

'GCBs' – General Conditions of Business - Purchases, Status: January 2021

General Purchasing Conditions of IMA Materialforschung und Anwendungstechnik GmbH (Inc.)
(hereinafter referred to as IMA Dresden)

Art. 1

Generalities and valid application

1. These present general purchasing conditions are validly to apply exclusively for all contracts, which IMA Dresden concludes as customer or purchaser.
2. Any contradictory conditions of the supplier, or conditions divergent from these purchasing conditions will not be recognised and accepted by IMA Dresden, unless it expressly approves their validity in writing. These present purchasing conditions are also to remain validly applicable even when IMA Dresden is already in the knowledge of the existence of any contradictory or divergent purchasing conditions of the supplier but proceeds to accept deliveries from the supplier unconditionally.
3. The purchasing conditions of IMA Dresden are only applicable vis-à-vis enterprises within the meaning of Art. 14 BGB of the German 'BGB – Bürgerliches Gesetzbuch' (Civil Law Code).
4. All rights, to which IMA Dresden is entitled under any German Federal statutory requirements, going beyond these present purchasing conditions, remain unaffected by the foregoing stipulations.

Art. 2

Conclusion of contract

1. Orders placed for the account of IMA Dresden are only legally binding in writing.
2. Any verbal declarations or arrangements are to require official written confirmation on the part of IMA Dresden for their effectiveness.
3. Should IMA Dresden keep silence concerning suggestions, requests or alteration requirements on the part of the supplier, then such are not to be interpreted as approvals, unless otherwise expressly agreed in writing.
4. All agreements concluded between the supplier and IMA Dresden in connection with any purchasing contracts, are to be deemed as contained in writing in the individual contracts themselves, in these present purchasing conditions and in the offering or tender of the supplier.
5. The acceptance of our orders must be confirmed within 5 working days after the order has been placed or, in particular, carried out without reservation by sending the goods. An order confirmation that is received later or that differs in content from the order is considered a new offer and must be accepted in writing by IMA Dresden in order to be effective.

Art. 3

Extent- and content of the performance, and alterations to the performance

1. The extent of the contractual duty to supply is contained in the specifications made available upon the conclusion of a contract and the description of the performance and services provided, or when such do not exist, in the indications in the offering, tender and brochures of the supplier.
2. The supplies are to be delivered in particular in the best suitable and irreproachable materials, and correspond with any statutory requirements and official regulations, as well as with all recognised state-of-the-art of science and technology, as of the date of the contract. The foregoing is also to apply when the state-of-the-art for the performance and services of the supplier, is not yet included in any technical standards and regulations. The supplier is also to ensure for suitable quality control and monitoring procedures, and also in particular to observe the quality stipulations required in the order.
3. All ownership- and copyrights in illustrations, technical drawings, calculations and other sundry documentation associated with an order are hereby reserved by IMA Dresden, and these may not be made available to third parties without the express written approval of IMA Dresden. These are only to be employed for manufacturing purposes on the basis of the order of IMA Dresden. After the completion of the order, these are to be returned unsolicited to IMA Dresden, and are to be treated with confidentiality towards third parties.
4. IMA Dresden may, within the scope of all reasonableness for the supplier, require alterations to the subject matter of the supply as to construction and/or completion. In this respect, the effect of extra or reduced cost in particular is to be coordinated on a mutual basis with the supplier, as well as the required delivery time periods.

Art. 4

Delivery, fulfillment and delay

1. All agreed delivery time periods are to be legally binding. Definitive for compliance with a delivery time period, is the date and time of the arrival of the goods at IMA Dresden. When supply 'free domicile' is exceptionally agreed, then the supplier is to take into consideration the usual time required for packing, consignment and transportation.

2. The supplier is under a contractual duty hereby, to inform IMA Dresden with immediate effect in writing, when circumstances arise, or the supplier becomes aware, that a delivery time period cannot any longer be observed.
3. In case of any arrears of delivery time period, IMA Dresden is entitled to assert statutory claims without any restriction. In addition to further legal claims, the supplier is obliged to compensate IMA Dresden for the following flat-rate damage caused by delay: For each working day of delay, a contractual penalty of 0.1% of the delivery value of the delayed goods, but no more than 5% of the total delivery value of the Delivery. The amount of damage is to be set lower or higher if IMA Dresden proves greater damage or the supplier proves less damage. This applies accordingly to the provision of services.
4. Should force majeure, pandemic, epidemic, outbreak of war, natural disasters, strikes, lockouts, official measures and other unforeseeable, or other inevitable events beyond the control of IMA Dresden lead to the delivery not being possible accepted / delivered or the service cannot be provided or received, in such cases IMA Dresden is released from the respective acceptance obligation to the exclusion of claims for compensation against IMA Dresden for the duration of the disruption and to the extent of its effect and is entitled to withdraw from the contract. IMA Dresden will adjust its own obligations to the changed circumstances in good faith. This can mean that IMA Dresden waives the remaining deliveries or services in whole or in part, even after the disruption has been rectified, or demands that the deliveries or services be continued.

Art. 5

The passing of the perils and documentation

1. Unless otherwise agreed in writing, all consignments are to be 'free domicile'. The perils are only to pass to IMA Dresden at the point in time of delivery at the premises of IMA Dresden.
2. The supplier is hereby obliged to indicate the order details (date) of IMA Dresden precisely on the consignment documentation and the consignment note. Should the supplier fail to do this, then delays in processing will be involved for which IMA Dresden is not to be responsible.

Art. 6

Prices and terms and conditions of payment

1. The price shown in the order is to be legally binding on the supplier. In the absence of any deviating written agreements, the price is to include consignment 'free domicile' to include packing charges. The return of the packing is to be subject to special agreement.
2. The statutory rate of value-added tax is to be included in the price, unless otherwise stated in the order.
3. Only regularly established invoices will be internally processed. Invoices should show the number and date of the order, the number and date of the consignment note, and the volume of the invoiced goods as well as show all specified content according to statutory requirements. The supplier is to be responsible for the consequences of a failure to comply with the foregoing requirements, unless the supplier can show, that it is not responsible.
4. Unless otherwise agreed in writing, IMA Dresden will make payment of the agreed price within 14 days from date of delivery and of receipt of a regular invoice, with 2% discount, or net within 30 days.
5. In cases of deficient delivery, IMA Dresden is to be entitled hereby, to withhold payment in proportion to the values regularly delivered until regular completion of the order. Otherwise, IMA Dresden is to be entitled to make offsets and exercise retention rights to the statutory permissible extent.

Art. 7

Warranties

1. The supplier hereby warrants and assures, that all consignments and deliveries correspond with the rules of the recognised state-of-the-art of science and technology, relevant statutory requirements and the regulations and guidelines of authorities, employers' liability insurance associations and trade associations.
2. Should the supplier have concerns with the type of manufacture and completion required by IMA Dresden, the supplier is to inform IMA Dresden with immediate effect. The foregoing is to have no influence upon the originally agreed delivery time period.
3. The statutory warranty claim requirements are to be unrestrictedly available to IMA Dresden.
4. IMA Dresden will notify the supplier of any deficiencies in consignment, delivery, transportation or of packaging damage with immediate effect in writing, as soon as such are determinable in the circumstances of the normal course of business. Recognisable defects will be reported within 14 days at the latest after the date of

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delivery of the goods, and non-recognisable de-fects within 7 days of their discovery.

5. Should the supplier fail to comply with its contractual duty for subsequent completion following deficient failure within a reasonable time period to be set by IMA Dresden, or when subsequent completion is unlawfully refused by the supplier, or when any subsequent completion is abortive or unfeasible for IMA Dresden, in particular for the hazard of incurring arrears with its own customers, then IMA Dresden can undertake the requisite countermeasures itself, or retain a third party for the purpose, at the expense and for the peril of the supplier, notwithstanding the contractual warranty obligations of the supplier.
6. The statutory warranty claim requirements are to apply unrestrictedly. In deviation thereof however, the warranty time period is to be at least 24 months. IMA Dresden will not waive its warranty claim possibilities because of any prior acceptance or approval of samples or probes.
7. The receipt by the supplier of a written deficiency complaint on the part of IMA Dresden is to have the effect of suspending any statute barring of warranty claim time periods, until the supplier rejects the warranty claims or the a defect is declared to be rectified, or otherwise the continuation of negotiations concerning the warranty claims of IMA Dresden are refused. In the cases of replacement supplies and the rectification of defects, the warranty time period is to commence anew for replaced and improved parts, unless IMA Dresden has to assume from the attitude of the supplier, that it did not see itself obliged, but undertook replacement supplies and defect rectification for the sake of good will, or the like.

Art. 8 Liabilities

The legal liabilities of the supplier are to be regulated according to statutory requirements. An exclusion of legal liability, even for reasons of slight negligence is not possible hereby.

Art. 9 Product liabilities

1. Should IMA Dresden be charged- for an infringement of official safety requirements or because of product liabilities at home and abroad, or -for any sundry other deficiencies, which are attributable to deficient and non-contractual supply and performance on the part of the supplier, then the supplier is to be under a contractual duty hereby to keep IMA Dresden harmless, upon its first demand from any indemnity claims for loss or damage of third parties. The foregoing is also to apply when the supplier is liable to other parties itself or IMA Dresden is held liable to indemnify for loss or damage. Under the foregoing circumstances, the supplier is also liable, to reimburse IMA Dresden for outlay expended on call-backs or exchanges of products. IMA Dresden will report to the supplier, in so far as such is reasonable and possible, concerning the content and extent of any call-backs and/or product exchanges and provide the supplier with an opportunity for comment.
2. The supplier undertakes to maintain product liability insurance with coverage of at least EUR 2.0 million per personal injury / property damage - flat rate. Unless otherwise agreed in individual cases, this does not have to cover the risk of recalls. Claims for damages by IMA Dresden that go beyond the insured amount remain unaffected.
3. Upon request, the supplier is obliged to provide written evidence of this insurance cover. If the supplier is unable to provide evidence of insurance coverage within 2 weeks, IMA Dresden is entitled to take out such insurance at the supplier's expense.
3. The supplier will carry out a quality assurance that is suitable in terms of type and scope and corresponds to the recognized rules of the state of science and technology and will provide IMA Dresden with evidence of this upon request. Insofar as IMA Dresden deems it necessary, the supplier will conclude a corresponding quality assurance agreement with IMA Dresden.

Art. 10 Confidentiality and secrecy

1. The contractual parties legally bind themselves hereby to keep secret all information under the collaborative activities of this pre-sent agreement, unless such are already in the public domain, have been lawfully acquired by third parties or have been separately elaborated by third parties, and these are solely to be exploited for the purposes of this agreement. Confidentially protected information are in particular technical details, volumes ordered, prices

2. as well as information concerning products or product developments, current and future research- and development work, customer details and all corporate details of the other contractual party. This regulation does not apply if the contractual partner is subject to a legal or official disclosure obligation. This regulation does not apply if the contractual partner had already developed the disclosed information himself or the contractual partner was already familiar with the disclosed information. The contractual partner can only invoke the aforementioned exceptions if he notifies the disclosing contractual partner in writing or in text form immediately (e.g. within 14 calendar days) after disclosure of the information.
3. In addition, the supplier is hereby legally bound, to keep secret all received and obtained illustrations, technical drawings, calculations and other sundry records and only to pass-on and reveal such to third parties with the express approval of IMA Dresden, when the content of such information is not in the public domain.
3. The supplier is also to obligate its workforce members with the foregoing contractual duty to maintain confidentiality and secrecy as well as its subcontracted suppliers.

Art. 11 Protection rights

1. The supplier is to ensure, that no rights of third parties are infringed by it in connection with its supplies to IMA Dresden. This applies in particular for protection rights and protection right applications at home and abroad.
2. Should IMA Dresden notwithstanding be claimed upon by a third party in this regard, then the supplier is to be liable to keep IMA Dresden harmless therefrom upon its first written demand.
3. The contractual duty to keep IMA Dresden harmless therefrom is also to include compensation for any outlay expended by IMA Dresden which it necessarily incurs in resisting such claims by a third party.
4. The contractual parties legally bind themselves mutually hereby, to notify each other of any awareness of infringement risks, or of any alleged cases of infringement, and to provide opportunity for a mutual counteraction against such claims.
5. The supplier legally binds itself hereby, to notify IMA Dresden upon first demand of any published or unpublished own protection rights and of any licensed protection rights and protection right applications inherent in the subject matter of the supply.

Art. 12 Reservation of ownership rights and provision

IMA Dresden hereby reserves ownership rights in all component parts provided to the supplier or in any conversions thereof on the part of the supplier. Should any such component parts be processed and combined together with other component parts not belonging to IMA Dresden, then IMA Dresden is to acquire co-ownership in the new product thus obtained in that ratio, which the value of the goods provided to the supplier bear to the value of the other processed and combined together component parts, at the point in time of their processing or combination.

Art. 13 Data protection

1. IMA Dresden uses personal data from customers / buyers / suppliers to process and accept orders, deliver goods, provide services and process payments.
2. A transfer of personal customer data to third parties only takes place with the express consent of the supplier or if the transfer is necessary to safeguard the legitimate interests of IMA Dresden, provided that the interests worthy of protection or fundamental rights of the supplier do not prevail. In addition, IMA Dresden is only entitled to transfer customer data if the release of the data is required by law. The collection, transmission or other processing of personal data of the supplier for purposes other than those mentioned here is not permitted and is not done by IMA Dresden.
3. For further information, please refer to the data protection information for customers, suppliers, clients and other contractual partners on the IMA Dresden website.

Art. 14 Termination of orders and contracts

1. In the case of longer-term contracts for the delivery of goods or for contracts for the provision of services, the following term and termination regulations apply:
 - a) Both parties are entitled to terminate such contracts with a notice period of 3 months in writing.
 - b) In cases in which the purchaser of IMA Dresden cancels his orders with IMA Dresden ordinary or extraordinary IMA Dresden

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is entitled to mutually agree on a different arrangement of such matters with the supplier.

- c) Each party can terminate a contract at any time for good cause in writing without observing a period of notice. Good cause exists in the following cases in particular:
 - party's suspension of payments, the opening of insolvency proceedings against the assets of a party or their rejection due to lack of assets or the liquidation of one of the parties;
 - breach of essential contractual obligations, fulfillment of which enables the execution of the contract.
2. In the event that a contract is terminated or otherwise terminated, the supplier must immediately return all items made available to him by IMA Dresden, including all drawings and other documents, devices and tools.

Art. 15

General stipulations, place of jurisdiction and place of contractual completion

1. When any one of the contractual parties applies to the court for stoppage of payments or insolvency proceedings are judicially opened on its assets or an application for 'out of court' composition proceedings are made, then the other contractual party is to be entitled to withdraw from any contract for the uncompleted part thereof.
2. The law of the Federal Republic of Germany applies exclusively to the exclusion of the UN Sales Convention (CISG) and the referral provisions of German international private law.
3. In so far as nothing else is stipulated in the order placed, the place of contractual completion is the place of the corporate domicile (registered office) of IMA Dresden.
4. IMA Dresden is authorized to change these general terms and conditions. Any changes will take effect on the announced date of entry into force.
5. When the supplier is a properly registered trader, then the court of law competent for the corporate domicile (registered office) of IMA Dresden is the place of jurisdiction. IMA Dresden is however to be entitled hereunder to litigate against the supplier at the court of law competent for its corporate domicile (registered office) or place of residence.