Terms and Conditions of Purchase

Framo Morat GmbH & Co. KG
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Our Terms and Conditions of Purchase shall apply exclusively. We do not accept any terms and conditions of the Supplier that conflict with or deviate from our Terms and Conditions of Purchase unless we have expressly agreed to their application in writing. Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's delivery without reservation despite being aware of conflicting or deviating terms and conditions of the Supplier. These Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier.

1. Orders

Orders shall be valid only if placed in writing. Oral agreements require our subsequent written confirmation. Orders must be confirmed or rejected without undue delay within the meaning of Section 362(1) of the German Commercial Code (HGB), and no later than within 6 working days, unless our offers expressly specify a period during which they remain binding.

2. Delivery Date

The agreed delivery date shall be binding and shall refer to the date of receipt of the goods. If a calendar week has been agreed as the delivery date, the last working day of the calendar week confirmed for delivery shall be the latest date for receipt of the goods. If delivery occurs after that date, the Supplier shall be in default without a separate reminder. The Supplier must notify us in writing without undue delay if circumstances arise or become apparent that indicate that the agreed delivery date cannot be met.

We shall be entitled to refuse acceptance of goods delivered before the delivery date specified in the order and to return goods delivered prematurely or place them in storage with third parties, at the Supplier's expense and risk. Furthermore, the Supplier shall not be entitled to make partial deliveries.

3. Default

A contractual penalty of 0.5 % of the order value shall become payable for each working day of delay in delivery. The order value shall be calculated on the basis of the specified order quantity and the respective unit price of the goods to be delivered. The contractual penalty shall, however, be limited to 5 % of the order value. Any additional costs of expedited shipments required due to the Supplier's fault shall be borne by the Supplier.

Our right to assert further statutory claims for damages shall remain unaffected by shipping costs and the contractual penalty. Failure to comply with the agreed delivery periods shall entitle us, following an unsuccessful reminder and expiry of a reasonable additional period for performance, to refuse acceptance of performance and to withdraw from the contract or claim damages for non-performance. Acceptance of a delayed delivery or performance shall not constitute a waiver of claims for damages.

4. Shipping

For shipments for which we bear all or part of the freight costs, the Supplier must arrange transport at the most favorable freight rates or in accordance with our shipping instructions. To prevent transport damage resulting from missing or inadequate load securing, the Supplier must ensure that the goods are secured by the collecting carrier.

The Supplier shall be liable for all damage and costs arising from inadequate compliance or failure to comply with our instructions.

Even where shipment has been agreed, risk shall pass to us only when the goods are handed over at the agreed destination. The Supplier shall be responsible for handling transport damage claims.

5. Packaging

All deliveries must be packaged in such a way as to prevent damage during transport and handling of the parts. At our request, the Supplier must take back the packaging at its own expense.

6. Delivery Notes and Invoices

Each shipment must be accompanied by a delivery note containing all essential details of the order. The invoice must contain the same details. If any details are missing and this delays our processing in the ordinary course of business, the payment periods shall be extended by the duration of the delay.

7. Defects

Unless otherwise agreed in writing, our incoming goods inspection shall be limited to checking quantity, identity and transport damage. We undertake to notify the Supplier without undue delay of any defects discovered during this inspection. In all other respects, the Supplier waives the defense of late notification of defects.

We shall retain our statutory rights in respect of defects in full. Independently of those rights, we shall generally be entitled, at our option, to require the Supplier to remedy defects or provide replacement goods. In such cases, the Supplier must bear all expenses necessary for remedying the defects or providing replacement goods. The right to damages, particularly damages in lieu of performance, is expressly reserved.

If the Supplier fails to fulfil its obligation to provide replacement goods immediately or fails to carry out the necessary remedial work without undue delay so that the delivery meets our quality requirements, we shall additionally be entitled to carry out the necessary remedial work ourselves or have it carried out by a third party. The resulting costs shall be borne by the Supplier. The right to claim damages for non-performance is reserved.

If defects in the delivered goods become apparent only during processing, we reserve the right to assert claims for damages, including claims for consequential loss.

8. Warranty

The warranty period shall be 24 months from completion of delivery. The limitation period for warranty claims shall be suspended upon the Supplier's receipt of our written notice of defects. In the event of replacement delivery or rectification of defects, the warranty period for the replaced or repaired parts shall begin anew, unless the Supplier's conduct gave us reason to assume that it did not consider itself obliged to take such action and provided the replacement delivery or rectification solely as a goodwill gesture. If the Supplier is in default in fulfilling its warranty obligations, we shall be entitled, at the Supplier's expense, to remedy the defects ourselves, have them remedied by a third party or procure replacements.

9. Quality Assurance/Product Liability

The Supplier undertakes to continuously monitor its processes using statistical methods, to continuously improve its processes and thereby its products, and to cooperate with us in a spirit of partnership on all quality-related matters.

The Supplier shall allow our representatives to conduct a product-related process audit before the start of series production in order to assess the Supplier's quality assurance measures. Specific inspections may be agreed in this context and shall be set out by us in written inspection instructions. The Supplier must document compliance with these instructions. We shall be entitled to inspect these records at any time. As a general rule, sampling inspections must be conducted with a zero acceptance number, meaning that no defective part may be found. If a defective part is nevertheless found, our Quality Assurance department must be informed without undue delay. Under no circumstances may the goods be dispatched without prior written approval of the deviation.

Complaints concerning deliveries shall be made in writing. The Supplier must respond to the complaint in writing within 48 hours, specifying improvement measures and their implementation dates. To the extent that the Supplier is responsible for damage caused by a product, it must indemnify us upon first demand against third-party claims for damages insofar as the cause originated within its sphere of control and organization and it is itself liable to the third party. In this context, the Supplier must also reimburse any expenses arising from or in connection with a product recall conducted by us.

10. Intellectual Property Rights

The Supplier warrants that its delivery does not infringe any third-party rights, unless it proves that it is not responsible for the breach of duty. If a third party asserts claims against us on such grounds, the Supplier must indemnify us against those claims upon our first written demand.

The Supplier's indemnification obligation shall cover all expenses necessarily incurred by us as a result of or in connection with the third-party claim.

11. Tools

Tools, samples, gauges, drawings and other documents that we provide or commission the Supplier to produce for the manufacture of our items shall be our property. This shall also apply to materials, parts, containers and special packaging provided by us. It is agreed that we shall acquire co-ownership of products manufactured using our materials and parts in proportion to the value of the items provided by us relative to the value of the finished product. The Supplier shall hold such products in custody for us to the extent of our co-ownership.
The tools must be handled and stored with care and insured at the Supplier's expense against risks such as fire, water damage, theft, loss and other damage. Proof of insurance is required. These documents may be made available to third parties only with our express written consent and must be returned to us without request once the order has been completed.

12. Confidentiality

The contracting parties undertake to treat all non-public commercial and technical details that become known to them through the business relationship as business secrets. Sub-suppliers must be placed under corresponding obligations.

13. Performance by Third Parties

If the Supplier does not itself perform the contractual obligations, including the manufacture of tools, but instead engages third parties, our prior written consent shall be required.

14. Force Majeure

Extraordinary events such as war, industrial action (strikes and lockouts), operational disruptions, restrictions on operations and similar circumstances resulting in reduced consumption shall entitle us to withdraw from the contract in whole or in part. The Supplier shall be notified of the occurrence of such events without undue delay.

15. Prices and Price Changes

Unless otherwise agreed in writing, the price shall include delivery and packaging. Value added tax shall not be included. Any subsequent price changes, including those resulting from a change in the execution of the order requested by us, shall require our written approval. If no agreement is reached, we shall be entitled to withdraw from the contract.

16. Payment

Subject to proper delivery, we shall pay either within 30 days with a 3 % cash discount or after 60 days net, calculated from the date of receipt of the invoice.

17. Governing Law

German law shall apply, in particular the provisions of the German Civil Code (BGB) and the German Commercial Code (HGB), to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

The place of jurisdiction and place of performance for both parties shall be Freiburg.