



Terms of Purchasing

1. General

Our terms of purchasing are valid for all current and future contracts as well as for any other relations between the parties concerning our purchasing, even if the conditions are not explicitly agreed upon again. Other general terms and conditions do not apply, even if they have not been explicitly rejected in each particular case. Our conditions apply, even if we unconditionally accept deliveries of our contractual partners while being aware of contradictory or conflicting conditions.

2. Contract Conclusion

2.1 Offers by the contracting partner are free of charge, unless otherwise agreed.

2.2 Contracts are exclusively concluded by using our ordering form.

2.3 The contracting partner has to send an order confirmation within three days (date of receipt) after the date of order. After this deadline we are not bound to the order anymore.

3. Order Processing

3.1 Order processing requires mutual support, consultation and common development. This also applies if we provide relevant rules. Principally, our drawings, samples, models and other documents determine the processing of orders, unless explicitly agreed otherwise in written form. The contracting partner has to check our documents and confirm harmlessness in written form. If there are any concerns, the contracting partner has to inform us prior to the execution of the order.

3.2 Series production is only to be started after our written approval. If we request an initial sample, the series production may only be started after our implicit written release of the initial sample.

4. Prices

4.1 Prices are mandatory fixed prices. Prices are free domicile, unless otherwise agreed. Prices include packaging costs and any expenses related to delivery and service provided by the contracting partner.

4.2 Price increases or other changes of the contract conditions are subject to our prior written consent. In particular, price increases due to a later list price increase, cost increase etc. are excluded.

5. Delivery Schedule

5.1 Any agreed dates are binding. Unilateral changes are not permitted.

5.2 In case of delay we are entitled to claim a compensation of 1.5% (but in no case more than 15%) of the value of the delayed goods for each week of delay the contracting partner is responsible for, unless this lump sum exceeds the damage that might be expected in the normal course of events or the contracting partner proves that there is no damage or that it is only slightly less than the lump sum. Claims relating to further damages shall remain unaffected. This also applies to our claim of withdrawal from the contract, if the reasonable deadline set by us expires without result or if the contracting partner finally and seriously refuses performance.

5.3 Deadlines are only kept if delivery is accepted on time at the place of receipt named by us. For deliveries including assembly or mounting, timeliness requires on-time assembly or mounting and our acceptance.

The correct place of receipt is named in our order, unless otherwise agreed in written form. This is our standard delivery address:

MEN Mikro Elektronik GmbH
Neuwieder Straße 3-7
90411 Nürnberg / Germany

5.4 The contracting partner has to notify us immediately of any possible delays in delivery stating the reasons and the expected duration of delay in written form.

5.5 If the ordered goods or services cannot be purchased or used anymore due to labor disputes like strikes or lock-outs, we are entitled to refuse the purchase and are only obliged to reimburse lost expenses with the exclusion of all further claims.

6. Delivery Documents, Transport Insurance

6.1 Delivery documents and delivery notes have to include the order number, the order date and the contact person and have to state the delivered amount of goods and our article number for each position.

6.2 The delivery is covered by our transport insurance. The contracting partner has to ban the forwarder from using a Forwarder's Risk and Cartage Insurance Policy.

7. Invoice, Payment

7.1 The contracting partner has to issue the invoice as a single copy; VAT is to be shown separately. All invoices have to include the complete order number, the order date and the contact person and have to state the delivered amount of goods and our article number for each position. Correct invoicing is a prerequisite for payment.

7.2 Invoices for acceptable, faultless and complete deliveries and services are due and payable as follows, unless otherwise agreed: within 30 days after the goods and invoices have been received in proper form with a discount of 3%, or within 60 days net.

7.3 Discount can also be granted in case of a set-off or assertion of the right of retention.

7.4 Payments are no acknowledgement of the faultless condition, timeliness or even completeness of the services and deliveries.

8. Warranty

8.1 Differing from § 377 of the German Commercial Code, we are entitled to give notice of apparent faults, quantity and quality deviations four weeks after receipt of goods. Faults, quality or quantity deviations which we noticed later have to be reported four weeks after detection. Technical facilities are only approved after having jointly assessed its proper functioning and performance.

8.2 If the delivery or service is faulty, the contracting partner has to remedy, at our discretion, the deficiencies within an appropriate period defined by us or deliver a faultless product (supplementary performance). The contracting partner has to bear the required expenses.

8.3 If supplementary performance has not been fulfilled before the defined deadline or has failed, we can, at our discretion, fully or partially retreat from the contract without compensation, reduce the agreed price or claim damages instead of performance including compensation for indirect damages and/or secondary damages. We are entitled to these rights without appointment of a date if the contracting partner denies supplementary performance or if supplementary performance is unacceptable for us.

8.4 If supplementary performance is unduly delayed, we are entitled to eliminate the defect at the contracting partner's expenses, provided that we had given notice of the defect to the contracting partner and had unsuccessfully set an appropriate remedy period. We can resort to self-help without notice, if supplementary performance is impossible, denied by the contracting partner or if self-help is justified by our own particular interests.

8.5 In urgent cases and if damages to a large extent are expected, we are entitled to eliminate defects after having given notice to the contracting partner at his expenses or to order from third parties.

8.6 The warranty period is two years after the transfer of risk, unless otherwise agreed upon between the contracting parties in particular cases.

8.7 After elimination of the defect or after other supplementary performance the warranty period starts again.

8.8 The contracting partner guarantees for the compliance with all technical standards, in particular for the regulations for accident prevention of the Machine Protection Act (CE, GS, VDE) as well as for freedom from defects in terms of the Product Liability Act. The contracting partner guarantees that the products fulfill the material regulations of the Product Safety Act irrespective of the individual application. The contracting partner also guarantees for the compliance with all technical and safety-relevant standards for each individual purpose and field of application, unless he wasn't notified of it.

8.9 The contracting partner has to release us from all claims which third parties might assert against us and which are related to the product or the behavior of the contracting partner (warranty claims, product liability, etc.) including claims resulting from indirect or secondary damages as well as claims according to the Product Liability Act. The contracting partner has to maintain sufficient product liability insurance and prove its existence at our request.

9. Property Rights

9.1 If the order is related to property rights, the contracting partner is obliged to restrict the usage to this contract and its purpose within his company. In any case he is entitled to simple, non-exclusive usage rights, which are bound to the duration of this contract. If joint copyright applies, the contracting partner waives his relevant rights. After payment as defined in this contract has taken place all claims are satisfied.

9.2 The contracting partner is liable for violations of deliveries and services against pending or existing patents, utility models, trademarks, license rights or other rights. In this respect he releases us from any claims of third parties. The contracting partner has to compensate us for any related damages or expenses.

10. Quality Requirements

10.1 For guaranteeing quality and delivery deadlines we reserve the right of access for MEN representatives, their customers and regulatory authorities to all institutions and related documents concerning the order according to EN9100 and IRIS within the common business hours and after prior timely notice, except for urgent, commercial reasons of the contracting partner.

10.2 Material inspections to be carried out and verified by the contracting partner are free of charge for us and to be borne by the contracting partner, unless otherwise agreed in written form. If the contracting partner does not carry out and/or cannot prove the relevant inspections, we decide, at our own discretion, after giving notice to the contracting partner, whether the inspection is repeated by the contracting partner or carried out by ourselves or a third party at the expense of the contracting partner. If an inspection cannot be repeated, substitutional inspections will be charged to the contracting partner.

10.3 All products have to be labeled with the manufacturer and production code, material code, MEN article and order number, unless otherwise agreed in written form.

11. Corporate Responsibility

The contracting partner is obliged to comply with the principles of the UN Global Compact Initiative concerning human rights, labor conditions, environment and anti-corruption in their course of business with partners and employees and to impose those obligations on his partners and employees.

12. Transfer of Ownership

Ownership of the delivered goods shall be obtained by us without restrictions upon delivery. Reservation of ownership, in particular the extended reservation of ownership, is excluded.

13. Drawings, Prototypes and Other Documents

13.1 Drawings, prototypes, models, data or other documents left to the contracting partner remain our property. All further existing rights, copyrights in particular, will remain with us. Passing them on to third parties is only permitted with our written consent. Third parties have to be informed of our properties in written form.

13.2 All drawings, prototypes, models, data or other documents are to be used exclusively for the purpose of order fulfillment and have to be handed back to us, including any possible copies, immediately after completion of the order or in case of a nonconclusion.

14. Tools, Moulds

14.1 Tools, moulds, etc. which have been completely or partially produced by us as ordered are our property. These tools, moulds, etc. are to be labeled as our property at no charge, stored and managed separately and insured against outage, destruction and loss at the expense of the contracting partner.

14.2 After completion of the order tools, moulds, etc. have to be immediately handed over to us on request. Tools, moulds, etc. fully paid for are to be handed over to us. Tools, moulds, etc. which have not been paid for have to be offered to us against adequate payment or final payment.

14.3 If there is no request for handing over tools, moulds, etc. according to chapter 14.2, they have to be stored for us at no charge for five years after completion of the last order. This also applies to nonconclusion of production or delivery orders. After the period of custody, chapter 14.2 applies accordingly. Scrapping or other kinds of utilization are only permitted with our prior written consent.

14.4 If the contracting partner applies for the opening of insolvency proceedings or if they are opened or if he culpably doesn't fulfill his contractual delivery duties for other reasons, we can demand the retained tools, moulds, etc., which are used for the production of the goods delivered to us, provided that we had paid proportionate expenses for manufacturing the tools etc. or pay them as defined in the contract. In this case the contracting partner is obliged to immediately hand over the tools etc. Possible payment obligations remain unaffected and do not entitle to retention.

14.5 In any case the contracting partner is obliged to servicing, maintaining and storing the tools in proper form at his own expense, unless explicitly agreed otherwise in written form.

15. Material Provision

15.1 Material and parts provided by us remain our property; the production status is irrelevant. Products which the contracting partner manufactured from this material are our property; the contracting partner possesses them on our behalf and stores them at no charge. The contracting partner has to hand over the products on request against compensation. Provided material has to be labeled as our property, stored separately and managed at no charge.

15.2 Provided material is only to be used for our orders.

15.3 The parties agree that in any case we become owners of the new or restructured products at the time our material was restructured, processed or mixed.

15.4 The contracting partner has to store any item which is in our possession at no charge and bears the risk of loss and damage.

16. Transfer of Orders

16.1 Transferring orders to third parties is only permitted with our prior written consent.

16.2 An unjustified transfer of orders carried out without our prior written consent entitles us to claim damage instead of performance or to fully or partially retreat from the contract.

17. Retention, Set-off

Retention rights can only be asserted if the claims are undisputed or have been legally ascertained. The same applies to set-offs of the contracting partners. In particular, agreed deliveries may not be retained due to disputable other claims.

18. Non-disclosure

18.1 The contracting partner is obliged to consider the orders and the details connected to it as a business secret, unless explicitly agreed otherwise in written form. This also applies after termination of business relations.

18.2 The contracting partner is only permitted to mention our existing business relations in marketing and PR material etc. after our prior explicit consent in written form.

19. Written Form

Orders, supplementary agreements or amendments agreed upon orally, by telephone or by e-mail have to be confirmed in written form; the fax fulfills the requirements of written form. The requirement of written form can also only be invalidated in written form.

20. Place of Performance

The place of performance for all contractual obligations is Nuremberg, unless explicitly agreed otherwise in written form.

21. Laws of the Federal Republic of Germany

The contract including future legal relations is exclusively subject to the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

22. Place of Jurisdiction

The courts in Nuremberg are responsible for any legal disputes resulting from the contractual relation or its development and effectiveness; however, we are entitled to sue the contracting partner at his general place of jurisdiction.

23. Severability Clause

The invalidity of individual provisions shall have no effect on the validity of the contract on the whole. Invalid provisions shall be replaced by legally admissible regulations which satisfy the commercial intention or come to it as close as possible. The same applies in case of a contractual omission.

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