

General Conditions of Purchase Sensalight Technologies GmbH

1. General provisions

1.1 The following conditions apply to all purchases of deliveries and services from outside the Federal Republic of Germany to Sensalight Technologies GmbH, hereafter referred to as purchaser, subject to differing conditions in the respective purchase order itself. Differing or supplementary conditions by the supplier as well as subsidiary agreements are only binding, if agreed upon between the parties through mutually signed agreement.

1.2 Should the supplier not take the purchase order within a period of 14 days, the purchaser is entitled to cancel the order at any time before receipt of a valid acceptance of order.

1.3 All transfer or subcontracting of purchased deliveries and services in their entirety to third parties requires the written consent of the purchaser.

1.4 Insurance costs for purchased goods, including freight insurances in particular are not to be borne by the purchaser. The purchaser is a prohibitory customer according to the General German Conditions of Carriers (ADSp).

2. Shipping and pricing term

2.1 Packaging and shipping of delivery items must be adequate. Packaging and shipping instructions of the purchaser must be adhered to. Every delivery must be accompanied by delivery notes or packing slips. All documents must bear PO numbers as well as other markings requested by the purchaser in the purchase order. All additional costs arising out of the non-observance of these terms must be borne by the supplier.

2.2 All prices are Carriage Insurance Paid.

3. Delivery date and place of fulfillment

3.1 Agreed upon delivery dates are binding. All deliveries in advance of the agreed upon delivery date require the approval of the purchaser. In order to determine whether a delivery without installation is performed in time, the instant of delivery at the shipping address shall be decisive. In order to determine whether a delivery including installation as well as the delivery of services is performed in time, the instant in which the delivery is provided ready for acceptance shall be decisive.

3.2 Should the supplier be in default, the purchaser is entitled to claim contractual damages in the amount of 0.5 % of the purchase value per week in default or part thereof up to a maximum amount of 5 % of the purchase value.

3.3 Notwithstanding the provisions of 3.2, neither the unreserved acceptance of delayed deliveries and services nor the exercise of the right to claim contractual damages constitutes a waiver of any claim for damages the purchaser is entitled to due to the delayed delivery of service.

3.4 The shipping address as given on the purchase order is the place of fulfillment for all deliveries and services of the supplier. In case there is no shipping address given on the purchase order and the place of fulfillment cannot be derived from the nature of the contractual obligation, the address of the purchaser is considered to be the place of fulfillment.

4. Invoice and payment

4.1 The invoice must bear the purchaser's PO number as well as all other markings requested by the purchaser in the purchase order.

4.2 All payments will be executed according to the conditions as given in the purchase order and will be performed under reserve of invoice verification. Netting and the execution of rights of retention for defects do not affect the eligibility for discounts.

4.3 The supplier is not entitled to assign his claims against the purchaser to third parties or to have them collected by a third party without the written approval of the purchaser; this does not apply where a valid all-monies clause has been agreed upon by the supplier.

5. Provision

5.1 All items of the purchaser provided to the supplier remain the property of the purchaser. They may only be used for the purpose of performing the ordered deliveries and services.

5.2 The supplier is committed to secure adequate insurance for said items and upon request by the purchaser will provide proof of such insurance.

5.3 Where items provided by the purchaser are processed or remodeled by the supplier to form a new movable the purchaser is considered the manufacturer. In case of a connection or amalgamation of said items with other items in such a way that the items of the supplier must be considered the main items, the parties agree for the supplier to grant joint ownership to the purchaser according to his share; the supplier will hold the joint ownership in trust for the purchaser.

6. Spare parts and willingness to supply

6.1 The supplier commits himself to provide spare parts for the period of usual technical use of the delivered goods but in any case for at least 10 years from the date of the last delivery of said goods at reasonable terms and conditions.

6.2 Should the supplier discontinue to supply spare parts after the termination of the period as described in Section 6.1 or during said period, the supplier commits himself to give the purchaser the opportunity to issue a final order.

7. Assumption of liability

Where a third-party lay claims to the purchaser on the grounds of product liability regulations, the supplier commits himself to indemnify the purchaser insofar as and to the extent to which the damage incurred is attributable to the deliveries and services provided by the supplier. In the case of a fault-based liability claim the assumption of liability is limited to the extent to which the damage is attributable to a fault of the supplier. Where the cause of damage lies within the supplier's sphere of responsibility, the burden of proof in regards to the absence of a fault on his behalf lies with the supplier.

8. Claims for defects

8.1 Statutory regulations shall apply to all deliveries and services provided by the supplier.

8.2 The acceptance of all deliveries and services will be effected under reserve of inspection for defects, which will include but is not limited to an inspection for compliance of the content with the deliveries and services ordered as well as an inspection for completeness. The inspection will be performed as and when the proper course of business allows. The purchaser will notify the supplier of ascertained defects without undue delay. In this respect the supplier waives the objection for delayed notice of defects.

9. Confidentiality

9.1 The supplier commits himself to keep secret all commercial and technical information and documentation which he comes to know through the business relationship with the purchaser and which is not known to the general public and to use said information and documentation solely for the purpose of supplying the purchased deliveries and services. Eventual sub-suppliers must be bound by corresponding confidentiality terms.

9.2 The supplier may only quote as reference or publish the legal name or any brands of the purchaser with the prior written agreement of the latter.

10. Duties to notify and due diligence

10.1 Where the purchaser has informed the supplier of the designated use of the deliveries and services as well as where the designated use is recognizable to the supplier without express notice, the supplier commits himself to inform the purchaser without undue delay in case the deliveries and services of the supplier are not suited for such designated use.

10.2 The purchaser is to be notified of all circumstances which threaten the adherence to agreed upon delivery dates without undue delay and in written form in order to establish the further course of action.

10.3 The supplier commits himself to notify the purchaser in writing and without undue delay of all changes in the composition of processed materials as well as of all changes in the design in regards to previously supplied deliveries and services of the same kind. All changes require the written consent of the purchaser.

10.4 The supplier is obliged to secure that deliveries and services comply with all environmental rules, accident prevention and other industrial safety regulations, safety design standards as well as all other legal requirements applicable in the Federal Republic of Germany; moreover the supplier commits himself to indicate specific treatment and disposal requirements which are not subject to common knowledge with each delivery and service.

10.5 Notwithstanding the termination of the warranty period the purchaser will be notified of all safety-related defaults subsequently discovered on the basis of product monitoring.

11. Final provisions

11.1 All agreements regardless whether they were reached at the time of the conclusion of contract or afterwards, must be given in writing. In any case oral representations by employees of the purchaser are only binding when being acknowledged by the purchaser in writing.

11.2 This agreement is subject to the laws of the Federal Republic of Germany without reference to its conflicts of law principles.

11.3 Insofar as no deviating terms of clauses 1.1 and 3 apply the place of fulfillment for all contractual and legal claims is the registered office of the purchaser.

11.4 If the supplier is a trader (Kaufmann) according to the German Commercial Code (HGB), Würzburg, Germany is the exclusive legal venue. The same legal venue applies if the supplier does not have a natural forum within the Federal Republic of Germany at the time of institution of legal proceedings. The purchaser on the other hand is eligible to take legal actions with any responsible court.

11.5 If individual provisions are invalidated, the contract remains binding in its remaining parts. Should a regulation be partially or entirely invalid, the signatories will immediately try to reach a legally valid provision as close as possible to the original intent.