted as confirmation or implicit modification of our Conditions of Purchase. By means of your delivery / order execution you shall have completely accepted and recognized our Conditions of Purchase without any reservation.

1.3

Goods and services shall, with respect to kind quality quantity and nature, be offered to us in conformance with our inquiries. Any deviations shall be pointed out to us explicitly.

2. Written Form Requirement and Confirmations

2.1

Orders shall be subject to writing in order to be effective. In case of subsidiary agreements modifications or amendments the oral agreement may be valid, if necessary.

2.2

Contractor shall confirm our orders immediately upon receipt by indicating our consignment number. Subsidiary agreements modifications or amendments shall be forwarded subsequently without any delay in form of a "modified" order confirmation.

If the order confirmation fails to be received by us within 14 days we shall be entitled to cancel the order without being obliged to reimburse expenses.

3. Order Documents

All documents attached to our orders (drawings, unit lists, calculations etc.) shall continue to be our property. Any disclosure to third parties shall be subject to our prior written consent and said documents shall be returned to us after the order execution without further request.

4. Prices

All prices and compensations agreed upon shall be fixed prices. They shall be calculated in the currency agreed upon and include packaging.

5. Dispatch

5.1

Contractor shall be obliged to deliver the ordered goods without any title reservation to the delivery address indicated by us.

All parts shall be marked for us without charge according to our instructions.

5.2

Dispatch shall be made according to our routing order. We are an SLVS-Waiver customer.

5.3

Dispatch notes shall be forwarded to us 5 days prior to the date of dispatch. The consignment shall be accompanied by delivery notes in duplicate.

Dispatch notes and delivery notes shall include the following information:

Order number and date of our order. weights and measurements, dispatch address, dispatch remarks, kind of packing and transportation.

Costs and damages or losses, if any, incurred by us because of a failure to give the above mentioned information shall be borne by contractor.

5.4

In case that the dispatch or call-off cannot be made immediately for any reason supplier shall duly store and protect the goods in its custody and upon its own risk for the ordering party without any charge for a period which will be individually negotiated according to the sales order. The payment dates and penalties, if any, agreed upon shall be postponed correspondingly.

If the above mentioned period is exceeded we will make a separate agreement with you in due time in order to adapt to the new scheduling.

6. Passing of risk

6.1

The risk shall pass to us as soon as the ordered goods are handed over to a person entitled to take receipt at the place of destination.

If contractor is in charge of the erection or assembly of the goods the risk shall not pass to us but after acceptance of the erected or assembled goods.

6.2

Events we cannot be made responsible for and temporarily preventing us from accepting the ordered goods, inclusive of strikes, lockouts, administrative orders etc., shall entitle us to postpone the taking of the delivery and, consequently, the passing of risk by the period of such hindrances.

7. Delivery time

7.1

Upon execution of the contract, contractor shall accept the delivery dates and periods indicated by us in the order as binding dates. Delivery periods shall start upon oral order placing.

7.2

As soon as contractor becomes aware that it is unable to adhere to delivery dates or periods we shall be immediately informed in writing by indicating the reasons and the expected duration of the delay. If contractor fails to give such information it shall be obliged to compensate for the resulting damage or loss.

7.3

Irrespective of further claims and in case of a delay in delivery we shall be entitled to require payment of a penalty of 0,2% of

Conditions of Purchase

Lastly amended 05/2023



the order value for each day of the delay that has begun, but not more than 5% of the order value.

7.4

If fixed dates are postponed by us the new dates shall, in turn, be regarded as being automatically subjected to penalties.

7.5

Contractor shall only be allowed to make partial or premature deliveries if we have given our respective approval.

7.6

Delivery dates shall only be regarded as observed when the necessary documentation, too (e.g. technical documentation, dispatch documentation, inspection documentation, attestations, storage operation and safety instructions) have been delivered.

7.7

We shall at any time be entitled to carry out any adequate inspections at site in order to satisfy ourselves with respect to the due and proper progress of order execution in terms of quality and time schedule.

8. Warranty/Guarantee

8.1

Contractor shall grant warranties in case of goods and services ordered by us for the execution of orders placed with us by third parties a warranty for the term for which we, on our side, have to grant a warranty to the third party. Upon request, we shall inform the contractor whether the ordered goods or services are intended for third parties and which kind of warranty has been agreed upon with the third party.

In any other case, the warranty shall be granted for a period of 12 months. Said period shall start:

- in case of visible defects, with the acceptance of the goods or services;
- in case of hidden defects, as soon as the defect has become recognizable; in such a case, the warranty term shall cease 2 years after the acceptance of the goods or services, at the latest. If legislation provides for a longer warranty term the latter shall apply.

8.2

In case of defects during the warranty period we shall be entitled to select between the assertion of the statutory warranty claims or the requirement of subsequent improvement.

8.3

If Contractor fails to fulfill its subsequent improvement duty within an adequate period after having been requested to do so we shall be entitled to eliminate the defects ourselves or to have them eliminated at contractor's expense.

8.4

By means of the receipt of our notice of defects by contractor the warranty term shall be interrupted. If we request a subsequent improvement the warranty term shall start anew upon successful completion of the subsequent improvement.

8.5

In case of defects based upon drawings calculations or other technical documents of contractor the latter shall be liable according to the preceding provisions even if we have approved such drawings etc.

9. Payment

Upon execution of the purchase contract contractor agrees to the following payment terms:

- Services 30 days net after receipt of invoice without any deductions. All other items either within 14 days less 2% cash discount or within 60 days after delivery or service, submission of the necessary documentation and receipt of invoice without any deduction if no other payment terms have been agreed upon.
- In case of deliveries of goods prior to the dates agreed upon - something which is subject to our approval - the payment term for the respective invoices shall not start but on the delivery date originally agreed upon.
- Complaints about deliveries and services shall entitle us to retain payments.

Invoices cannot be processed by us when the consignment number is not given. In such a case, we shall be entitled to return the invoice

10. Limitation of time

Claims against us the contractor is entitled to on the basis of or in connection with an Order shall lapse after two years after the date of the respective dispatch note.

11. Cancellation

11.1

We shall be entitled to withdraw from the contract as long as we have not used the goods but not longer than 1 month after delivery if the ordered goods cease to be of interest for us due to events which could not be foreseen at the time of contract execution and for which we cannot be made liable for. Such events shall include operational interruptions strikes lockouts administrative orders etc.

11.2

If we withdraw from the contract due to an event the contractor cannot be made liable for we shall pay the following compensation:

- if it can be made credible that the goods/services cannot be resold otherwise the costs incurred according to respective evidences by the date of the receipt of the withdrawal notice;
- in all other cases up to not more than 10% of the order value

Any further claims of contractor shall be excluded.

12. Assignment, Set-off and Right of Retention

12.1

Contractor shall not be entitled to assign claims against us.

12.2

Set-offs against our claims shall only be admissible if the counterclaims are undisputed or have been established with

Conditions of Purchase

Lastly amended 05/2023



legal effect. The same shall apply to the assertion of the right of retention.

13. References

Contractor shall only be allowed to use us as reference address after having obtained our prior written approval.

14. Spare Parts/Follow-up Orders

If contractor receives inquiries or orders for spare parts directly from our customer or follow-up orders derived from our orders contractor shall be obliged to inform us without any delay so that an agreement about processing and handling can be made.

15. Final Provisions

15.1

Place of performance and place of jurisdiction for all parties concerned shall be Hamburg.

15.2

If one or more of the preceding provisions is or becomes ineffective the other provisions shall remain unaffected.

15.3

The applicable law shall be the German law.