

# General Terms and Conditions of Purchase

## AGST Draht und Biegetechnik GmbH, Engelskirchen

This translation only intends to give a basic comprehension of our German "Einkaufsbedingungen" between AGST Draht & Biegetechnik GmbH and the Contractor and therefore is not decisive. (see also 12.4)

### 1. Scope of Application

1.1 The contracts between the Contractor and the Customer are exclusively subject to these terms and conditions of purchase. Terms and Conditions of the Contractor are hereby expressly excluded.

1.2 Orders, agreements and amendments are only binding if they are issued by the Customer in writing or expressly confirmed.

1.3 The contract shall be treated confidential and shall not be disclosed to third parties without Customer's prior written consent.

### 2. Prices

2.1 The agreed prices are fixed and all goods shall be sold pursuant to the DAP Incoterms, duty free, including packaging and freight costs, adding the currently valid VAT. If the packaging costs charged were obviously excessive, we reserve the right to deduct an appropriate amount from the invoice amount. The supplier shall be liable for damage resulting from improper packaging.

2.2 Empties will be returned, for us free of any charge, on the request of the Contractor. If the Contractor is entitled to return any packaging, the BOL has to state it accordingly and clearly. If not marked accordingly, the Customer shall dispose of the packaging material on the expenses of the Contractor. As the case may be the Contractor's claim to have the packaging material returned expires.

2.3 The Contractor reserves the right to accept or deny short- or excess deliveries.

2.4 Confirmed prices are valid for both parties unless any written special arrangements are made. Subsequent price increases must be confirmed in writing by us. In the case of incorrect delivery, we reserve the right to withhold payment pro rata until the order has been properly fulfilled.

### 3. Terms of Trade

Valid for the interpretation of the terms of trade are the Incoterms in the edition, valid at the conclusion of the contract ([www.icc-deutschland.de](http://www.icc-deutschland.de)).

### 4. Proof of Origin, Legal Sales Tax Certificates, Export Restrictions

4.1 Any Proof of Origin requested by the Customer must be completed with precise information, signed and immediately made available. The same applies to sales tax law in case of international and intra community supplies.

4.2 The Contractor shall immediately inform the Customer when a delivery is entirely or partly under German export restrictions or any other law.

### 5. Appointments, Delays

5.1 Written agreed delivery dates are binding.

In particular, the reservation of timed delivery is excluded. In case the Contractor cannot meet a delivery date or is prevented due to causes beyond the control of said party, he shall inform the Customer immediately.

5.2 In case of default of the Contractor, we can either push the date of decrease, or (if our interest in the supply will be significantly diminished,) wholly or partially withdraw from the contract and claim damages. In case we claim damages instead of the delivery, the penalty agreed in the contract, as required in §341 Para 2, §340 Para 1 BGB is in force.

5.3 In the event of early dispatch without our prior agreement, the warranty or payment dates associated with the intended delivery date shall remain unaltered. In case of default the Contractor shall inform the Customer in writing.

### 6. Force Majeure

Force Majeure, labour disputes, riots, official measures and other unforeseeable, unavoidable and serious events liberate the Contractors for the duration of the disorder and the extent of their effect. The contracting parties are obliged to, within reasonable delay, give the necessary information about the changed circumstances in good faith to the other contracting party. We are freed from the obligation to accept the delivery wholly or partially and thus entitled to withdraw from the contract.

### 7. Quality

7.1 The shipment must meet agreed specifications and correspond to the relevant laws, regulations, directives and standards concerning technical safety, industrial safety and protection of health and environment and fire safety.

7.2 The Contractor has to adjust the quality of his products he is delivering to the latest technical standards and inform the Customer about improvements and technical changes. The Contractor has to establish an appropriate, state of the art, documenting quality and environmental management system. He has to record his quality testing and on request make the results available to the Customer. The Contractor hereby agrees to conduct quality audits to assess the effectiveness of his quality- and environmental management system by us or one of our representatives.

### 8. Warranty

8.1 Contractors warrant that the goods shall be in accordance with all agreed specifications and requirements, that they shall be state of the art and fit for the particular purposes intended by the Customer, that they shall satisfactorily fulfil the performance requirements expected by the Customer and that they shall meet all applicable statutory requirements and standards.

Any representations or warranties included in Contractors' catalogues, brochures, sales literature and quality systems shall be binding on Contractors. Contractors warrant the adequacy of the technical specifications of the order to meet the specific needs of the Customer, and Contractors acknowledge having examined those specifications thoroughly.

8.2 The Contractor guarantees hereby that the products correspond to the contractual agreed characteristics, regardless of such, however, at least the presupposed use or specifications of goods of the same kind and grade that are normal or can be expected.

8.3 The warranty period is 2 years after performance of the complete delivery. The warranty period for merchandise, particularly called in the contract, is 2 years after complete delivery to the Customer and ends no later than 30 months after delivery to the Customer.

8.4 The Contractor warrants for any form of misconduct, especially for any form of

negligence of his employees or other staff.

8.5 If, within 6 months from the transfer of risk, a damage occurs, it is presumed that the defect already existed at the time of transfer of risk (delivery or acceptance), unless this presumption is incompatible with the nature of the item.

8.6 Contractors shall indemnify and hold Customer harmless against all actions or claims, liability, loss, costs, attorneys' fees, expenses and damages due to or arising from any infringement of intellectual property rights. Contractors shall, at their own expense if so requested by the Customer, defend the Customer against all such claims, proceedings and suits. This particularly applies to product liability claims, based on the defectiveness of the Contractors, regardless of who is a legal liability as manufacturer of the finished product is irrelevant. The Contractor, in this context, has to prove that all goods were delivered without damages. He assured to have completed a product liability insurance of sufficient value.

8.7 Deficiency, including processing costs have to be eliminated free of charge. If this is not possible or it is unreasonable to deliver redone goods, the Contractor has to replace defective parts free of charge.

8.8 In urgent cases or in cases of default elimination of deficiency, the Customer can take the necessary measures at the expense of the Contractor either by himself or by a third party. The Customer will inform the Contractor before taking those measures. If that is not possible, the Customer may take the measures without prior notification. In this case the Contractor must receive notification as soon as possible. The warranty obligation of the Contractor shall remain unaffected, except for defects which are due to the contracting authority or by a third party's measures.

8.9 Costs caused by the elimination of defects of the goods or services, such as transportation-, infrastructure-, labour-, material- costs, or expenses further than the normal costs for inspection will be charged to the Contractor.

8.10 In case an elimination of defects is not possible or not reasonable for the Contractor, the Customer may withdraw from the contract or at least claim reduction.

8.11 Additionally to arrangements from the paragraphs above, law is effective.

### 9. Delivery specifications, Drawings, Design Documentation, Tools

9.1 The contractor has to adhere to the delivery specifications of the customer. Deviations from the delivery specifications require a clarification and agreement.

9.2 Drawings and other documents, devices, models, tools and other production means, received by the Contractor stay property of the Customer. The ownership of tools and other production resources, paid for by the Customer belong to the Customer.

9.3 The above mentioned articles shall neither be scrapped nor made available to third parties – e.g. for the purpose of production, without the written consent of the Customer. They may not be used for other purposes not described in the contract. They shall be stored carefully for the Customer by the Contractor at his costs.

9.4 Maintenance and partial replacement of the above items are based on arrangements made between Customer and Contractor.

9.5 The Customer reserves all rights on drawings or products made in accordance to his declaration, as well as procedures developed by him.

### 10. Payment terms

10.1 Unless specifically agreed the Customer pays within 30 days after delivery and receipt of invoice less 3% discount from total invoice or until the end of the month following the delivery and receipt of invoice net. In case of early dispatch the payment is due according to the agreed delivery date.

10.2 Payments by the contracting authority, even without special notification, are under reserve and do not express recognition of the settlement.

10.3 With written consent of the Customer, claims by the Contractor may cede to third parties.

10.4 The Customer may appeal against all claims which the Contractor has against him, with all claims to the Contractor, or domestic companies in which the Customer directly or indirectly is involved with a majority. At the request of the Contractor, the Customer will announce the companies covered in this scheme.

10.5 Business address changes and changes regarding the bank account must notify the contractor to the customer immediately.

### 11. Data Protection

Pursuant to § 33 Bundesdatenschutzgesetz (Federal Data Protection Act, Germany), the Customer announces that data will be saved on the basis of the BDSG. Furthermore, the contractor committed that all obvious commercial or technical details which are known to him from the business relationship treated as business secrets. The Contractor shall not advertise in advertising with the existing business relationship, only after an explicit declaration of the customer.

### 12. Other

12.1 Place of performance for deliveries is the point of use, for payments the Customer's headquarters.

12.2 In the event of invalidity of individual positions of this treaty, all others remain binding.

12.3 Legal venue is the generally competent court for the Customer's headquarters. Nevertheless the Customer may sue the Contractor at his legal venue.

12.4 In addition to the terms and conditions of this contract, German law for legal procedures of domestic parties is relevant. In case of conflicts between these Terms and Conditions of Purchase and the German original, the original is decisive.



Engelskirchen, 22.03.2016