

- 1. General terms**

These Standard Terms and Conditions of Order apply to all purchase and service agreements, including contracts for the supply of movable objects to be produced or created, concluded between Agosi AG, Kanzlerstrasse 17, 75175 Pforzheim ("Agosi") and suppliers ("S") of goods and services ("Deliveries"). Agosi's Standard Terms and Conditions of Order apply exclusively. Any contrary, divergent or additional terms of the S are not applicable even if such terms are included in an acknowledgement of order issued subsequent to Agosi's order or engagement ("Order") and even if Agosi does not explicitly object to the latter or if Agosi accepts the Delivery without reservations. Agosi's silence signifies rejection of the S's terms.
- 2. Conclusion of the contract**

Each Order must be acknowledged in writing by the S. The contract only comes about if the S has acknowledged the Order within two weeks of its dispatch or if the S delivers within that period of time. Should the S not wish to carry out Agosi's Order, then the S is obliged to inform Agosi immediately. Any supplementary oral agreements must be set down in writing.
- 3. Correspondence**

All correspondence from the S must state the order number, date of order and the material number, inasmuch as this is indicated in the Order.
- 4. Execution**

If Agosi should so desire in the case of certain quality-relevant Deliveries, the S shall maintain a quality control system, e.g. in accordance with DIN EN ISO 9000 et seq. and/or DIN ISO 14001. Agosi is entitled, by agreement, to check the S's system by means of quality audits.
- 5. Subcontractors**

The engagement of subcontractors requires Agosi's prior written consent. The S must impose on subcontractors all obligations in respect of to the tasks assumed and must ensure the same compliance with such obligations as it itself assumed in relation to Agosi.
- 6. Shipping**
  - 6.1** The S shall deliver to the place of delivery and performance indicated in the Order. When shipping, the relevant tariff, transport and packing regulations applicable to rail, road, sea and air transport, etc. must be observed, particularly in respect of any regulations pertaining to customs or dangerous goods. In addition, the transport options most favourable for Agosi shall be selected, unless Agosi has explicitly given specific instructions on shipping.
  - 6.2** In addition to the shipping address, the order information (order number, date of order, place of delivery and performance, name of recipient and material number where applicable) shall be indicated in the transport documents. The Delivery items must be labelled according to the provisions of the Hazardous Substance Ordinance and EC/EU Guidelines on Hazardous Materials/Substances. The S shall supply to Agosi in good time prior to delivery all requisite product information, e.g. safety datasheets, processing instructions, labelling regulations, work safety measures, etc. all in their currently valid version. All information, including drawings and other documents, needed by Agosi for the installation, operation, maintenance and repair of the Delivery items must be made available by the S without specific request and free of charge.
  - 6.3** Where subcontractors are engaged, the latter shall identify the S as customer in all correspondence and shipping documents, specifying the order data.
  - 6.4** Loading units (upwards of 1 metric ton) must be clearly and permanently labelled with the unit weight.
  - 6.5** The S is only entitled to make partial deliveries with Agosi's consent.
  - 6.6** Only packaging complying with the aims and requirements of the Packaging Ordinance in its latest version may be used.
  - 6.7** Where the S's Deliveries result in waste products, other than packaging, within the meaning of waste management law, the S must process or remove such waste products, except where otherwise agreed in writing, at the S's own expense and accordance with the provisions of waste management law. Title, risk and responsibility under waste management law pass to the S at the moment of delivery.
- 7. Delivery date, default in delivery**
  - 7.1** The date of delivery agreed upon in the contract shall be binding and understood as the date of arrival "carriage paid" at the place of delivery and performance. The S shall inform Agosi immediately in writing if any circumstances occur or become known to the S from which it emerges that the date of delivery cannot be adhered to.
  - 7.2** The S may only plead Agosi's failure to provide necessary documentation/information if the S had not received the same within a reasonable period of time despite having sent a written reminder.
  - 7.3** In the event of a default in delivery, Agosi shall be entitled to claim a contractual penalty of 0.2% of the net order value for each working day, up to a maximum of 5%. The S shall have the right to provide evidence that no damages at all or only damages of a considerably lower amount were incurred as a result of the S's default. Agosi shall be entitled to reserve the contractual penalty until final payment. Further claims for damages beyond the contractual penalty is not excluded.
- 8. Evidence of performance and acceptance**

Any evidence of performance specified by the contract and any acceptance must be recorded in writing.
- 9. Weights/quantities**

For weight discrepancies, the weight as determined by Agosi at inspection upon receipt shall apply unless the S can demonstrate that the weight charged by the S was correctly determined according to a generally recognised method at the time the risk was transferred. The same applies mutatis mutandis to quantities.
- 10. Prices, invoices and terms of payment**
  - 10.1** The price agreed in the contract is understood to be "carriage paid", including packing and shipping to the place of delivery or performance, as well as installation, if this is agreed, plus VAT.
  - 10.2** The order number must be given in the invoice; the amounts invoiced must be clearly allocated to individual order items. Invoices shall be issued in duplicate with the second copy clearly marked as such. The order number and material number are to be indicated on the invoices. Invoices must be issued in euros and shall indicate VAT separately. The invoice must be sent separately to the invoice address specified in the Order.
  - 10.3** Invoices will be paid by Agosi within 8 days minus a prompt payment discount of 3% or net within 30 days. The payment term begins upon delivery of the goods or acceptance of the services at the place of delivery or performance and upon receipt of a regular and verifiable invoice at the invoice address indicated in the Order. The time of payment has no effect on the S's warranty; payment does not imply that the Delivery is in order.
  - 10.4** In the event of any claim against Agosi for the payment of statutory or contractual default interest, Agosi shall be entitled to demonstrate that the loss actually incurred by the S was lower than the interest claimed.
- 11. Notice of defects**

If the S delivers under a purchase contract, Agosi's obligation to inspect goods upon receipt shall be restricted to verifying the quantity and identity thereof and to checking for evident defects and damage which has occurred in transit. Agosi may report such discrepancies, defects and damages within six working days from delivery and hidden defects within six working days from their discovery, whereby it is in both cases sufficient to send the notification within the specified period.
- 12. Claims for defects**
  - 12.1** The S shall supply the delivered item or service rendered free from any physical or legal defects. The goods or services are deemed to be free of defects if they have the agreed quantity and character, in particular if they comply with all agreed conditions and requirements in respect of quantity, quality and nature, as well as regarding packing or container. Unless agreed otherwise, the goods or services shall fulfil the state-of-the-art standards and all relevant statutory and regulatory requirements. Approval of drawings or Agosi's participation in the inspection of any item ready for shipment does not constitute either an agreement in respect of quality nor a change to a quality agreement nor an acceptance and does not exempt the S from the obligations set out above.
  - 12.2** In the event of a shortcoming in the Delivery, Agosi may, at its own discretion, demand subsequent fulfilment by way of rectification free of charge (removal of the defect) or replacement free of charge (delivery of goods or rendering of services free of defects). If a reasonable term set by Agosi for subsequent fulfilment has expired to no avail, Agosi shall be entitled to rectify the defects itself at the S's expense, cancel the contract, reduce remuneration and claim compensation for damages and expenses. In cases governed by statutory provisions, it is not necessary to set a deadline.
  - 12.3** The period of validity of Agosi's claims in respect of defects are subject the statute of limitations. However, the limitation is also suspended by Agosi's notifying the S of a defect. In such a case, the suspension terminates upon complete remedy of the defect or upon the S refusing to fulfil performance and the statutory limitation take effect at the earliest three months after the end of such suspension. The period of limitation begins anew for rectified or replaced parts.
  - 12.4** If Agosi is entitled to compensation for damages or to cancellation, Agosi may demand a flat-rate compensation amounting to 10% of the net value of the Order. The assertion of additional claims for damages is not excluded. The S is entitled to demonstrate that a substantially lower damage or no damage at all was incurred as a result of the defect.
- 13. Insurance**
  - 13.1** The S shall maintain liability insurance coverage on terms and conditions typical for the industry with a minimum insured sum of € 2 million per claim event for the duration of the contractual relationship including guarantee and warranty period and shall on demand provide Agosi with evidence thereof. In individual cases, lower insured sums may be agreed with Agosi in writing.
  - 13.2** In the event of Agosi bearing the costs of transport contrary to the provisions of 10.1 above, Agosi hereby emphasises that Agosi is a prohibitory customer within the meaning of the German Freight Forwarders' Standard Terms and Conditions [ADS].
- 14. Entering the works premises or construction site**

When entering Agosi's works premises on foot or by vehicle, the instructions of Agosi's specialist personnel must be followed. Due notice must be given before entering the works premises on foot or by vehicle. The German Road Traffic Ordinance [StVO] must be observed. Where services are rendered on the works premises or construction site, the relevant factory or construction site rules shall apply.
- 15. Disclaimer of liability**

Agosi and its employees, legal representatives and agents are not liable for the S's damages. This disclaimer of liability does not apply in the event of a substantive breach of contract. Similarly, the disclaimer of liability does not apply to damages incurred as a result of injury to life, body or health or to any other damages arising from a wilful or grossly negligent breach of obligation.
- 16. Confidentiality**

The S shall maintain confidentiality in respect of all information, knowledge and documentation received from Agosi or which has otherwise become known to the S in respect of Agosi's sphere of activity or on the sphere of activity of any associated company (Umicore company), e.g. technical and other data, measurements, technology, operational experience, trade secrets, know-how, drawings and other documentation (information), not to disclose such information to any third parties and to use them solely for the purpose of processing the Order concerned. This does not apply in cases where the information was already known to the S or becomes known to the S without any breach of legal obligation being incurred by the S or by a third party. The confidentiality obligation terminates three years after fulfilment of the Order concerned if the information has not previously been made public. The S undertakes to return to Agosi immediately upon request all physically transmitted information such as documentation, patterns, samples or similar without retaining any copies or notes and upon request by Agosi to immediately destroy its own notes, compilations and evaluations containing information and to confirm the same to Agosi in writing. Agosi exerts ownership of and intellectual property rights to all information.
- 17. Promotional material**

No reference in information and/or promotional material to the business relationship maintained with Agosi may be made without Agosi's explicit written consent.
- 18. Planning records and documentation**

Any drawings, drafts etc. prepared by the S according to Agosi's specifications pass into Agosi's unlimited ownership without compensation to the S. Any declarations to the contrary made by the S, e.g. with regard to the documents handed over to Agosi, are not binding. Planning documents must be handed over to Agosi on the delivery date in accordance with 7 above, together with any other documents agreed upon and/or any documents necessary for commissioning, operation and maintenance, including source text, assembly and operating manuals (other documentation). Without prejudice to any further rights that Agosi may have under law, Agosi has a right of retention on claims of the S up to an appropriate amount until all planning and other documentation records have been handed over.
- 19. Non-assignment clause**

Assignment by the S beyond the scope of Article 354a of the German Commercial Code [HGB] is excluded unless otherwise agreed upon in writing.
- 20. Competent Court and applicable law**
  - 20.1** The exclusive place of jurisdiction is that of Agosi's registered office if the S is a merchant. However, Agosi shall also be entitled to litigate against the S at the S's general place of jurisdiction or at the place of jurisdiction of a branch office.
  - 20.2** German law applies. The United Nations Convention on the International Sale of Goods (CISG) of 11 April 1980 is not applicable. Clauses customary in the industry are to be construed according to the ICC Paris Incoterms in the version prevailing at the time the contract is concluded.