

GENERAL TERMS AND CONDITIONS OF PURCHASE

ENGINEERED FIBER SOLUTIONS GMBH

I. General Provisions

1. These general Terms and Conditions of purchase (hereinafter referred to as "Terms and Conditions") shall apply to all contracts for the purchase and deliveries of goods and services (hereinafter referred together to as "Deliveries" and "Goods") performed by seller, contractor or service provider (hereinafter referred in general to as the "Supplier") to the Engineered Fiber Solutions GmbH (hereinafter referred to as the "EFS"). These Terms and Conditions shall also apply for future Deliveries by the Supplier to EFS, even if they are not agreed again.
2. These Terms and Conditions shall apply exclusively. Deviating and / or supplementary terms and conditions of the Supplier shall not apply unless and only to the extent EFS expressly agreed in writing. This requirement of consent as well as these Terms and Conditions shall apply in any case, even if EFS accepts a Delivery of the Supplier without any reservation in the knowledge of deviating or conflicting terms and conditions of the Supplier.
3. These Terms and Conditions shall only apply for business relationships with entrepreneurs (§ 14 German Civil Code (Bürgerliches Gesetzbuch, BGB), legal persons under public law and a special fund under public law.
4. Individual agreements between EFS and the Supplier (including, but not limited to, subsidiary agreements, additions, and amendments) shall prevail over these Terms and Conditions.
5. Any legally binding declarations and notices of the Supplier after entering into a contract (e.g. setting deadlines, warning notices, declaration of recession) shall be made in writing. Written form within the meaning of these Terms and Conditions includes the written and the text form.

II. Orders

1. Supply agreements (by order and acceptance), call-offs as well as any additions and amendments shall be made in writing.
2. EFS shall be entitled to cancel an order, if the Supplier does not accept the order within five (5) working days as of the receipt.
3. EFS may request changes to construction and execution of the delivery item, insofar as the changes are reasonable for the Supplier. In this context, all effects, in particular additional and reduced costs and the delivery dates, shall be regulated between EFS and the Supplier in a reasonably mutually agreeable manner.
4. EFS reserves its property rights to images, drawings, calculations, specifications and all other of its documents. The same applies to copyrights as far as copyright ability is given. The Supplier shall under no circumstances make such aforementioned documents and rights accessible to third parties without the express written approval of EFS nor shall the Supplier reproduce such itself or by third parties. The Supplier shall use the mentioned documents and rights only and exclusively for production of the EFS' orders and shall return the documents and rights immediately after completion of the order and Delivery and before that upon EFS's request at any time. The Supplier shall destroy any duplicates, copies and data backups. The documents and rights must be kept secret from third parties at any time; Section XIV (Confidentiality) applies. Supplier shall have no right of retention to these documents.

III. Prices, Payment

1. Prices stated in the orders are binding. The prices include delivery to EFS's premises (free delivery, "frei Haus"), including packaging, transport and insurance costs and VAT, unless otherwise agreed in writing.
2. Unless otherwise agreed in writing, payment will be made by EFS within a period of fourteen (14) days after delivery and receipt of a proper invoice with a discount of two (2) % or net within thirty (30) days after receipt of a proper invoice. In case of acceptance of early delivery, the due date shall be based on the agreed delivery date.

3. EFS reserves all rights to set-off and retention rights as well as the right to the defense of unperformed contract according to the law.
4. Payment shall be made by bank transfer and payment shall be deemed in due time if the EFS's transfer order is received by its bank before the expiry of the payment deadline; EFS shall not be responsible for any delays caused by the banks involved in the payment process.
5. The Supplier shall be entitled to set-off and / or retention rights only if and to the extent that its counterclaim is acknowledged by EFS, undisputed or assessed in a legally binding judgement.
6. The Supplier shall not be entitled to assign its claims against EFS or to let them collected by third parties without prior written approval of the EFS.

IV. Delivery, Delivery Dates and Periods, Default in Delivery, Default in Acceptance

1. Dates and deadlines specified by EFS in its order or, if made, agreed between the parties are binding. The receipt of the goods by EFS at the delivery address specified in the order shall be decisive for compliance with the delivery date or the delivery period. To the extent ex works is not agreed, the Supplier shall make the goods available in good time and consider the usual time for loading and shipment.
2. The Supplier shall be obligated to immediately inform EFS in text form if any circumstances occur or become apparent to the Supplier which are likely to cause delays in delivery. However, this shall not affect the Supplier's responsibility to comply with the agreed delivery time.
3. The Supplier shall specify in all order confirmations, delivery documents and invoices EFS's order number, article number, delivery quantity and delivery address. If such information is missing, EFS's payment deadlines shall be extended by the period of the delay.
4. If the delivery of the Products has not taken place by the delivery date, EFS reserves all rights under applicable law. In addition, the Supplier shall pay to EFS as liquidated damages for each day of delay a sum of one (1) % of the net price of the goods delivered late up to a maximum amount of five (5) % of the net price of the goods delivered late. EFS reserves the right to prove that a higher damage has been incurred. However, the Supplier have the right to prove that no damage or only significantly less damage has been incurred.
5. For EFS's default in acceptance the statutory provisions shall apply. However, the Supplier must expressly offer its Delivery and performances to EFS even if a specific calendar date has been agreed.

V. Weights, Quantities

Without prejudice to further claims of EFS, in the event of deviations of weight, the weight determined by EFS upon receipt of the Delivery shall be decisive. This does not apply if the Supplier proves that he has correctly determined the weight was in accordance with a generally accepted method at the time of the transfer of the risk. The same applies in case of deviations in quantities.

VI. Notice of Defects, Warranty

1. With regard to the obligation to inspect incoming goods and to report defects the statutory provisions shall apply within the following: EFS's obligation to inspect incoming goods shall be limited to defects that become apparent during external inspection including the delivery documents (e.g., transport damages, incorrect delivery, incomplete delivery) or during a during quality control in the random sampling procedure. No obligation to inspect incoming goods shall apply, if acceptance has been agreed. Furthermore, it depends on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. The obligation to report defects discovered later remains unaffected. Notwithstanding the complaint (notice of defect) shall be deemed to have been made without undue delay and in good time if it is sent within five (5) working days of discovery or, in the case of obvious defects, of delivery.

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2. The statutory claims for defects shall apply without limitation. In any case, product descriptions which, in particular by designation or reference in the order of the EFS, are the subject matter of the respective contract or have been included in the contract in the same way as these Terms and Conditions shall be deemed an agreement on the quality; it has no influence whether a product description originates from the Supplier, EFS, or a manufacturer.
3. EFS shall be entitled whether the Supplier shall remedy the defect or deliver a new good. EFS's right to claim damages, in particular damages in lieu of performance, is expressly not be limited.
4. If the Supplier fails to meet its obligation to remedy the defect or to deliver a new good within a reasonable period of time set by EFS, EFS shall be entitled to remedy the defect itself and to demand reimbursement of the expenses incurred respective a corresponding advance payment from the Supplier. In the event that subsequent performance by the Supplier has failed or is unreasonable for EFS (e.g., due to particular urgency, danger to operational safety or impending disproportionate damage), no deadline for subsequent performance needs to be set.
5. The warranty period shall be thirty-six (36) months, calculated from the date of transfer of risk, unless statutory provisions provide a longer warranty period.
6. Services under a contract to produce a work must be formally accepted by EFS. The Supplier shall notify EFS in good time in text form of the finalization of its work and the readiness for acceptance. Implied and notional acceptances are excluded.

VII. Spare Parts

1. The Supplier shall be obligated to store spare parts for the delivered goods for a period of at least five (5) years after delivery.
2. If the Supplier intends to discontinue the production of spare parts for the goods delivered to EFS within or after the expiry of the above-mentioned period, the Supplier shall notify EFS immediately, but at least three (3) months before the discontinuation of production.

VIII. Retention of Title

1. Any retentions of title by the Supplier shall only apply to the extent as it relates to EFS's payment obligation for the respective good to which Supplier retains title. In particular, all and any extended or prolonged retentions of title (erweiterte Eigentumsvorbehalt und verlängerte Eigentumsvorbehalt) of the Supplier shall be excluded. EFS shall be entitled to resell the goods in the ordinary course of business even prior to payment of the purchase price, subject to advance assignment of the claim arising therefrom.
2. The Supplier shall carry out any processing, intermixture or combination or other further processing of EFS's provided items for EFS. The same shall apply in the event that EFS further process delivered goods, so EFS shall be deemed manufacturer of the product and shall acquire ownership of the product.

IX. Quality and Documentation

1. At any time the Supplier shall comply with accepted rules of technology, the relevant statutory provisions, safety regulations, agreed specifications and agreed technical data. Changes to the goods require EFS's prior written approval. The Supplier shall at every time check the quality of the delivered goods and services. EFS and the Supplier shall inform each other about possibilities of quality improvement.
2. To the extent that type and scope of the quality test, equipment and methods are not agreed between the Supplier and EFS, EFS will, at request of Supplier, discuss such points with the Supplier within the scope of its knowledge experience and possibilities in order to determine the required state. In addition, EFS will, upon Supplier's request, inform the Supplier about relevant safety regulations.

X. Hazardous Substances, Product Information

1. Goods must be manufactured and labelled in accordance with the regulations of the Hazardous Substances Ordinance and the EC / EU Directives for Hazardous Substances / Preparations.
2. The Supplier undertakes to provide EFS in good time before delivery / service with all necessary product information, in particular on composition and durability, e.g., safety data sheets, processing guidelines, labeling regulations, assembly instructions, occupational safety measures, etc., including any changes thereto.
3. The Supplier warrants that the goods do not contain gold, tin, tantalum, tungsten or compounds of the mentioned substances originating from the Democratic Republic of the Congo or its neighboring states. The Supplier shall provide EFS Upon request with information on the origin of the substances and / or compounds of its goods.

XI. Compliance, Energy Management

1. The Supplier warrants that he and its delivered goods comply with all applicable regulations in the European Union and with EFS's „Supplier Code of Conduct“ (published on EFS website). Upon request, the Supplier shall provide EFS with evidence of conformity by submitting suitable documents.

XII. Product Liability

1. The Supplier shall, upon first request, indemnify EFS against claims for damages by third parties based on product defects of the delivered goods to the extent the cause lies within the sphere of control and organization of the Supplier and the Supplier itself is liable in external relation.
2. Within the scope of its liability for damages and its indemnification obligation pursuant to section XII.1 above, the Supplier shall also reimburse any expenses arising from or in connection with a lawful recall carried out by the EFS or by a customer of EFS. Insofar as practical and reasonable, EFS shall inform the Supplier about content and scope of the recall measures and shall give the Supplier the opportunity to comment. Other statutory claims shall remain unaffected.
3. The Supplier shall take out and maintain a product liability insurance with an adequate insurance company and a lump-sum coverage of at least 5,000,000.00 EUR (five million euro) for each event of damage (personal and / property).

XIII. Intellectual Property Rights

1. The Supplier warrants that the delivered goods do not infringe any intellectual property rights of third parties, especially not in countries of the European Union neither countries in which the Supplier manufactures the goods or has them manufactured in the past. The Supplier shall be liable and shall indemnify EFS against all claims asserted by third parties against EFS due to an infringement of industrial property rights by the goods delivered by the Supplier; the Supplier shall also reimburse EFS for all necessary expenses in connection with any claims a third party makes against EFS with regard to third-party's intellectual property rights. This shall not apply if the Supplier is demonstrably not responsible for the infringement of third-party rights.
2. Further statutory claims due to defects in title of the delivered goods remain unaffected.
3. The limitation period shall be thirty-six (36) months, as from the transfer of risk, unless statutory provisions provide a longer warranty period.
4. EFS and the Supplier shall inform each other immediately about any risks of infringement and alleged cases of infringement that become known and shall give each other the opportunity to counteract corresponding claims.

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5. Upon request, the Supplier shall notify EFS of the use of published and unpublished own and licensed intellectual property rights and applications for intellectual property rights relating to the delivered goods.

XIV. Confidentiality

1. The Supplier is obliged to keep the terms and conditions of EFS's orders as well as all information and documents which EFS made available to the Supplier (with exception of publicly available information) secret and confidential for a period of three (3) years after the date of delivery and to use them only for the execution of the order. The Supplier shall immediately return all documents to EFS, irrespective of whether they relate to a specific order or whether they are a general handover.
2. The Supplier shall under no circumstances handover any drawings, samples, and similar items to third parties or make such otherwise accessible to unauthorized third parties. The reproduction of such items is only permitted within the scope of operational requirements and only to the extent allowed according to the applicable copyright provisions.
3. Any subcontractors of the Supplier shall be obliged accordingly.
4. The Supplier may only advertise the business relationship with prior written consent of EFS.

XV. Minimum Wage

1. The Supplier shall pay its employees at least the minimum wage in accordance with the applicable provisions. The Supplier shall indemnify EFS against all claims asserted against EFS in the event of a violation of the provisions of the Minimum Wage Act (Mindestlohn-gesetz, MiLoG) by the Supplier or its subcontractors.
2. Notwithstanding any other rights of termination or withdrawal, EFS shall be entitled to withdraw from a contract with immediate effect or to terminate the contract, if the Supplier and / or its subcontractors culpably violate the above provisions of section XV.1 or the provisions of the applicable Minimum Wage Acts. The Supplier shall compensate EFS for any damage incurred as a result of the withdrawal or termination and any claims of Supplier for non-performance are excluded. In all other respects, the statutory provisions shall apply.
3. EFS shall be entitled, at any time, to demand a written confirmation of the payment of the minimum wage from Supplier. Furthermore, EFS shall be entitled to demand appropriate evidences (e.g., minimum wage declaration of employees of Supplier, confirmations of the tax advisor or auditor of the Supplier etc.) in order to check compliance with the provisions of this section XV.

XVI. Miscellaneous

1. These Terms and Conditions and all business relations between EFS and the Supplier shall be governed by the laws of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
2. Unless otherwise agreed, the place of performance shall be the registered office of EFS (Schenkenzell).
3. Exclusive and international place of jurisdiction for all disputes arising out of or in connection with the relationship between EFS and the Supplier shall be the court of the registered office of EFS, if the Supplier is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch, HGB), a legal person under public law and or a special fund under public law. In addition, EFS shall be entitled to sue the Supplier at the Supplier's registered office or the place of performance of the delivery or service.