

General Conditions for the Purchase of Goods / BILSTEIN GROUP, Hagen / Germany

Version 08/2014

I. Application

1. The present Conditions shall apply in addition and complementary to the General Conditions of Purchase / General Procurement of BILSTEIN GROUP.

2. Unless otherwise agreed, the following contract documents shall apply. In the event of any contradictions within the contract documents, the order of precedence shall be according to the following order:

- Our order letter
- Minutes of the negotiations (a younger document shall take precedence over an older document)
- Our General Conditions for the Purchase of Goods
- Our General Conditions of Purchase / General Procurement
- The standards, specifications, regulations, manufacturer specifications etc. and all TÜV (Technical Inspection Agency) guidelines, industrial law guidelines and all laws, ordinances and local by-laws pertaining to the relevant contract.

II. Origin, Quality management

1. In the event Supplier makes a declaration in regard to the preferential or non-preferential origin of the merchandise, the following terms shall apply:

a. Supplier shall allow verification of the proof of origin through customs authorities and submit all necessary information as well as any required certification.

b. Supplier shall compensate us for any damages and losses incurred to us, if and in so far as the competent authorities, due to any deficient certification or impossibility to verify, fail to acknowledge the declared origin, unless Supplier is not responsible. Notwithstanding the foregoing Supplier is liable if he has assumed a guarantee in regard to a specific origin of the merchandise.

2. Prior to dispatch of the merchandise Supplier shall carry out an adequate quality inspection, especially to verify if the merchandise corresponds to the specifications agreed and if it is suitable for the assumed or customary use. The scope and the content of the inspection are subject to a separate contractual agreement or, by default, shall correspond to the nature and importance of the merchandise, the role of Supplier (producer or distributor) and the reasonable efforts of a quality inspection.

3. Upon our request, Supplier shall indicate the name and address of any third party acting as his supplier of the merchandise or the required raw materials for the production of the merchandise.

III. Prices

In case of “free house” deliveries, deliveries “free place of destination” and other “free”-deliveries, the price shall include the costs for freight and packaging. In case of “unfree” delivery, we shall bear the lowest possible freight rates only, unless we have required a particular type of shipment.

IV. Performance of Deliveries and Passing of Risks

1. Supplier shall bear the risks of accidental loss and accidental deterioration of the merchandise until it has been handed over to us at its place of delivery. This provision shall also apply in cases of “free delivery” (franco domicile).
2. We will not accept partial deliveries, unless prior express consent.
3. Unless otherwise agreed in writing, Supplier shall bear the costs of packaging. In the event we agree to bear such costs, Supplier will charge us with the lowest possible costs only. Any obligation to take back packing material shall be governed by the provisions of the Packaging Decree (Verpackungsverordnung) in their current version.

V. Warranty Provisions and Statute of Limitations

1. Supplier shall deliver the merchandise free of defects. In particular, he shall ensure that his deliveries and his services comply with the generally accepted rules of technology and with the applicable standards for materials.
2. Our incoming goods inspection is limited to apparent transport damage, other obvious defects and the checking of quantity and identity of the merchandise at least based on the delivery documents. For this purpose, we regularly carry out a visual inspection.
3. Any notice of defect will be deemed to be in time if it reaches Supplier within ten working days by letter, telefax, e-mail or by telephone. Periods for such notices shall not start before we – or in case of direct sales (Streckengeschäfte) our customers – have detected or should have detected the defect.
4. In the event the merchandise shows a defect, we may exercise our statutory rights. If Supplier tries to repair the merchandise, such remedy is considered to have failed after the first unsuccessful attempt.
5. In the event the merchandise was already defective at the time the risk has passed to us, we further reserve the right to claim from Supplier those expenditures towards our customer in connection with such defect.
6. In regard to goods that were used in accordance with their normal purpose for a building structure and have caused it to be defective, our claims for defects become time-barred 5 years after delivery of the goods. In all other cases, the limitation period shall be 3 years after delivery of the goods. Sec. 438 para. 3 to 5 of the German Civil Code (BGB) remain unaffected.
7. Supplier hereby assigns to us - on account of performance – the benefit of any claims against his supplier arising from the delivery of deficient merchandise or of such merchandise not conforming with the guaranteed characteristics. He will provide us with all documents necessary to enforce such claims.
8. Supplier undertakes to release us from any third party claim which derives from a breach of obligations by Supplier, his staff or any other person employed to perform his obligations. If and in so far as this claim for release is equivalent to a liability for damages of Supplier, it is required that Supplier, his staff or any other person employed to execute the contract has acted negligently.

VI. Miscellaneous

Trade clauses shall be interpreted according to the Incoterms - ICC, Paris in their current version.