

**Terms & Conditions of Purchase of Messe Frankfurt GmbH
for supplies and services
(Status: March 2004)**

The following Terms & Conditions of Purchase shall apply correspondingly to all business transacted at law by subsidiaries (affiliated companies as defined in Section 15 of the Joint Stock Companies Act (AktG)) insofar as such transactions fall under the purview of the Messe Frankfurt GmbH Purchasing Department.

Providing nothing is agreed in writing to the contrary, these and all future orders shall be governed exclusively by these Terms & Conditions. Messe Frankfurt GmbH shall not be bound by any terms and conditions of sale, service and/or supply issued by contractors or service providers, even if it does not explicitly protest these Terms & Conditions, or accepts such supplies or services unconditionally.

1. Orders

- (1) All orders issued to the Contractor / Service Provider (hereinafter called the **Contractor**) must be in writing and shall be made by the Purchasing Department of Messe Frankfurt GmbH (hereinafter called **MF**).
- (2) The Order Number and Entry Number given in the order must be stated in all further correspondence (e.g. confirmation of order, invoice, delivery note).
- (3) The order shall be binding if it has been preceded by an identical offer, if the Contractor confirms it in writing within two weeks, or delivers or supplies it within this time. Delayed receipt of confirmation shall entitle MF to cancel the order.
- (4) Prices shall be fixed prices. The reducing-price principle is hereby agreed. The Contractor's prices shall be "free final destination" in each case, including proper packaging, unless a written agreement is made to the contrary.
- (5) Should an order be issued without prior agreement on price with the Purchasing Department of MF, MF shall reserve the right of withdrawal should the price subsequently set by the Contractor fail to meet the agreement of MF.
- (6) Should the Contractor employ sub-contractors to carry out the order, with the agreement of MF, such performances must be invoiced by the Contractor. Invoices issued by a sub-contractor will not be accepted.
- (7) Any discrepant confirmations of order issued by the Contractor must be sent to the Purchasing Department of MF specially marked for written authorisation.
- (8) The Contractor must not raise the price fixed in the order without the prior agreement of MF.
- (9) Should proceedings in bankruptcy be initiated upon the assets of the Contractor, or should application be made for a creditors' composition, either in court or out of court, MF shall be entitled to withdraw from the contract for that part which is unfulfilled. Should MF declare its withdrawal from contract, only such performances supplied to date shall be accounted at contractual prices as MF can use in the way for which they were intended. In paying such account, any damages incurred by MF shall be taken into consideration.
- (10) All offers, drawings and plans shall be supplied by the Contractor free of charge, unless a written agreement is made to the contrary.

2. Supplies and services

- (1) The deadlines for supply or delivery given in the Order Entries shall be binding.
- (2) Deliveries shall be "to arrive" at the given delivery address. A delivery note stating the Order Number and Delivery Address shall be included with all deliveries. In the case of services the Contractor must fill in a certificate of performance as prescribed by MF and cause it to be signed by the latter.
- (3) MF hereby accepts no liability of any kind for damage to persons, property or assets as a result of cases of damage in the grounds of the Fair & Exhibition Centre, in the car parks pertaining thereto, in the exhibition halls or other buildings, always excepting actions caused by malice or gross negligence.
- (4) The Contractor shall be liable for all damages incurred by MF or Third Parties caused by the Contractor himself, by his agents, or by items which the Contractor has brought.
- (5) To cover all risks arising from this transfer of liability, the Contractor shall have a duty to take out insurance policies of a sufficient sum and coverage. MF shall be entitled to receive certificated proof of the policies in question.
- (6) The Contractor shall bear all material risk up to acceptance of goods by MF at the location where they are to be delivered in accordance with contract.

3. Complaints and guarantees

- (1) Goods shall be accepted on the proviso that the delivery shall be inspected for errors and defects, to ensure in particular that the correct goods have been delivered in full and that they are capable of the use for which they were intended. All plant, machinery and other technical tools and goods of all kinds, as well as services, must be free of defects, and must fulfil all relevant regulations obtaining in the Federal Republic of Germany, all generally recognised technological regulations, all regulations governing safety at work, all accident-prevention regulations – whether of the courts, of government bodies, of the industrial accident insurance corporations, or of professional associations, or otherwise – and all other safety regulations, in particular the relevant regulations of the EU. They must further be so equipped with all needful safety features that neither MF nor any Third Party shall incur any risk when using them in a due and proper way. They must in addition represent the latest state of technology.
- (2) The duty of MF to make inspection and complaint of defects shall in all cases only commence when the goods and the documents required in the order have arrived at the destination prescribed by MF.
- (3) For deliveries with agreed assembly and commissioning, and for services, said duty of MF shall commence only at the time when such work is taken over. Complaint of defects must be made within one month following delivery or performance.
- (4) For all performances, and particularly for services, the Contractor must issue certificates of proficiency, materials certificates and suchlike. These will only be recognised when, following performance, they have been signed, without delay and without reservation, by an officer of MF entitled to sign such documents.

- (5) Statutory regulations on material and legal defects shall be applied unless stipulated otherwise below.
- (6) MF shall have the right to choose the manner of subsequent fulfilment. The Contractor shall be entitled to refuse the manner of subsequent fulfilment chosen by MF under the rules set out in Section 439, Paragraph 2 of the Civil Code (BGB).
- (7) Should the Contractor, despite a request to remedy a defect or defects, fail to commence such remedy, then MF shall be entitled in urgent cases, and in particular by way of obviating acute dangers or avoiding larger damage, to undertake such remedy itself, or to cause it to be undertaken by a Third Party, at the Contractor's cost.
- (8) Should a material defect be discovered within 6 months following transfer of risk, it shall be assumed that said defect was already present when risk was transferred, unless such supposition is irreconcilable with the nature of the item or defect.
- (9) Claims involving material defects shall be statute barred in two years, unless the item in question, in accordance with its usual purpose, has been used for building construction and has caused a defect in such construction. Time for claims involving material defects shall begin to run when the contractual item is delivered (transfer of risk).
- (10) In the case of legal defects the Contractor hereby further releases MF from any claims made by Third Parties. Legal defects shall have a statutory limitation of ten years.
- (11) For all items of delivery repaired or reinstated during the statutory period allowed to MF for claims involving defects, time shall begin to run again at the point when the Contractor has completely fulfilled our claims to subsequent performance.
- (12) Complaints involving concealed defects must be made within one month following their discovery. The Contractor shall undertake for his supply or service a guarantee of two years, from the time when MF's duty of complaint begins, that said item of delivery or said service shall evince no defects and that the characteristics agreed shall be present.
- (13) This period of guarantee shall be extended to include periods during which the item of delivery cannot be used in the way for which it was intended due to defects. The above regulations shall also apply to guarantee of replacement parts and subsequent repair work.

4. Recourse

- (1) Should MF incur expenses due to defects in delivery or performance of contractual items, in particular transport, travelling, work or material costs, or costs for a delivery inspection or acceptance exceeding the normal scope, the Contractor shall bear such costs.
- (2) Should MF take back products manufactured and/or sold by itself as a result of defects in an item of contractual goods supplied by the Contractor, or should MF suffer a diminution in its selling price for this reason, or should MF be the subject of claims of any kind for this reason, MF hereby reserves the right of recourse against the Contractor, nor shall it be necessary to set any further compulsory term for MF's rights by way of such defects.
- (3) MF shall be entitled to require compensation from the Contractor for all expenditure which MF shall have had to incur vis-à-vis its customers because the latter asserted claims to compensation for their expenses, especially transport, travel, work and material costs, needed for the purpose of subsequent fulfilment.

(4) Notwithstanding the regulation set out in Section 3, Paragraph 9, time shall begin to run by way of statutory limitation in the cases set out in Section 4, Paragraphs 2 and 3 no earlier than 2 months following the point when MF has fulfilled the claims made against it by its customer, but no later than 5 years following delivery by the supplier.

5. Force majeure; right of termination

(1) Force majeure, industrial disputes, non-culpable interruption of business, civil commotion, action by authority and all other unavoidable occurrences shall entitle MF, without prejudice to its other rights, to withdraw from contract either wholly or in part, unless they are of inconsiderable duration and do not cause any significant diminution of MF's requirements.

(2) MF shall be entitled to withdraw unilaterally from contract should outside events (= concerts or trade fairs by Third Parties) be cancelled or postponed unexpectedly by Third Parties. This right of termination shall extend to such supplies and services as are connected directly or indirectly with the cancelled or postponed event. Permanent-debt relationships are hereby excluded from this right of termination.

6. Invoices and payment

(1) Always providing goods have been received or services performed, invoices conforming to order will only be admitted when they are delivered to the department named by MF in the order. Invoices must further be issued by the company to whom the order was given and must contain the order references given in Section 1. Invoices must not be enclosed with goods or, in the case of services, be presented to the requisitioning department. MF requires invoices to be in duplicate.

(2) Unless agreed otherwise, invoices will be paid net after 30 days, or within 14 days with 3% discount. The term of payment and any deductions dependent thereon shall be governed by the arrival of the goods or acceptance of the work or – as MF may deem fit – the day of receipt of invoice. Invoices for part deliveries or services will only be admitted if such part delivery or service, and issue of invoice thereto, have been agreed in advance in writing with the Purchasing Department of MF.

(3) MF shall pay once a week invoices due at this date. Should any deadline be exceeded due to this procedure, the customer's right to discount shall not be affected thereby.

7. Production items

All documents, models, tools etc. which MF or its agents may hand over to the Contractor for the manufacture of an article of delivery, as well as all drawings, models etc. produced by the Contractor on the instructions of MF, must not be used by the Contractor for any other purposes, nor shall they be duplicated or made available to Third Parties. They must be surrendered to MF, together with all copies or duplicates, immediately upon demand. Should no delivery be made or order take place, the Contractor must return them to MF of its own accord. The Contractor shall pay all costs of transport, packaging and suchlike. The Contractor shall be liable for all damage incurred by MF due to infringement of this regulation.

8. Copyright

The Contractor and/or producer shall transfer to MF all copyrights to plans, conceptions, textual drafts and pictorial designs, texts, development results, programmes, drawings and/or

documents of whatever kind, and to all services supplied by the Contractor, including rights of utilisation and amendment, with the right of further cession.

9. Property rights

The Contractor shall be liable to ensure that the delivery and use of goods or services provided do not infringe the patents or property rights of Third Parties. It shall release MF from any liability in this respect and must compensate MF for damages arising from any infringement of property rights, including costs of action at law.

10. Place of performance

The place of performance for the delivery shall be the delivery address as agreed.

11. General regulations

- (1) The place of fulfilment and place of transfer of risk and costs for both Parties shall be the place of delivery specified by MF in each case.
- (2) The place of jurisdiction shall be Frankfurt am Main. To assert their rights before the courts, however, both Parties hereby reserve the right to choose the place of jurisdiction applying to the other Party.
- (3) These Terms & Conditions of Trade and the above legal relations between MF and the Contractor shall be governed by the law of the Federal Republic of Germany.
- (4) Any deviant or contradictory Terms & Conditions of Trade inconsistent with the above regulations issued by the Client, shall not be effective under any circumstances, unless they have been agreed in conjunction with this order.
- (5) The Contractor's personal data shall be stored and processed in accordance with Sections 28 and 29 of the German Data Protection Act (Bundesdatenschutzgesetz (BDSG)) in accordance with the purposes set out in the contract.
- (6) Any amendments or supplements to contracts shall only be effective if they are in writing, and the same shall apply to this requirement of written documentation itself.
- (7) Should any of the individual regulations contained in the contract be ineffective, the validity of the remaining regulations shall not be affected thereby. The Contracting Parties shall have a duty to agree such other regulations, in place of said ineffective regulations, as shall approach most nearly to the commercial intention of the contract.

Status March 2004