

# General Terms & Conditions of Purchase

PROFIL Verbindungstechnik GmbH & Co. KG

The following General Terms & Conditions of Purchase apply to all our purchasing transactions:

## 1.0 Conclusion of contract

1.1 Our orders are placed basis of our General Terms & Conditions of Purchase. Other conditions will not become provisions of the contract even if we do not explicitly object to such. If we accept the delivery/performance without explicit objection it can on no account be derived from this that we have accepted your terms of delivery.

These General Terms & Conditions of Purchase also apply to future contractual relationships with you.

If special agreements, in particular master agreements, just-in-time agreements and quality assurance agreements have been entered into with you, these take precedence over these General Terms & Conditions of Purchase. Any other agreements likewise take precedence in individual cases.

1.2 If you do not accept our order in writing within 5 calendar days of receipt we are entitled to cancel such order.

1.3 Orders are only legally binding if placed in writing. Orders placed orally or by telephone are only legally valid if subsequently confirmed by us in writing. The same applies to any oral side agreements or amendments to the contract.

Orders, delivery requests and any amendments or supplements to such may – following prior written agreement – also be made via remote data transmission or machine-readable data carriers.

Emails encrypted in accordance with the German Digital Signatures Act meet the requirement for written form.

1.4 Remuneration will not be paid for visits or the preparation of offers, projects etc.

1.5 You must treat the conclusion of any contract confidentially and may only refer to business relations with us in advertising materials after will have granted our prior written consent.

1.6 The contractual partners agree to treat any and all non-public commercial or technical information which becomes known to them due to the business relationship as trade secrets. Subcontractor suppliers and employees must be obliged accordingly.

If one of the contractual partners establishes that information to be treated confidentially has come into the possession of an unauthorised third party or any document to be treated confidentially has been lost, it must inform the other contractual partner of such without undue delay.

We reserve ownership rights and copyrights to illustrations, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents shall be used exclusively for the contractual performance and shall be returned to us after completion of the contract. The documents must be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy shall not expire until and to the extent that the knowledge contained in the documents provided has become generally known. This applies accordingly to materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items which we provide to the Seller for manufacture. Such objects shall - as long as they are not processed - be kept separately at the Seller's expense and insured to an appropriate extent against destruction and loss.

1.7 Any processing, mixing or combination (further processing) of items provided by you shall be carried out on our behalf. The same applies to further processing of the delivered goods by us, so that we are deemed to be the manufacturer and acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.

1.8 The transfer of ownership of the goods to us must take place unconditionally and regardless of the payment of the price. If, however, in individual cases, we accept an offer from you to transfer ownership conditional on the payment of the purchase price, your reservation of title shall expire at the latest upon payment of the purchase price for the delivered goods. We shall remain authorised to resell the goods in the ordinary course of business, even before payment of the purchase price, with advance assignment of the claim arising therefrom (alternatively validity of the simple reservation of title and for further sale the extended reservation of title). This excludes all other forms of retention of title, in particular the extended reservation of title, the forwarded reservation of title and the reservation of title extended to further processing.

1.9 We may also request changes to delivery items after conclusion of contract providing such are reasonable for you. In the event of such changes to the contract, the impact of such is to be taken into account appropriately by both sides, in particular with respect to additional or reduced costs and delivery dates.

1.10 Customary clauses are to be interpreted in accordance with the respectively valid and applicable Incoterms.

## 2.0 Prices, shipping, packaging

2.1 The agreed prices are fixed prices and exclude subsequent claims of any kind.

Unless explicitly agreed otherwise, prices include costs for packaging and transport to the delivery address or place of use specified by us and costs for customs formalities and customs duties.

If no prices are specified in the order, your current list prices with customary trade discounts apply. The agreement regarding place of performance is not affected by the method of pricing.

2.2 We are to be notified of every delivery immediately after execution by a dispatch notice specifying type, quantity and weight exactly. The order number is to be specified on all dispatch advice notices, freight bills, invoices and all correspondence with us.

2.3 We only accept the quantities or units ordered by us. Overdeliveries and underdeliveries are only permissible following prior agreement with us.

2.4 Shipping takes place at your risk. You therefore bear the risk of any deterioration including any accidental destruction until delivery to the delivery address or place of use specified by us.

2.5 Your obligation to take back packaging is governed by statutory provisions. The goods are to be packaged such that transport damage is prevented. Packaging materials are only to be used to the extent required to achieve this purpose. Only environmentally friendly packaging materials may be used.

If packaging is by way of exception invoiced to us separately, we are entitled to return packaging which is in good condition to you freight pre-paid in return for reimbursement of two-thirds of the amount invoiced for such.

## 3.0 Invoicing and payment

3.1 Invoices are to be submitted to us in due form in duplicate together with all related documents and data upon or after delivery. Invoices not submitted in the due form are not deemed to have been received by us until the point in time when such have been corrected.

3.2 Payment is made in the normal commercial way, i.e., either within 14 days with 2% cash discount or net without any deductions after 30 days, calculated from delivery/performance and receipt of the invoice, unless explicitly agreed otherwise.

3.3 If material testing certificates have been agreed, these form an essential part of the delivery and are to be sent to us with the invoice. We must, however, receive these at the latest 10 calendar days after receipt of the invoice. The payment deadline for invoices begins when the agreed certificates have been received.

3.4 In the event of defective deliveries we are entitled to withhold payment proportionally until proper performance has taken place.

## 4.0 Delivery dates, default of delivery force majeure

4.1 The agreed delivery dates are binding. Receipt of the goods at the place of receipt or use specified by us or acceptance in due time is decisive for compliance with delivery deadlines or delivery periods.

4.2 If you recognise that you are for whatever reason unable to meet an agreed date, you must inform us of this in writing without undue delay specifying the reasons and the expected duration of the delay.

4.3 If you are in default of delivery, we are entitled to statutory claims.

4.4 We are then also entitled after the unsuccessful expiry of a reasonable period of grace established by us to demand at our further discretion damages for non-performance or to obtain replacement goods/performance from a third party and/or to rescind the contract.

4.5 You may only invoke any lack of documents to be supplied by us if a fixed deadline which has in the meantime expired was set for the provision of such documents or if you requested provision of the documents in writing and did not receive such within a reasonable deadline.

4.6 Force majeure and industrial action release the contractual partners from their performance obligations for the duration of the disruption and to the extent of their impact. The contractual partners are obliged as far as is reasonable to provide the necessary information without undue delay and to adjust their obligations

in good faith to the changed circumstances.

4.7 In the event of delivery earlier than agreed, we reserve the right to return the delivery to you at your expense. If a premature delivery is not returned to you, the goods will be stored at our premises at your expense and risk until the delivery date.

We reserve the right in the event of premature delivery not to make payment until the agreed due date.

4.8 We will only accept partial deliveries following explicit agreement. In the event of agreed partial shipments, the remaining quantity is to be specified.

## 5.0 Guarantee, warranty, product liability

5.1 You represent and warrant the all deliveries/performance are state of the art and comply with relevant legal provisions and the regulations and guidelines of authorities, trade associations and professional associations.

5.2 You undertake within the scope of economic and technical possibilities to use environmentally friendly products and procedures for your deliveries/performance and also for supplies and additional services of third parties.

You are liable for the environmental safety of your products and packaging materials and for all consequential damage caused by any breach of your statutory disposal obligations.

Upon request, you must issue an inspection certificate and a safety data sheet for the delivered goods in accordance with Directive 91/155/EEC.

5.3 Our obligation to inspect shall be limited to defects which become apparent during our incoming goods inspection under external inspection including the delivery documents (e.g. transport damage, wrong and short delivery) or which are identifiable during our quality inspection by random sampling. If acceptance has been agreed, there shall be no obligation to inspect. Otherwise, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later shall remain unaffected. Irrespective of our obligation to examine, our complaint (notice of defects) shall be deemed to be immediate and timely if it is sent in writing (in text form sufficient) within five (5) calendar days of discovery or, in the case of obvious defects, from delivery.

5.4 Our rights in the event of material defects and defects of title of the goods (including incorrect and short delivery as well as improper assembly, defective assembly, operating or operating instructions) and in the event of other breaches of duty by you shall be governed by the statutory provisions unless otherwise provided below. In accordance with the statutory provisions, you shall be liable in particular for ensuring that the goods have the agreed quality upon transfer of risk to us. Any product descriptions which - in particular by designation or reference in our order - are the subject matter of the respective contract or which have been included in the contract shall in any case be deemed to be agreements on the quality. It makes no difference whether the product description comes from us, from you or from the manufacturer. Contrary to § 442 para. 1 sentence 2 BGB (German Civil Code), we shall be entitled to assert claims for defects without restriction even if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.

5.5 Defects in the delivery/performance notified during the warranty period, which also include non-compliance with guaranteed data and the lack of warranted characteristics, must be remedied by you upon request without undue delay and free of charge, including with respect to any incidental expenses, at our discretion by repair or replacement of the defective parts.

We are in addition entitled to statutory claims, in particular claims for rescission of contract, reduction of price, supplementary performance and compensation or the reimbursement of futile expenses.

5.6 If you culpably fail to meet your warranty obligation within a reasonable period of time established by us we may – without prejudice to your warranty obligation – at your expense and risk take the necessary action ourselves or have such taken by third parties.

In urgent cases we may, after consultation with you, carry out the rectification ourselves or have it carried out by a third party and demand from you reimbursement of the expenses required for this or an appropriate advance payment. If the subsequent performance by you has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we will inform you of such circumstances immediately, if possible in advance.

Minor defects may – in fulfilment of our obligation to minimise damage – be rectified by us without consulting you in advance without this affecting your warranty obligation. We may then charge the necessary expenses to you. The same applies in the event of exceptionally high impending damage.

5.7 Notwithstanding § 438 para. 1 no. 3 BGB, the warranty period shall be three (3) years unless expressly agreed otherwise. It begins upon the delivery item being handed over to us or the third party specified by us at the specified place of receipt or use.

The warranty period for equipment, machines and plant begins on the acceptance date specified in our written declaration of acceptance. If acceptance is delayed through no fault of your own, the warranty period is three (3) years from provision of the delivery item for acceptance.

The warranty period for spare parts is 2 years from installation/commissioning and ends at the latest 4 years after delivery.

5.8 For parts delivered which cannot remain in operation during the examination and/or remedy of a defect, the ongoing warranty period is extended by the time of the operational interruption.

The warranty period for repaired or replacement parts commences anew upon completion of the rectification work or, if acceptance has been agreed, upon acceptance. Acceptance is, if necessary, to be requested from us in writing.

5.9 If any claims are made against us due to any breach of official safety regulations or due to domestic or foreign product liability provisions or legislation due to the defectiveness of our product which is attributable to your goods, we are entitled to demand compensation from you for this damage provided such has been culpably caused by the products supplied by you. Such damage also includes the costs of any precautionary product recall. You shall indemnify us against claims by third parties to the extent that the cause lies within your sphere of control and organisation and you are liable yourself in relation to third parties. Within the scope of your obligation to indemnify, you must reimburse expenses pursuant to §§ 683, 670 BGB which arise from or in connection with claims by third parties, including recall actions carried out by us. We will inform you - as far as possible and reasonable - about the content and scope of recall measures and give you the opportunity to comment. Further legal claims remain unaffected.

You must mark the delivery items such that these are, where possible, permanently recognisable as your products.

You must carry out quality assurance suitable in terms of its type and scope and which complies with the state of the art and evidence this to us upon request. You must conclude an appropriate quality assurance agreement with us if we consider such necessary.

Furthermore, you must also take out adequate insurance against all product liability risks, including the risk of product recall, and submit the insurance policy to us for inspection upon request.

5.10 Our legally determined recourse claims within a supply chain (supplier recourse in accordance with §§ 445a, 445b, 478 BGB) are entitled to us without restriction in addition to the defect claims. In particular, we shall be entitled to demand from you the type of subsequent performance (rectification of defects or replacement delivery) which we owe to our customer in individual cases. Our statutory right of choice (§ 439 para. 1 BGB) is not restricted by this. Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to §§ 445a para. 1, 439 para. 2 and 3 BGB), we shall notify you and request a written statement, briefly explaining the facts of the case. If a substantiated statement is not made within a reasonable period and no amicable solution is reached, the claim for defects actually granted by us shall be deemed to be owed to our customer. In this case, you shall be responsible for providing proof to the contrary. Our claims arising from supplier recourse shall also apply if the defective goods have been further processed by us or another entrepreneur, e.g. by installation in another product.

## 6.0 Industrial property rights

6.1 You represent and warrant that all deliveries are free from any third party rights and in particular that no patents, licences or any other third party industrial property rights are infringed by delivery and use of the delivery items.

6.2 You must indemnify us and our customers against any third party claims arising from the infringement of industrial property rights and will also assume all costs incurred by us in this context.

- 6.3 If you are in default with obtaining the approval to use the relevant delivery items and performance we are entitled to obtain the required approval from the holder of such rights at your expense.
- 6.4 Information security incidents must be reported to [support@profil.eu](mailto:support@profil.eu) immediately after they have been detected.

**Final provisions**

- 7.1 If individual provisions of these General Terms & Conditions of Purchase are legally invalid, this will not affect the validity of the remaining provisions.
- 7.2 You may not pass on the order or significant parts thereof to third parties without our prior written consent. This does not affect the engagement of subcontractors.
- 7.3 We will handle your personal data in accordance with the German Federal Data Protection Act.
- 7.4 You agree to comply with the environmental and human rights legal requirements in Germany and commit to support our compliance with the same by engaging in responsible purchasing practices. You must keep records which demonstrate compliance with such legal requirements and shall deliver such records to us as

reasonably requested.

- 7.5 Unless explicitly agreed otherwise, the place of performance for the delivery obligation is the delivery address or place of use specified by us; the place of performance for all other obligations of both parties is 36041 Fulda.
- 7.6 If you discontinue payments, a provisional insolvency administrator is appointed or insolvency proceedings are opened over your assets, we are entitled to partial or complete rescission of contract.
- 7.7 The contractual language is German. If the contractual parties also use another language, the German wording will take precedence.
- 7.8 The courts of 36041 Fulda have jurisdiction if you are a merchant. We reserve the right, however, to assert our claims in any other permissible jurisdiction.
- 7.9 Additionally, the laws of the Federal Republic of German apply exclusively.

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