



**Purchasing conditions of
MOC GmbH**
October 2009

The following purchasing conditions apply exclusively for all of our legal relationships, including future relationships. Any contradictory terms of business, sale or supply from our suppliers do not apply to us. We expressly reject these herewith. The supplier acknowledges the sole applicability of our purchasing conditions and accepts these, at the latest when performing an order, even if he refers to his own conditions in so doing. The acceptance of performance and delivery by the supplier by us or payment of this does not constitute agreement with the supplier's conditions. The above conditions also apply, to the extent that clauses that differ from, supplement or modify our conditions are included in offers or letters of confirmation. We expressly reject these herewith.

1. Offers and orders

Samples and offers by the supplier are non-binding and free of charge for us. Orders are only effective if they are made in writing or if we confirm these in writing. Verbal and telephone agreements must be confirmed in writing. Only items which are set out in writing such that these are legally binding become part of the contract. Written form also includes fax, EDI or e-mail. Orders issued by MOC are regarded as having been accepted if the supplier does not object to these within four working days of receipt of the written order by issuing a differing confirmation of the order.

2. Delivery, arrears and rescission

The supplier must ensure that the binding delivery date is upheld. The supplier is in arrears with deliveries or other performance if the agreed date is exceeded by more than 2 weeks, without this requiring a prior reminder. This period is also simultaneously the statutory grace period with the corresponding legal effect, without this having to be additionally explained by us. In the event of *force majeure*, any restrictions to operations or discontinuations of operations that may be required, we have the right to put back the delivery date or to rescind the agreement. In this case, no default of acceptance occurs. The customer expressly waives claims to damages, to the extent that our legal representatives and executives have not acted wilfully or with gross negligence. In the event of force majeure, we are authorized to change the order 8 weeks before the agreed delivery date such that either the quantity increases, decreases or other parts of a corresponding value and similar type can be procured at otherwise unchanged conditions. Otherwise, irrespective of this, we are also authorized to put back the originally planned delivery or acceptance date by 4 weeks, without this resulting in the statutory consequences of delayed acceptance occurring. If the supplier cannot uphold the bindingly committed delivery date due to force majeure, industrial disputes or other reasons for which he is not responsible, he must inform us of this immediately after becoming aware of the reason for the obstruction. In this case, we are authorized to either put back the acceptance deadline, or after a reasonable period if our interest in the delivery has been substantially reduced, to withdraw from the contract either in full or in part. In particular the supplier is not authorized to, for example, withdraw from the contract or increase prices at his own behest in the event of force majeure. Deliveries are delivered duty paid (DDU or DDP according to INCOTERMS 2000).

3. Shipping, prices and transfer of risk

For the quantities, sizes and weights in a delivery, the values which we ascertain in our incoming goods review apply. Any quantities delivered that exceed or fall short of the agreed amount are permitted after discussion and agreement by us. Defects in deliveries are notified to the supplier immediately as soon as they have been discovered/ascertained in the course of proper business, this can also be as part of further use. As a result, the supplier waives the objection of delayed complaints. Payments made do not constitute recognition of proper delivery. However, this does not affect agreements with regard to warranties. The agreed final prices are maximum prices and for deliveries within the Federal Republic of Germany these include all incidental costs, delivered duty paid to the recipient (DDU or DDP according to INCOTERMS 2000). Risk is only transferred to us when the goods are received at the respective point of destination. We can choose from the following means of payment: 14 days after receipt of goods with 3% discount or 60 days net.

4. Liability and warranty

If not otherwise regulated below under this item, the statutory provisions for physical and legal defects apply. The supplier guarantees that the best material, corresponding to the purpose, has been used, the correct and proper execution taking into account state-of-the-art science and technology. He expressly guarantees that the goods sold fully correspond to the samples, test pieces and descriptions he has delivered. The information provided by the supplier in connection with the sales talks, in particular in catalogues, advertising documents, data sheets and/or other product descriptions apply in each case as the contractually agreed characteristics of the products. Given this background, the supplier guarantees that the products have the contractually agreed characteristics, irrespective of this at least that the products can be used for the purpose stipulated in the contract, or that they have the characteristics that are standard or can generally be expected for goods of the same type and quality. In the event of defective delivery, we are authorized to demand free reworks and/or replacement delivery. Any expenses which may be incurred for us as a result, such as transport, work, or material costs for any expenses which exceed the standard scope of testing for incoming goods, are borne by the supplier. If the supplier does not comply with our written request to rectify a defect within a reasonable period which we set, we can perform the requisite activities ourselves or have these performed by third parties at the supplier's expense. We can rectify minor defects immediately at the supplier's expense or have these rectified. If we use our statutory right of

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Managing director: Th. Danner	VAT ID No. DE265827902 Tax No. 86115/77953	HRB 730323	Express Tübingen Freight Tübingen
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rescission, the goods are returned to the place of shipment at the supplier's cost and risk. In addition, we are authorized to assert claims for damages as a result of non-fulfilment and due to damage that did not occur to the item delivered itself, according to statutory provisions. The limitation period to assert defects is 24 months. It commences when the goods are handed over, in the case of a contract for work upon acceptance, i.e., in each case when risk is transferred. As a rule, the supplier is liable to us for each form of liability, in particular for any form of negligence by his employees or other service providers. If a defect can be seen within the first six months after the transfer of risk, it is assumed that this defect already existed at the date of the risk transfer (delivery or acceptance), unless this assumption is not in line with the type of the item or the defect. The supplier indemnifies us from claims, irrespective of their legal reason, which result for both our contractual partners as well as other third parties from any negligent or wilful violation of contractual obligations or incidental obligations as well as non-contractual duties of care by the supplier. This applies, in particular, to product liability claims that are due to defects in the product by the supplier, irrespective of who is to be regarded as the manufacturer of the final product under liability law. In this connection, the supplier must prove that the goods delivered to us were not defective.

5. Banned substances

The supplier guarantees that the products delivered to us do not include any substances that are banned by law, in particular according to the Chemicals Prohibition Directive, the Battery Directive, the Packaging Directive and existing EU Directives. Every enquiry or order made to our suppliers is based on his assurance that the substances he uses and substances used in preparation are pre-registered or registered under the European Chemicals Directive REACH, even if this is not expressly confirmed by the supplier.

6. Transfer of ownership

We are in agreement with the supplier that ownership of goods ordered is transferred to us directly when these are ready for shipment to us, and the supplier holds these goods free of charge until we accept these. The supplier will store the goods that are ready for shipping separately from his other stocks and will parcel these. The supplier guarantees that there are no third-party rights to the goods supplied. We do not recognize any extended or transferred reservation of ownership by the supplier.

7. Property rights

Drawings, models, samples and tools that are provided by us or which are manufactured according to our instructions, are owned by us and may not be used for third parties or otherwise made accessible to third parties. The supplier is liable for the samples, brands, models, drawings, descriptions and documents being free from third-party rights, and in particular that these do not violate third-party industrial property rights. The goods supplied must correspond to statutory requirements and requirements from the authorities. In the event of violation of these rights and requirements, the supplier indemnifies us of damage compensation claims by third parties in all cases.

8. Applicable law

The laws of the Federal Republic of Germany apply to the contractual relationship between us and the supplier.

9. Place of performance, jurisdiction

Place of performance for the delivery is the respective destination. For all disputes resulting from the contractual relationship, if the supplier is a merchant, a legal entity under public law or a special fund under public law, or if his place of residence or business address is outside the Federal Republic of Germany, the court for our registered office in D-72119 Ammerbuch is responsible. However, we are also authorized to file suit at the registered office of the supplier.

10. Software

If not otherwise agreed in individual contracts, the supplier grants us at least a non-exclusive, non-transferrable right of use for an unlimited period to software and hardware products and the associated documentation. We are authorised to make copies for data back-up purposes. In addition, while referring to any copyright notice by the creator, we are authorized to pass this on to our customers in connection with contractual processing. The supplier is responsible for the software being free of defects and for its data structure, and guarantees that it has made proper duplicates.

11. Closing provisions

If any part of these conditions is or becomes invalid, this does not affect the other conditions and the remainder of the contract. If one of the provisions of these conditions or the contract is invalid in view of mandatory foreign law, the supplier undertakes, upon request, to agree additions to the contract with us, and to issue the declarations to third parties or authorities to ensure that the effectiveness of the respective regulation, and if this is not possible, its economic content, is also ensured under foreign law. In accordance with Section 33 of the BDSG (German Federal Data Protection Act) we inform the supplier that we store his personal data.

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