

General Terms and Conditions of Purchase for GEA AWP GmbH (AS OF: 08/2020)

1. General

These General Terms and Conditions of Purchase apply to all orders issued by GEA AWP to its suppliers. All orders of GEA AWP are based on these General Terms and Conditions of Purchase. General Terms and Conditions of the supplier are not accepted, if and so far they contradict the General Terms and Conditions of Purchase of GEA AWP. GEA AWP's acceptance of any performance does not constitute an acceptance of any General Terms and Conditions of the supplier even the supplier states in its General Terms and Conditions that delivery or performance is made only subject to the supplier's General Terms and Conditions. These General Terms and Conditions of Purchase also apply to all future contracts between GEA AWP and the supplier even if they are not expressly referenced in the individual case.

2. Orders and Formation of Contract

2.1 Orders are only binding if executed in writing. The supplier must confirm the acceptance of an offer within a period of 1 week in writing. Until the receipt of such written confirmation GEA AWP is entitled to revoke the order.

2.2 Changes or amendments to an order require the written confirmation of the competent purchase department of GEA AWP, the same applies to agreements with other departments of GEA AWP that amend a contract.

3. Execution of Performance

The delivery item must comply with the agreed specifications, the current state of technology and the offer documents, drawings, test specifications and technical delivery specifications of GEA AWP. The supplier is obliged to comply with all applicable statutes, byelaws, orders of public authorities and professional associations.

3.1 A contractual fine does not need to be reserved on acceptance.

4. Delivery Period

Delivery dates and delivery periods set by GEA AWP or stated by the supplier are binding. Terms for delivery are calculated starting from the date of the order. Delivery schedules become binding at the latest if the supplier does not object to such delivery schedule within 1 week since its receipt. The supplier is obliged to inform GEA AWP without undue delay if circumstances arise or become apparent that lead to the conclusion that the agreed term or date for delivery cannot be met. GEA AWP is entitled to send back any goods delivered prior to the agreed delivery date at the cost of the supplier.

5. Shipment, Packaging

The shipment of all goods is made at the cost and risk of the supplier to the address specified by GEA AWP. The same applies in case any defective goods are returned by GEA AWP. The method of shipment must be agreed with GEA AWP. The goods are packaged at the cost of the supplier. GEA AWP is not obliged to return any packaging.

6. Passing of Risk

6.1 In the case of contracts for the sale of goods the risk passes to GEA AWP if receipt of the goods has been confirmed at the delivery point designated by GEA AWP.

6.2 In the case of contracts for work and services the risk does not pass prior to the completion of the entire order and joint acceptance of the work. A formal acceptance is deemed to be agreed.

7. Examination for Defects

GEA AWP is obliged to examine goods within a reasonable time period with regard to defects in quality or quantity. A notice of defect is deemed to be made in time if such notice is received by the supplier within 2 weeks. With regard to the number of goods delivered, weights and measures the measures taken at GEA AWP's delivery control are relevant. If any deviation was hidden, such deviation can be notified within 2 weeks from the date it was uncovered.

8. Performances contrary to Agreement

8.1 If the supplier does not duly perform its obligations for performance under a contract GEA AWP is entitled to the respective statutory claims without limitation. Such claims shall become time-barred within the statutory limitation periods notwithstanding Sec. 8.2 of these General Terms and Conditions of Purchase.

8.2 With regard to any claims of GEA AWP arising from delivery of defective goods a limitation period of three years shall apply unless the statutory provisions provide for a longer period limitation. The period shall commence at the time risk passes. For any parts that have been substituted by the supplier, the limitation period shall start afresh. The limitation period with respect to claims for defects is suspended if and 8.3 so long as the supplier does not reject such claims finally and in writing following a timely notice of defects.

8.4 In the event that the performance of the supplier is defective, GEA AWP – after prior notification to the supplier – is entitled to remedy such defects at the cost of the supplier if this is necessary to avoid or minimize disruptions of the operations of GEA AWP.

8.5 In the case of default of the supplier GEA AWP – in addition to the rights pursuant to Sec. 8.1 – is entitled to claim 0.5 % of the price of the goods, however, not more than 5 % of the price of the goods as compensation for the damage arising from the default without having to prove any actual damage for each full week that the supplier is in default. The supplier may prove that GEA AWP suffered a lesser damage.

8.6 In case of contracts with partial shipments GEA AWP is entitled to rescind the entire contract if the supplier does not perform its obligations duly with respect to one partial shipment.

9. Drawings and other Documents

9.1 GEA AWP reserves its title and copyright to all illustrations, drawings, calculations and other documents provided to the supplier. Such documents must be used solely for the production of goods ordered by GEA AWP and must be returned to GEA AWP after final performance of the contract without further request.

9.2 After final performance of the contract the supplier shall deliver to GEA AWP all drawings, calculations and other technical documentation with respect to the delivery in the requested number and execution concerning the order as it has been produced. The supplier is obliged to transfer title to these documents free of costs to GEA AWP. GEA AWP and third parties may use such documents for repairs and changes as well as for the production of spare parts free of costs.

9.3 The approval of GEA AWP with respect to drawings, calculations and other technical documents does not affect any warranty obligations of the supplier. The same applies with respect to suggestions and recommendations by GEA AWP unless something else has been expressly agreed.

10. Supply

10.1 Material or parts supplied by GEA AWP that are handed over to the supplier for processing or conversion as well as supplied tools and auxiliary equipment remain property of GEA AWP and may only be used for GEA AWP's orders. The supplier is liable for loss or damage. The supplier shall store the material with the care of a prudent businessman for GEA AWP and is obliged to inform GEA AWP without undue delay if any property of GEA AWP is seized at the supplier's premises or if seizure is imminent. The costs of any intervention are borne by the supplier.

10.2 Processing and alteration of supplied material by the supplier is made on behalf of GEA AWP which acquires title to the altered good directly. In the event that supplied material is joined or irrevocably amalgamation with goods that were not the property of GEA AWP, GEA AWP shall receive joint title of the new good in relation of the value of the retained good to the other processed or amalgamation goods. In the event that amalgamation happens in a way that leads to the good of the supplier being the main good within the meaning of Sec. 97 BGB, it is deemed to be agreed that the supplier transfers to GEA AWP a proportionate part of the joint title. The supplier keeps the sole property or the joint property for GEA AWP.

11. Delivery under Retention of Title

GEA AWP accepts a potential retention of title of the supplier with regard to unprocessed goods stored by GEA AWP. However, GEA AWP does not accept any retention of title that survives processing, joining or amalgamation of the goods with other goods. The assignment of claims of GEA AWP arising from the onward sale of such goods to the supplier is excluded. Unrestricted and sole title to all goods passes to GEA AWP on payment of the purchase price.

12. Prices, Conditions of Payment

12.1 Agreed prices are fixed prices including statutory VAT. Price increases only become effective after written confirmation by GEA AWP. The prices include delivery "free domicile", packaging, customs duties, insurance and assembly.

12.2 Payments by GEA AWP are made subject to invoice verification. Invoices based on expenditure of time or measurements must be based on time and material expenditures or measurements confirmed by GEA AWP beforehand; such confirmations must be attached to the invoice. GEA AWP has the statutory rights of set-off and retention.

12.3 Invoices are paid by GEA AWP within 20 days starting from delivery and receipt of an invoice with 3 % discount or within 45 days after receipt of an invoice net in cash or bill of exchange. In the event that the supplier delivers prior to the agreed delivery time, the payment period is calculated from the agreed delivery time even if the early delivery is accepted.

12.4 Any assignment of payment claims of the supplier must be approved in writing by GEA AWP. If the supplier is a businessman and if he assigns any claim without approval of GEA AWP, GEA AWP remains entitled to pay to the supplier with liberating effect or to declare a set-off with any claim against the supplier.

13. Miscellaneous

13.1 Contracts by and between GEA AWP and the supplier are subject to German law excluding the provisions of the Vienna UN-Convention on the International Sale of Goods (CISG). Place of the performance of the supplier is the place of usage of the goods, for payments it is the seat of GEA AWP. The place of jurisdiction, as far as legally permissible, is the seat of GEA AWP or at GEA AWP's choice the natural forum of the supplier.

13.2 The supplier is obliged to treat all financial and technical details that are not in the public domain and that the supplier has become aware of in the course of the business relationship as business secrets and the supplier is further obliged to extend this obligation to any sub-suppliers as long as the information is not in the public domain.

13.3 In the event that provisions of a contract between GEA AWP and the supplier are invalid, the validity of the remaining contract shall remain unaffected. An invalid provision shall be substituted by such provision that meets the economic aim of the invalid provision.

14. Data Protection

The supplier acknowledges and agrees that GEA AWP may gather, store, process, use, transfer to third parties and delete all client data from the business relationship within its purpose. Such data may relate e. g. to the address, delivery quantities and invoice dates