

General Terms and Conditions of Purchase of Frenzelit Werke GmbH, 95460 Bad Berneck, Germany - hereinafter referred as Frenzelit or the Purchaser -

I. Scope of Validity

1. Unless otherwise stated these General Terms and Conditions shall exclusively apply to all of our orders and contracts on purchase of goods. Our written purchase order in conjunction with these General Terms and Conditions are solely binding. Derogation terms and conditions contained in Supplier's correspondence or confirmation or general terms of business impose no obligation on Frenzelit, even if Frenzelit does not object to these terms or Supplier does not expressly agree to the terms of the order or to these Terms and Conditions of Purchase.
2. All negotiations between the purchaser and the seller referring to purchase of goods by Frenzelit are stipulated in the certain contracts and in these General Terms and Conditions of Purchase of Frenzelit.

II. Offer and Conclusion of Contract

1. The supplier/seller shall expressly state any alteration in written in his offer to the Purchaser if the seller/supplier must alter the request of Frenzelit.
2. Drawings, plans and other documents which relate to the order shall remain the property of the Purchaser. The Purchaser reserves all copyrights to these documents. Should the Seller/Supplier not accept the offer of Frenzelit within an adequate period of time, these documents, plans, drawings and other provided working materials shall be returned to Frenzelit without undue delay.
3. A copy of the request/order of Frenzelit must be sent to Frenzelit without undue delay if the request/order is accepted with a company seal, number of Commission and signature of the Seller/Supplier. Any changes in the offer of the Seller/Supplier of the order of Frenzelit must be in written in this confirmation of order.
4. Each order of Frenzelit is only valid if given in written (email, fax).
5. Supplier/Seller shall be bound to his offer until Frenzelit accepts this offer but not longer than three weeks.

III. Payments

1. The price set forth in the Purchaser's order is binding and includes free delivery insofar as not otherwise agreed by the parties in writing. Packing costs are included in the price. The price is understood to be inclusive the respectively applicable statutory value added tax. All of the invoices of the Seller/Supplier must show the respective order number provided by Frenzelit.
2. The Purchaser shall make payment insofar as no other agreement in made with the Seller/Purchaser within 14 working days (Monday to Friday), calculated as of the delivery of the ordered goods by the Seller and receipt of the invoice with 3% discount, within 30 working days (Monday to Friday), calculated as of the delivery of the ordered goods by the Seller and receipt of the invoice with 2% discount or within 60 working days net.
3. Frenzelit is entitled to fully claim any and all statutory set-off rights and retention rights. Furthermore Frenzelit is entitled to assign all claims from the contract on purchase of goods without the consent of the Supplier/Seller. However the Seller/Supplier shall not be entitled to assign or cease accounts receivable from the contract on purchase of goods to third parties without prior written approval of Frenzelit.
4. Invoices of the Seller/Supplier shall be sent to Frenzelit in two copies containing the order number of Frenzelit and the position numbers, if applicable, in order given by Frenzelit separately by written mail.
5. If one or more deliveries are in dispute between Frenzelit and the Seller/Supplier regardless the reason Frenzelit is entitled to retain the payment for the certain deliveries until the dispute is solved. Frenzelit will only be in default if a proper reminder is sent to Frenzelit in written after a proper invoice has been given to Frenzelit.

IV. Delivery and Shipment

1. The fixed delivery period or the stated delivery date stipulated by Frenzelit in the order shall be binding for the Seller/Supplier. It is absolutely necessary that the purchased product arrive just in time; therefore the delivery period that has been fixed is an essential part of the contract of purchase of product. Therefore the Seller/Supplier and Frenzelit are clear that the delivery period is seen as a commercial fixed period according to the rules of the German Commercial law, which shall apply in this reference.
2. The seller/supplier is only entitled to partial deliveries or to a delivery which is not within the delivery times setup in the next clause, if Frenzelit approves this prior in writing.
3. Deliveries with lorries are only possible Monday to Thursday from 7:00 o'clock until 13:00 o'clock and Friday from 7:00 o'clock until 12:00 o'clock. Any fees or delays or damages arising from a delivery which is not within the periods set above are on the Sellers/Suppliers account.
4. Seller/Supplier is obliged to inform Frenzelit without undue delay and in writing whenever there is an indication that he might not be able to perform within the agreed time period. Seller is also obliged to provide Frenzelit with the reason for not being able to perform fully within the agreed time and has to tell Frenzelit at which date a proper fulfilment is possible. Frenzelit shall be entitled to the damages arising out of the delay of the Seller/Supplier.
5. Frenzelit is entitled to make statutory claims in the event of the Seller's default. If Frenzelit makes a claim for damages, the Seller/Supplier shall be entitled to proof that he was not responsible for the violation of the contracted obligation.
6. The Seller/Supplier is obliged on demand of Frenzelit to give Frenzelit information and an update of the certain production process and to allow Frenzelit, if Frenzelit asks to do so, to visit the production plant in order to examine the ability of the Seller/Supplier to fully fulfil his obligations out of the contract.
7. Unless otherwise agreed the shipment/delivery is free of costs for Frenzelit. Frenzelit is not responsible for any costs for transport, package or insurance and taxes unless otherwise agreed.
8. All delivery and shipment documents must include the order number of Frenzelit, Supplier's batch or production number as well as the quantities, weights, dimensions and compositions and, if provided by Frenzelit, the certain order position numbers. Any costs that arise because Seller/Supplier does not fulfil this documentation duty have to be paid by the Supplier/Seller. Frenzelit reserves the right not to accept the delivery or to return the delivered goods not prepaid if the shipment documents do not contain the relevant information.

V. Warranty and Liability

1. Within a reasonable period after the delivery by the Seller/Supplier, Frenzelit shall be obligated to inspect the goods with regard to damages cause by the transport, if possible. The period for information of the Seller/Supplier by Frenzelit because of apparent defects shall be deemed to begin not earlier than the start of Frenzelit with the further process of the goods. Until the begin of the further process with the delivered goods the acceptance of the goods is still pending. Objections concerning apparent defects shall be deemed to be timely made if dispatched by Frenzelit within six working days after the further process with the goods has started by Frenzelit; defects caused by the transport have to be objected at the Seller/Supplier within six working days after the goods have been delivered. Objections concerning latent defect shall be deemed to be timely made if dispatched by Frenzelit within six working days after their discovery and such is received thereafter by the Seller/Supplier.
2. Frenzelit is entitled to warranty claims against the Supplier/Seller as prescribed by law and the Seller/Supplier shall be liable to Frenzelit as prescribed within the scope of the law. The period of warranty shall be 36 months commencing with the passing of the risk unless otherwise agreed.
3. The Supplier/Seller indemnifies Frenzelit from any claim of a third party due to a faulty fulfilment of the Seller/Supplier.

4. Supplier/Seller undertakes that goods delivered shall have the individually guaranteed properties and the contractually agreed characteristics, are suitable for the contracted stipulated us, are not impaired in value and suitability, and comply with the general acceptable technical rules and standard as well as all applicable statutory and regulatory provisions, such as DIN-rules, TÜV provisions.
5. Warranted characteristics are counted as agreed according to the rules of the German Civil Law if Frenzelit refers to buzz phrase, to general provisions or to ads or to contents of brochures.
6. Defects as to quality appearing within the warranty period of 36 months after the transfer of risk shall be deemed to have existed prior to the transfer of risk, unless this assumption in not applicable to the type of defect.

VI. Liability of the Seller/Supplier and Insurance

1. Should a claim for damages by third parties be made against Frenzelit due to damage to a product for which the Seller/Supplier is responsible, the Seller/Supplier shall indemnify Frenzelit upon first request against all claims of third parties including the certain necessary costs to defend these claims if the Supplier/Seller produces the cause for the damage within his area of influence and control and organisation.
2. If Frenzelit is required or forced to undertake a recall action due to a claim for damages within the meaning of the above standing provision, Seller/Supplier is obliged to reimburse Frenzelit all expenses which result from or in connection with the recall action. Insofar and if possible and reasonable in terms of time for it, Frenzelit shall inform Supplier/Seller with regard to the content and the scope of the recall action and give him the opportunity to comment on this. Unaffected from this remain all other additional claims of Frenzelit permitted by law.
3. Supplier/Seller is obliged to conclude and to proof to Frenzelit a liability insurance with a coverage amount of at least one million Euros; however with coverage amount deemed reasonable for the goods to insure against personal and or property damages and to maintain such. Unaffected from this remain all other additional claims of Frenzelit permitted by law.
4. Should a claim be made against the Purchaser by third parties due to the fact, that the delivery of the goods by the Supplier/Seller infringes a statutory industrial property right of a third party, the Seller/Supplier is obliged to indemnify Frenzelit upon first request against these claims, including all necessary certain costs which Frenzelit shall incur in connection with the claim by the third parties and the defence thereof. The statute of limitation period for this claim of Frenzelit is according to the warranty period 36 months.

VII. Passing of Property

With the delivery of the goods the property passes at once to Frenzelit. Frenzelit hereby objects to any retention of title clause.

VIII. Confidentiality and Retention of Title

1. All documents, working materials and parts received from Frenzelit shall remain the property of Frenzelit. Seller/Supplier is only allowed to use and or transfer and or allow access hereto to third parties with the prior given approval of Frenzelit. After complete fulfillment of the respective purchase contract, the Supplier/Seller shall return these to Frenzelit as his own costs and without undue delay.
2. Supplier/Seller is obliged to keep confidential the order, the respective working process and the provided documents, working materials. Supplier/Seller shall advise his employees to strictly adhere to this.

IX. Place of Performance, Place of Jurisdiction and Applicable Law

1. Place of Performance and exclusive jurisdiction for deliveries and payments as well as all disputes arising between the Seller/Supplier and Frenzelit from contacts concluded is the seat of the head offices of Frenzelit.
2. The relationship between the contractual parties shall be governed exclusively by the applicable laws of Germany with exclusion of the rules and stipulations on the Vienna convention on the international sale of good, unless otherwise agreed.
3. This is a translation of the General Terms and Conditions of Frenzelit from the German "Allgemeine Einkaufsbedingungen von Frenzelit". In the case of discrepancies the German version shall prevail.

Status: August 2010