

## Standard Terms and Conditions of Purchase

**ILLIG Maschinenbau GmbH & Co. KG**  
**Robert-Bosch-Strasse 10**  
**74081 Heilbronn**

### **1. Area of application**

- 1.1 These Terms and Conditions of Purchase apply to all business transactions with us insofar as you are a merchant, a legal person under public law or a special fund under public law, even if these terms and conditions are not explicitly referred to. We will not accept any terms and conditions that are to the contrary, unless we expressly approved their validity. Thereby in particular the acceptance of deliveries or services or the payment shall not imply consent.
- 1.2 Our Terms and Conditions of Purchase as amended shall also apply as a framework agreement to all future transactions with you without us having to make reference to them in each individual case.

### **2. Contract conclusion and purchase orders**

- 2.1 The content of our purchase order in text form shall always apply unless individual agreements have been made with you in specific cases (including collateral agreements, modifications or amendments). These shall always prevail over these Terms and Conditions of Purchase. A written contract or our written confirmation shall be authoritative for the content of such agreements, subject to evidence to the contrary. Your offers shall be free of charge for us. If your offers deviate from our request, you have to state this explicitly.
- 2.2 By accepting the order, you must take into account the relevant technical rules and guidelines according to VDE, VDMA, UVV, DIN, Product Safety Act (ProdSG) and protection notes according to DIN ISO 16016 2007-12. In addition, Machinery Directive 2006/42/EU, the Electromagnetic Compatibility Directive 2014/30/EU and the Electrical Equipment Directive 2014/35/EU and the valid European norms applicable to the respective product are to be observed.

When delivering products that are intended to come into contact with foodstuffs, Regulation No. 1935/2004 (EC) must be complied with. The relevant product conformity declaration in German and English forms part of the scope of delivery.

- 2.3 A written order confirmation only needs to be submitted if we explicitly asked for one in our purchase order. If an order confirmation deviates from our purchase order, you shall be obliged to explicitly draw our attention to these items.

### **3. Framework order/request**

- 3.1 For framework, quantity or standing orders, we will notify you of the quantities and types to be delivered by way of separate requests. These requests shall be binding if they are not objected to within one week of receipt of the request, and no other provision has been made.
- 3.2 Should you not be able to deliver on demand, you have to inform us immediately and suggest possible deadlines.

#### **4. Scope of services, dates and delay in delivery**

- 4.1 Your delivery shall include all parts necessary for use in accordance with the contract and in compliance with the agreed condition, even if the required parts are not fully listed in the purchase order text.
- 4.2 Agreed dates and deadlines shall be binding and have to be complied with. The receipt of the goods by us or receipt at an agreed place of receipt/delivery address or a place of receipt/delivery address stated by us shall be decisive.
- 4.3 In the event of a delay in delivery, you shall be obliged to inform us immediately by phone and/or in writing stating the reasons. Our rights due to a delay in the performance shall remain unaffected by this duty to inform.
- 4.4 If delivery takes place before the given date, we are entitled to reject the delivery. Partial deliveries can also be rejected by us. Where appropriate, we shall be entitled to return the goods at your cost and risk or to store them with a third party.
- 4.5 If you are in default, we shall be entitled to charge a penalty of 0.5 % of the total order value per week of default or part thereof, up to a maximum of 5 % of the total order value. We shall be entitled to assert the necessary reservations pursuant to Section 341 par. 3 German Civil Code (BGB) until the performance has been paid for in full. The assertion of further damage caused by default shall also remain reserved.
- 4.6 In the event of default, we shall be entitled to rescind the contract in accordance with the legal provisions and/or to demand compensation from you for the damage caused after a reasonable grace period has expired without results. You must compensate us for the additional costs resulting from a delay in delivery.
- 4.7 Should we be prevented from accepting delivery due to circumstances that we are unable to avoid despite exercising due care, the time of acceptance shall be postponed by the time period of the impediment. If, due to these circumstances, acceptance is not possible for a period exceeding 6 months, we shall be entitled to rescind the contract.
- 4.8 Further legal claims shall remain unaffected.

#### **5. Export control**

- 5.1 You have to comply with the applicable requirements of national and international export, customs and foreign trade laws for all goods to be delivered and services to be rendered and have to obtain the required export permits.
- 5.2 In the event of changes in the origin or characteristics of the goods or services or of the applicable export, customs and foreign trade laws, you have to update the export control and foreign trade data without delay and submit it to us in text form.
- 5.3 You commit to indemnify us from all third-party claims resulting from missing or incorrect export control and foreign trade data to be submitted or submitted by them in accordance with the aforementioned provisions, and to compensate us for the necessary expenses and damage within the scope of legal provisions.

#### **6. Delivery and transfer of risk**

- 6.1 You shall not be entitled to have the performance owed by you provided by a third party (e.g. subcontractor) without our written consent.
- 6.2 The place of performance for your deliveries and services is the place of receipt/delivery address specified by us. The transport costs and the transport risk shall be borne by us. The risk of total or partial loss, damage or other deterioration of the goods shall pass to us upon acceptance at the place of receipt.
- 6.3 For deliveries and services owing to which you enter our business premises, you and your employees as well as other agents are committed to comply with our site rules.
- 6.4 A verifiable delivery note is to be included in every delivery. Furthermore, for third-party deliveries a detailed dispatch note or copy of the delivery note is to be submitted to us in due time. Delivery notes and dispatch notes must not contain any pricing data.

## **7. Prices, terms of payment and invoices**

- 7.1 The agreed prices apply exclusive of value added tax and are fixed prices. Unless otherwise agreed on a case-by-case basis, they apply including freight, packaging and other associated costs free place of receipt/delivery address specified by us. Price increases, for whatever reason, - even in the case of long-term delivery contracts - will only be accepted by us if an explicit agreement was made in this respect.
- 7.2 If you carried out the installation and assembly, and unless otherwise agreed, you shall cover all necessary associated costs such as travel expenses, provision of tools, accommodation allowances, notwithstanding deviating provisions.
- 7.3 Immediately after the goods have been dispatched or the service has been rendered, separate invoices for each purchase order are to be sent as a PDF file to our administrative office in Heilbronn to the e-mail address stated in the purchase orders specifying the purchase order number; value added tax is to be indicated separately on the invoice. Any invoices that have not been issued in proper form shall be regarded as not having been issued. Invoices shall not at the same time be deemed as an order confirmation.
- 7.4 Unless otherwise agreed, payments shall be made within 14 calendar days of delivery/service and receipt of invoice, less 3 % cash discount or after 30 days net. The cash discount will be deducted from the invoice amount, including value added tax. The periods shall begin upon receipt of the invoice or, in case the goods are received after the invoice, upon acceptance of the goods free of faults, but in no case before the agreed goods receipt date.
- 7.5 All payments are made with the proviso that they are subject to the assertion of warranty claims and liability claims, if applicable.
- 7.6 We shall be entitled to rights of set-off and retention as well as the right to object to non-fulfilment of the contract to the extent provided by law. In particular, we are entitled to withhold due payments as long as we are entitled to claims against you arising from incomplete or defective performance.
- 7.7 You shall only be entitled to rights of set-off and retention in the case of counterclaims that have been established by final judgement or are undisputed.
- 7.8 An assignment of your claims against us is only permitted with our prior consent. If you assign claims against us to a third party without our consent, the assignment shall nevertheless be effective. We can, however, at our option, make payments to you or the third party with discharging effect.

## **8. Goods control, notification of defects period**

- 8.1 The statutory provisions (Sections 377, 381 German Commercial Code (HGB)) apply to the commercial obligation to inspect the goods and to give notice of defects on the following terms: Our obligation to inspect the goods is restricted to defects that become evident during the external examination, including the shipping documents, at incoming goods inspection (e.g. damage in transit, wrong or short delivery) or are identifiable in sampling procedures during our quality control. If acceptance has been agreed upon, there will be no obligation to inspect the goods. As for the rest, it depends on to what extent an inspection is appropriate in the due course of proper business practice in due consideration of the circumstances of the individual case. Our obligation to give notice of defects for defects that are identified later shall remain unaffected. Irrespective of the obligation to inspect, the notice of defects is considered submitted without delay and in due time if dispatched within seven work days of discovery or, in the event of obvious defects, within seven work days of delivery.
- 8.2 Unless otherwise agreed, the legal provisions shall be applied to material defects and defects of title.
- 8.3 At the moment of the conclusion of the contract we are not obliged to any inspection of the goods or any special enquiries concerning possible defects. Partially different from Section 442 par. 1 sent. 2 German Civil Code (BGB) we have unconditional warranty claims, even if the defect was unknown to us on grounds of gross negligence on our part at the moment of the conclusion of the contract.

## 9. Warranty

- 9.1 You have to ensure that the goods delivered and services rendered correspond to the legal and regulatory provisions applicable for your sales or use, and do not infringe industrial property rights or other third-party rights. Furthermore, you have to ensure that the goods do not contain any substances from the respective ILLIG list of prohibited substances and substances to be avoided. The ILLIG list of prohibited substances and substances to be avoided is available at <http://www.illig.de/de/illig/lieferantenportal/sonstige-downloads/>.
- 9.2. The deliveries and services must correspond to the state of the art applicable at the time of delivery or the foreseeable state of the art as well as other statutory protection rights, technical testing specifications and accident prevention regulations. In addition, you have to ensure that the goods you delivered or services you rendered correspond to the respective "General ILLIG Specifications for Suppliers". The "General ILLIG Specifications for Suppliers" is available at <http://www.illig.de/de/illig/lieferantenportal/sonstige-downloads/>. Furthermore, you shall be responsible for the quality of the material used, the professional design and execution of the goods delivered by you and the specified or agreed performance.
- 9.3 We are entitled to the unabridged statutory warranty rights. Irrespective of this, and at our option, we shall be entitled to demand rectification of defects or replacement delivery from you. The place of the subsequent performance is Heilbronn, or another place determined by us. In such cases, you have to bear all expenses necessary for the rectification of defects or replacement delivery. If you do not carry out a rectification of defects or a replacement delivery within a reasonable period or only to an insufficient extent, or if immediate rectification of defects is required for urgent reasons, we can have the defects rectified at your expense or make covering purchases at your expense.
- 9.4 Subsequent performance includes also the removal of the defect good and the de novo installation, if the good was - in accordance with its nature and purpose - built-in another object or was attached to another object, before the defect became evident; our statutory claim to reimbursement of the corresponding expenses (costs for the removal and the de novo installation) remains unaffected. The for the achievement of the purpose of audit and subsequent performance necessary expenses, in particular road costs and costs concerning transport, labour and material, as well as potentially costs for the removal and the de novo installation, have to be paid by you, even if it transpires that there was no defect. Our liability for damages concerning unjustified requests for defect rectification remains unaffected; in this respect we are only liable, if we detected or grossly negligent not detected, that there was no defect.
- 9.5 The limitation period for warranty claims is 5 years for buildings and construction goods that have been used for a building in accordance with their customary use and have caused its defectiveness. Otherwise, the general limitation period for warranty claims is 3 years from putting into service/using the end product, unless explicitly agreed upon otherwise. The limitation of our warranty claims will be suspended by means of a written notice of defects to you. The warranty period does not re-commence until you declare in writing (date received by ILLIG) the completion of rectification or subsequent delivery measures or have rejected rectification or subsequent delivery in writing and no further negotiations are conducted. Should a longer warranty period be legally prescribed in the future, this longer warranty period shall apply.
- 9.6 In the absence of warranted characteristics as well as in cases of defective or wrong delivery due to negligence, we shall be entitled to claim damages for non-fulfilment instead of other warranty claims, whereby our claims for damages comprise all consequential costs. You have to release us from third-party claims in this respect.
- 9.7 For delivery items the handling of which is not or not yet generally known, assembly and operating instructions are to be submitted separately, without the need for a specific request, and at the latest together with the delivery, stating our purchase order number. Otherwise, you shall be liable for any damage that would not have occurred if these documents had been available. In the event of defects of title you shall additionally indemnify us against possibly existing third-party claims.

## **10. Supplier regress**

- 10.1 We are unlimitedly entitled to our statutory claims concerning reimbursement of expenses and regress within a supply chain (supplier regress, Sections 478, 445a, 445b, respectively Sections 445c, 327 par. 5, 327u German Civil Code (BGB)) besides warranty claims. In particular we are entitled to demand exactly the way of subsequent performance (rectification of defects or replacement delivery) from you, that our purchaser demands from us on a case-by-case basis; concerning goods with digital elements or other digital contents this also applies with regard to the provision of necessary updates. Our statutory right to choose (Section 439 par.1 German Civil Code (BGB)) remains unaffected.
- 10.2 Before we recognise or settle a warranty claim, asserted from one of our purchasers (including reimbursement of expenses, Sections 445a par. 1, 439 par. 2,3, 6 sent. 2, 475 par. 4 German Civil Code (BGB)), we will inform you, shortly describe the situation and ask for a written statement. If you do not send us a substantiate statement within a reasonable period of time and if there is also no consensual solution, it applies that our purchaser is entitled to demand the warranty claim, that we actually granted him. In such a case, you have to supply the counterevidence.
- 10.3 Our claims concerning the supplier regress are also applicable, if the defect good was connected with another product or processed in another way by us, our purchasers or a third party, for example through installation or affixing.

## **11. Product liability, recall and quality assurance**

- 11.1 If claims are made against us on the basis of the German Product Liability Act or other regulations because of a product defect or if a damage is incurred by us in any other way in connection with the delivery of a faulty product, in particular through recall, you have to indemnify us insofar as the damage was caused by an delivery or performance error on your part. In these cases, you shall bear all costs and expenses, including the costs of possible legal proceedings or a precautionary recall campaign. You undertake to effect adequate product liability insurance and provide proof upon our request.
- 11.2 You must document the nature and scope of suitable quality assurance according to the latest state of technology as well as all relevant data. In case of claims due to product liability, you are only obliged to submit the respective documentation and records to make it possible to prove that the product is defective.

## **12. Provisioning of spare parts**

Unless otherwise agreed, you commit to stock spare parts for the goods you delivered for a period of 5 years for ordered goods with a total order value of less than 10,000 EUR net per year and for a period of ten years for orders totalling to more than 10,000 EUR net per year. The obligation to keep a stock shall not apply if a need for spare part deliveries on our part is not recognizable from the type of delivery.

## **13. Property rights, confidentiality**

- 13.1 You warrant that the items delivered by you do not infringe any domestic or foreign industrial property rights and guarantee the full freedom and copyright permission for their domestic and foreign use and trade. In the event of claims arising from third parties due to an infringement of domestic or foreign industrial property rights with regard to the delivered goods, you have to indemnify us against all claim and compensate the resulting damage.
- 13.2 All order documents as well as drawings, models, samples, etc. remain our property and must neither be disclosed to third parties nor be used by you for your own purposes without our explicit consent. They are to be secured against unauthorised access or use and, unless otherwise agreed, must be returned to us in proper condition at the latest upon delivery. There is no right of retention.
- 13.3 You must keep secret all technical data and other non-public commercial or technical information you obtain due to the business relationship with us. It may only be used for executing our orders and may only be made accessible to those employees who need to be involved in the order execution.

- 13.4 If tools, drawings or other manufacturing equipment is produced by you on our behalf and at our expense, it is agreed that these items become our property directly after manufacturing. In case we only covered a part of the costs, we shall acquire co-ownership in proportion to the costs. You have the revocable right to store these items for us carefully and free of charge. We shall obtain all copyrights to these items for exclusive use. You are not entitled to use these items outside the scope of the order without our consent. You are entitled and obliged to keep them subject to recall. You have to mark the items in a way indicating that it is our property including to third parties. You shall have no right of retention to these items. Sub-suppliers are to be engaged by you as required.
- 13.5 Using the business relationship for advertising purposes requires our prior consent.

#### **14. Limitation of liability**

We shall assume liability, also for our executives and other vicarious agents, in the event of deliberate action and gross negligence due to an infringement of contractual and non-contractual obligations, in particular owing to impossibility, delay, fault when initiating contracts and tortious acts. In the event of a simple negligent violation of material contractual duties, we shall assume liability which is limited to the foreseeable damage typical for the contract. These limitations do not apply if the attainment of the contractual purpose is jeopardised, if we have provided a guarantee and in the case of injury to life, body and health.

#### **15. Retention of title**

We accept the simple retention of title for the goods delivered by you. Other forms of security are only valid with our express consent.

#### **16. Obligation to pay the minimum wage; German “Lieferkettensorgfaltspflichtengesetz” (The German Act on Corporate Due Diligence Obligations in Supply Chains)**

- 16.1 For our orders relating to services or work within Germany, you are obliged to comply with the minimum wage regulations (“Law on the regulation of the general minimum wage” dated 11 August 2014 as amended). Sub-suppliers are to be obligated by you accordingly
- 16.2 You are obliged to fulfil the requirements of the The Act on Corporate Due Diligence Obligations in Supply Chains , if this Act is applicable.

#### **17. General provisions**

- 17.1 For both parties, the place of performance for all claims arising from a contract, in particular for the delivery and payment, shall be Heilbronn or the place of performance specified by us.
- 17.2 For both parties, the exclusive - and international - place of jurisdiction for all legal disputes arising from the contractual relationship and concerning its conclusion and effectiveness shall be Heilbronn. We are also entitled to file a suit at your place of business.
- 17.3 If a contractual partner suspends their payments, a temporary insolvency administrator is appointed or insolvency proceedings over their assets or extrajudicial compositions proceedings are initiated, the other contractual partner shall be entitled to rescind the part of the contract that has not been fulfilled.
- 17.4 If a provision of these terms and conditions and the other arrangements that have been made is or becomes ineffective, the validity of the rest of the contract shall remain unaffected. The contractual partners are obliged to replace the ineffective provision with a provision that comes as close as possible to its economic success.
- 17.5 Exclusively German law shall apply, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).