

GENERAL PURCHASING TERMS

1. GENERAL

The following purchasing terms constitute a valid part of the contract, unless otherwise specified on the reverse. Any regulations deviating from our purchasing terms will only come into effect following our expressed written consent. We only acknowledge written orders. Orders stated verbally will only be accepted, if we confirm these by issuing an order number. Our purchasing terms will also be valid for verbal orders with regular business partners. Our order number must be included on all correspondence and/or records referring to the order. In the event of a missing order number, we will have to classify notices as *not received* and, therefore, invoices will not be payable. Our order will be regarded as accepted, unless it is contradicted in writing within a maximum of eight days.

2. DELIVERY

Without our prior consent, no part of the stated order, nor its entirety, may be passed on to subcontractors. In the event that the date of delivery, for whatever reasons, is not abided, we have the right to choose between a complete or partial withdrawal from the contract, including all claims for resulting damages, or we may insist on completion of the contract, which will include ensuing claims for compensation due to the delayed delivery. Should the supplier come to realize that the delivery on the agreed dates will not be possible after the confirmation of the order, the supplier will make this known immediately, failing which he will be liable for all of our resulting damages.

3. RECEIPT

If a delay in consumption occurs due to walk-outs from work (strikes and lock-outs), operating failures, as well as operating limitations and similar instances on our behalf or on behalf of other suppliers, this will be regarded as divine intervention and it will release us from receipt for the duration of the interruption and for the volume of its effect. In certain cases, we will reserve the right to hold excess deliveries. Deliveries under the amount specified in our order will be prohibited.

In the event of premature delivery before the agreed date, we will be permitted to return the delivery at the expense of the supplier or to charge storage costs.

4. SHIPMENT

A shipment will be stored at the risk and cost of the supplier, if the shipping documents required on our order form are missing; furthermore, the shipment will not be accepted as a completed order and/or processed. The shipment must be packaged accordingly and especially cleared in adherence to our shipping regulations. The supplier will be liable for any damages resulting from the non-compliance to such directives.

5. PRICE

Unless otherwise specified, our prices are „free delivery“ to our receipt, including packaging, customs clearance, and other expenses. These are fixed prices which may not experience an increase for any reason whatsoever.

6. PAYMENT

Invoices will be balanced within 30 days of the receipt of goods at a 3% cash discount or within 90 days of receipt at net price, pending other agreements. Payment does not constitute an acknowledgement of the accordance of the shipment and, therefore, does not imply a renunciation of possible claims in our favor due to erroneous completion or liability or compensation. Prepayments will retain their value aliquote to the total value of the order according to the order itself; they will only be conducted after submission of a bank warranty.

7. WARRANTY

The supplier accepts full warranty for the adherence to all respective legal regulations and standards, for good material according to the requirements of B&M, as well as for proper and professional execution. The warranty will especially include the usually expected characteristics and the applicability for use, according to the agreement or according to the nature of the deal. The supplier will equally be liable for goods and components delivered through him, which he did not manufacture, as well as for services rendered. The receipt of goods will be performed by testing at the respective place of use and/or on the occasion of the utilization of the goods. Any recognized defects will not be reprimanded immediately but within a sufficient deadline, due to possibly required testing. The supplier will refrain from any objections to a delayed complaint. In the event of minor defects or ones that can easily be repaired, and notwithstanding any other legal options we may have, we reserve the right to choose to make claims for a substitute delivery (contract cancellation) or for repairs, both free of charge, or to request a price reduction; or we may also choose to have the defects repaired and/or repair these at the cost of the supplier. If the determination of a period of grace is required by law, a maximum period of four weeks will be deemed adequate in any case. In the event that a component which is built into a device is defect, the supplier will reimburse all costs of repair required for the period of one year, starting from the commissioning date. Along with the shipment, the supplier will submit any storage and operating regulations without additional notice, otherwise the supplier will be held liable for damages resulting from ignorance of said regulations. The supplier will be liable for an amount of scrap of the supplied material or components which are in excess of the norm or of the agreed quota.

8. MANUFACTURING DOCUMENTS

Samples, models, drawings, klistees, and other aids will remain our material and intellectual property and will be open to our free disposal. These aids will be used to complete our orders, exclusively, and must not be made available to or left with third parties that do not belong to the company. After the order has been supplied, said documents will be returned to our attention free of charge, unless otherwise specified.

9. MOLDS, TOOLS, DEVICES

Any molds, tools and devices made available to or used for the completion of the order constitute property of B&M and will be handed over to B&M upon primary request, without objections of any sorts, pending any opposing agreement. Only purchasing price demands that were made in the course of the finalization of the production volume will be considered as adequate.

10. INDUSTRIAL PROPERTY RIGHTS

The supplier will accept full and sole liability in ensuring that property rights of domestic and international third parties will not be infringed upon by delivery and through use of the ordered items; he will exempt us from any claims that are issued as a result of the breach of such property rights. Besides claims for compensation, we will also be entitled to all legal and contractual claims for material and legal detriment, if the property rights of third parties have been transferred; this will also extend to components which the supplier has obtained from third parties.

If the supplier applies property rights of third parties based on licensing contracts with limited territorial or temporal validity, these must be made known before our order can be accepted. Should the supplier fail to do so, he will be liable for any resulting disadvantages.

We will be granted a joint right of utilization, free of charge, encompassing the manufactured items that the supplier delivered, as will our customers, if said supplier owns property rights which refer to the application of goods delivered for specified uses.

11. QUALITY DOCUMENTATION

The supplied goods will adhere to the respective legal domestic and international guidelines, the regulations on accident prevention, the relevant directives and guidelines, the VDE regulations and the renowned rules of state-of-the-art technology, as well as to the documents – such as drawings, descriptions, samples, specifications, conditions of receipt, etc. – on which the order has been based.

The supplier will perform an adequate form and volume of quality control according to the latest state-of-the-art technology.

In the event that we should require primary or scrap samples, the supplier will begin serial production only after receiving our expressed written consent.

The performance of quality control must be documented properly, especially specifying who tested the quality features in which way and with which result. The purchaser will be allowed to visit the manufacturing facilities of the seller at any point in time, in order to ensure the proper completion of the order, on location. The seller will take all precautions to ensure that comprehensive information will be available to the purchaser.

12. CONFIDENTIALITY

The supplier will be obligated to regard the order, the resulting work and the applied processes, as well as any technical and commercial documents and facilities, as classified, and said supplier will treat these with the highest level of confidentiality, respectively. Any subcontractors will be legally bound by the supplier, accordingly.

13. ASSIGNMENT OF THE CONTRACT

The contract rights and the contract obligations of the seller may only be assigned to third parties upon the purchasers expressed consent.

14. PLACE OF PERFORMANCE OF THE SHIPMENT

The receipt location specified in the order will constitute the place of performance of the shipment. The place of performance will be our facility in Molln, unless otherwise agreed upon.

15. APPLICABLE LAW AND PLACE OF JURISDICTION

Austrian law will apply. The place of jurisdiction will be the State Court of Steyr for both parties.