

## **General Terms and Conditions of Purchase of BINDER GmbH, DE-78532 Tuttlingen**

The following terms and conditions apply to all our orders and contracts if supplier is a business-man according to § 14 of the BGB (German Civil Code) and unless otherwise agreed upon in writing. The application of supplier's general terms and conditions is generally excluded. Such terms and conditions may be valid only in individual cases if we agree to them explicitly in writing.

### **1. Placement of Orders**

- 1.1 Our orders are only binding when submitted in writing.
- 1.2 The supplier shall confirm our order in writing immediately, but no later than three days after receiving it. If we have not received supplier's order confirmation within 14 days from the order date, we shall have the right to cancel the order without the supplier being entitled to claim any rights due to the cancellation.

### **2. Prices**

- 2.1 The prices shall be fixed until the purchase has been completed and include free delivery to our factory, including packing. In case of a cross border transaction all deliveries are DDP (Delivered Duty Paid) or DAP (Delivered At Place) our factory in 78532 Tuttlingen, Germany (Incoterms 2010).
- 2.2 Our payments shall be made within 21 days with a 3 % discount or within 60 days net.
- 2.3 We reserve the right to choose the payment method. The payment deadline shall start after the complete receipt of goods according to the relevant contract and after the receipt of a corresponding verifiable invoice (in duplicate), but not before the agreed-upon delivery date.

All payments shall be made under reservation of rights due to possible defects. If the delivered goods are defective, we shall have the right – in addition to the legal warranty rights – to exercise our right of retention. Additionally, we shall have the right to offsetting to the extent that we have claims against the supplier, irrespective of the fact whether our counterclaims are related to the legal transaction from which the supplier derives his claims. Possible payments by BINDER do not mean that we accept the delivery as execution of contract or waiver of any guarantee made by supplier or compensation for damages.

### **3. Delivery Dates**

- 3.1 Delivery dates agreed-upon are binding. The date stated is the day on which the goods must arrive at our facility. If the delivery date cannot be met, the supplier must inform us of this immediately in writing along with an indication about the expected duration of the delay.
- 3.2 Partial deliveries are only permitted if approved by us in writing. The goods must be packaged as customary in the trade or be provided with special packaging at our request.
- 3.3 The delivery deadline shall be extended in case of force majeure, labour disputes, civil unrest or other unforeseeable, unavoidable and serious events for the duration of the disruption and to the extent of their effect. The supplier must notify us immediately of the beginning and the end of the above-mentioned obstacles.

If the above-mentioned obstacles should occur on our end, the previous paragraph shall apply to our obligation to accept delivery respectively.

- 3.4 In case the supplier is in default with a delivery we shall be entitled to our rights according to the applicable law. In addition, we shall have the right to request a conventional fine in the amount of 2 % of the purchase price for each week commenced during the delay, however no more than 10 % of the agreed-upon total price of the delivery. We may claim the conventional fine until final payment has been effected. Additional claims for damages remain reserved.

### **4. Transfer of Risk / Reservation of Title**

- 4.1 The risk of accidental destruction of the delivered goods shall pass over to us when the goods have been handed over to us correctly in our factory.
- 4.2 We shall not accept any simple or extended reservation of title by the supplier.

### **5. Delivery Note / Invoice**

- 5.1 Each delivery must contain two (2) copies of the delivery note with the details of our order.
- 5.2 A separate invoice must be delivered to us for each order including the details of our order.

## **6. Warranty / Period Allowed for Inspection and Sending Notice of a Defect**

- 6.1 The supplier shall always guarantee – independent of a possible additional warranty – that the goods are free of defect at the time of delivery and that they possess the promised characteristics and that they are technically state-of-the-art and do comply with the applicable law as well as the safety- and accident prevention regulations and meet the usual technical standards being valid in Germany as well as the EU (e.g. DIN, VDE, CE).

This warranty shall also include parts manufactured by second sources (i.e. supplier's supplier(s)).

- 6.2 With respect to measurements, quantities and quality of the delivered goods the values determined during our incoming goods inspection and quality inspection shall prevail. Furthermore, we shall have the right to carry out quality inspections at supplier's factory or have them carried out by third parties.
- 6.3 The warranty period shall be 24 months starting with the receipt of goods at our factory.
- 6.4 We shall inspect all incoming goods for defects in the course of normal business routine. The supplier will be notified of obvious defects no later than 14 days after the goods have been received. We shall notify non obvious defects within 14 days after their discovery throughout the whole warranty period.
- 6.5 In case the delivered goods are defective, the warranty rights as provided by the applicable law shall apply as follows:

First of all, we shall have the right to request "supplementary performance" ("Nacherfüllung"). That means, that we may decide whether we ask for remedial measures or a new delivery. If the remedial measures or the new delivery should fail or be deficient in turn, we shall have the right to cancel the respective order or to reduce the purchase price. The 24 month warranty period shall start again with respect to replaced parts. Aside from the stated rights for remedial measures we shall have the right to claim full compensation for all damages caused by the supplier's defective goods (including service costs for the remedial measures for our customers).

If – in the case of an existing defect – the supplier should be in default with carrying out remedial measures, we have the right to complete the remedial measures on our own or have it completed by a third party at the expense of the supplier.

If more than 10 % of the goods of a single delivery should be defective, we shall have the right to reject the entire delivery at the supplier's expense without inspection of the remaining goods.

- 6.6 Acceptance of and payment for goods by us shall not imply that we consider the goods free of defect.

## 7. Intellectual Property Rights

- 7.1 The supplier shall be liable for the fact that no intellectual property rights or any other rights of third parties are violated by the use of the delivered goods. He shall keep us and our customers fully indemnified against all claims resulting from any violation of the aforementioned rights.
- 7.2 Samples, prototypes, drawings and other documents made available by us at the disposal of the supplier must be treated as strictly confidential and remain our property. They may not be used for personal or external purposes and must be returned to us free of charge after completion of the order.

## 8. Product Liability

If we or our customers receive any claims by third parties due to product liability or manufacturer's liability, the supplier shall – at first request – keep us indemnified as well as the affected customer against all claims by third parties to the extent that the claim is based on a defect of the goods delivered by the supplier. In this case, the supplier shall also reimburse expenses incurred through measures of loss prevention (e.g. product recalls); this also applies with respect to recognisable or impending serial defects.

At our request, the supplier shall cover this liability risk with an insurance policy and to present us with proof of this coverage.

## 9. Minimum Wage

If supplier has his domicile in Germany and if supplier or any of his sub-contractors do not fully pay the statutory minimum wage, we might be liable for not paid wages according to § 13 Mindestlohngesetz (MiLoG) in connection with § 14 Arbeitnehmer-Entsendegesetz (AEntG). Therefore, supplier with domicile in Germany warrants that he and his sub-contractors do pay at least the minimum wage in time and in full amount to their employees according to § 1 MiLoG. If any employee of supplier or supplier's sub-contractor(s) should claim any damages against BINDER because the aforementioned situation (non-payment of minimum wage), supplier shall fully take over such damages and pay it back to BINDER. § 774 BGB shall remain untouched.

## 10. Additional Statutory Requirements of the Delivered Goods

- 10.1 Supplier warrants that all delivered goods meet the requirements of the German “Elektro- und Elektronikgerätegesetz” (dated Oct. 20<sup>th</sup>, 2015) which is based on the EU-Directive on Waste Electrical and Electronic Equipment (WEEE-Directive 2012/19/EU) as well as the requirements of the German “Elektro- und Elektronikgeräte-Stoff-Verordnung” (dated April 19<sup>th</sup>, 2013) which is based on EU-Directive 2011/65/EU – RoHS II) and of the EC-Regulation No. 1907/2006 (REACH-Regulation) as well as the conflict minerals EU regulation 2017/821 and the U.S. Securities and Exchange Commission for Conflict Minerals (“Dodd-Frank Wall Street Reform and Consumer Protection Act”) in the respective current version, insofar as the delivered goods fall within the scope of the statutory provisions mentioned.

In addition, the supplier warrants in particular that the goods supplied by him do not contain any “substances of very high concern” (“SVHC”, e.g. certain PFAS) banned in the EU in accordance with the REACH Regulation No. 1907/2006/EC and the POP Regulation (EU) No. 2019/1021, including the current supplementary regulations and corrections (ECHA list), see <https://echa.europa.eu/de/candidate-list-table>. If the delivered product contains SVHC in permissible concentrations in accordance with REACH Regulation No. 1907/2006/EC and/or POP Regulation (EU) No. 2019/1021, including the current Supplementary Regulations and Corrections (see ECHA List), the respective concentration and type of substance must be explicitly stated in the supplier's offer.

- 10.2 Marking: All goods which are subject to a CE marking obligation must be marked accordingly in accordance with applicable EU law. They shall be accompanied by all the documents necessary for such marking. The components must be marked with a corresponding sticker. The same applies correspondingly to the UKCA marking obligation for deliveries or final deliveries to the UK.
- 10.3 Supplier warrants that all critical and/or limiting values and thresholds and documentation obligations listed in the provisions mentioned under para 10.1 beforehand will be met if they are relevant for the delivered goods. Additionally, Supplier explicitly accepts all obligations deriving out of the statutory provisions mentioned under para. 10.1 beforehand, especially labelling obligations, take-back obligations.
- 10.4 Supplier shall mark all packaging of the delivered goods accordingly and shall explicitly confirm in each delivery bill the REACH and RoHS-II-conformity of the delivered goods, insofar as the delivered goods fall within the scope of the statutory provisions mentioned.

## 11. Place of Performance, Applicable Law and Place of Jurisdiction

- 11.1 The place of performance for all deliveries and services shall be DE-78532 Tuttlingen.
- 11.2 German substantive laws shall apply at the same time excluding the UN Convention on Contracts for the International Sale of Goods (CISG – Vienna Convention of 1980).
- 11.3 Place of jurisdiction shall be the court at our place of business. In addition, we shall have the right to call upon the courts at the supplier's place of business.

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