

General Terms and Conditions of Purchase of Elkas GmbH & Co. KG

1. Scope

- (1) These General Terms and Conditions of Purchase apply exclusively to companies as defined in Section 310 sub-section 1 BGB (German Civil Code).
- (2) We shall only recognise any conditions of the Supplier which are contrary to or deviate from our own Terms and Conditions of Purchase if we expressly agree with their validity in writing.
- (3) Any changes or additions to these Terms and Conditions of Purchase must be agreed upon and must take the written form.
- (4) These Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier, to the extent that they represent legal transactions of a similar nature.

2. Orders and contract conclusion

- (1) Purchase orders, order confirmations, delivery contracts and delivery call-offs, and any modifications and additions thereto require the written form.
- (2) If the Supplier does not accept the order or the delivery call-off within 10 business days of receipt, we shall be entitled to revoke it.
- (3) We shall be entitled at any time to make changes to the delivery item in terms of design and construction within reasonable limits for the Supplier. The associated effects, in particular with respect to additional or reduced costs and delivery dates, must be regulated by mutual agreement.

3. Payment

- (1) Payment shall be made within 14 days after the date of invoice, less 2% discount, unless other payment terms have been agreed upon in writing. In the event that premature deliveries are accepted, the due date shall be based on the agreed delivery date.
- (2) The payment shall be made by bank transfer or order/crossed cheque.
- (3) If the goods are defective, we shall be entitled to withhold the payment in part until performance has been duly fulfilled.
- (4) The Supplier shall not be entitled to transfer his claims against us or instruct a third party with their collection without our prior written consent, which shall not be unreasonably withheld. In the case of extended retention of title such consent shall be deemed given.
- (5) If the Supplier transfers his claim against us to a third party without our consent contrary to clause 1, the assignment is nevertheless effective. However, we can at our discretion fulfil the claim with respect to the Supplier or the third party.

4. Notice of Defects

Notwithstanding the provisions of Section 377 HGB (German Commercial Code), we can claim for damages at any time and without loss of our rights.

5. Confidentiality

(1) The contractual parties undertake to treat any not commonly known commercial or technical details of which they become aware as a result of the business relationship as a commercial secret.

(2) Design data, drawings, samples and similar objects may not be provided or otherwise made accessible to unauthorised third parties. The duplication of such objects is only permitted in the context of the operational requirements and the copyright provisions.

(3) Subcontractors undertake to act accordingly.

6. Delivery dates and delivery periods

Agreed dates and deadlines are binding. For legal purposes, compliance with the delivery date or the delivery period is the receipt of the goods by us. Unless delivery has been agreed "ex works", the Supplier must provide the goods on time, taking into account the usual time for loading and shipping.

7. Delivery

(1) The Supplier is obliged to pay compensation for damage caused by delay. This does not apply to loss of profit.

(2) In cases of slight negligence, the amount of damages shall be limited to extra freight charges and extra expenditure on replacement costs, and after an unsuccessful grace period or the withdrawal of interest in the delivery, on the covering purchases.

8. Force majeure

Cases of force majeure, strikes, riots, official measures and other unforeseeable, inevitable and serious events shall free the contractual parties of their obligations for the duration of the disturbance and to the extent of their effects. This shall also apply if these events happen at a time when the Supplier concerned is in delay. The contractual parties are obliged within reasonable limits to provide the necessary information immediately and to amend their obligations with respect to the altered conditions in good faith.

9. Quality

(1) The Supplier must comply with the statutory provisions for its deliveries, the accepted rules of technology, the safety regulations, the relevant regulations and directives, and the agreed technical specifications (design data, drawings, etc.).

(2) If sample deliveries have been agreed, the Supplier shall only be permitted to begin series production having received prior written approval by us. Irrespective of this, the Supplier shall be responsible for constantly inspecting the quality of the delivery items.

(3) The Supplier is obliged to continuously update the quality of his products to be supplied to us to the latest state of the art and notify us of any possible improvements and/or technical changes. However, changes to the delivery item always require our prior written consent.

10. Liability for Defects

(1) Claims arising from warranties in respect of material defects shall become time-barred 24 months after delivery to us.

(2) For defective deliveries our claims arising from product liability law, tort and management without mandate from this Section 10 shall remain unaffected.

11. Liability

If claims are made against us resulting from liability without fault with regard to third parties in mandatory law the Supplier is obliged to indemnify us against such claims. The principles of Section 254 BGB (German Civil Code) shall apply to compensation for damages between us and the Supplier. This shall also apply in the case of a direct claim made by the Supplier.

12. Industrial property rights

(1) The Supplier shall be liable for any claims which arise with respect to the contractual use of the delivery items from the infringement of property rights and property right applications (intellectual property rights), of which at least one of the intellectual property right family is published either in the home country of the Supplier, the European Patent Office or in one of the States Federal Republic of Germany, France, Great Britain, Austria or the USA.

(2) The Supplier shall release us and our customers from all claims arising from the use of such property rights.

(3) This shall not apply to the extent that the Supplier manufactured the delivery items according to drawings, samples or other similar descriptions or information provided by us and did not know or could not know in connection with the developed products that intellectual property rights are being violated.

(4) The contractual parties shall undertake to inform one another immediately of any risks of infringement or alleged cases of infringement and to give one another the opportunity by mutual agreement to counteract any corresponding claims.

(5) The Supplier shall notify us at our request regarding the use of published and unpublished owned and licensed intellectual property rights and property right applications relating to the delivered item.

13. Use of equipment and confidential information

Samples, tools, devices, gauges and other equipment, along with confidential information provided to the Supplier by us or which have been paid for in full by us, may only be used for deliveries to third parties with our prior written consent.

14. Reservation of title

(1) If the Supplier has retained ownership of the goods supplied by him until the payment has been made in full, all deliveries shall be deemed to be a single delivery transaction. In the case of a running account the retained ownership shall be deemed as security for the balance claim of the Supplier.

(2) The Supplier shall release the securities held by him in so far as their value exceeds the claims to be secured by more than a total of 20%.

15. Insolvency, change of the legal form of the Supplier

(1) If a contractual party stops payments or if insolvency proceedings are proposed with respect to his assets or a non-judicial composition proceedings are requested, the other party shall be entitled to withdraw from the unfulfilled part of the contract.

(2) If the Supplier undertakes any significant change in his legal form, shareholdings or financial position which is likely to significantly affect the expected results of the relationship, we are entitled to withdraw from our order without cost to us.

16. Place of jurisdiction, place of performance and applicable law

(1) The contracts concluded with the Supplier including these Terms and Conditions of Purchase shall be governed by the law of the Federal Republic of Germany to the exclusion of the UN Sales Convention (CISG).

(2) The place of performance of this contract is Gladenbach, unless otherwise stated in the order confirmation.

(3) The exclusive place of jurisdiction for all disputes arising from the business relationship is Marburg (Lahn).

(4) In so far as these conditions or a contract with the Supplier for completion, modification, addition or cancellation of the contract provide for the written form, this also applies to the waiver of the written form requirement.

(5) Should any conflict exist between the German language and the English language texts as to the meaning, content or interpretation to be given to these General Terms and Conditions of Purchase, the original German language shall prevail.

17. Severability Clause

Should individual provisions of these terms and conditions or individual provisions of a contract concluded with the Supplier be or become ineffective, or contain a loophole, then the effectiveness of the remaining conditions and/or contractual terms remains unaffected. The parties undertake to replace an ineffective clause with such legally permissible arrangements which shall fulfil the economic purpose of the ineffective regulation, or fill this gap.

Elkas GmbH & Co. KG

Gladenbach, March 2013