

## 1 Scope of application

- Unless otherwise agreed in writing, these terms and conditions shall apply to all orders and contracts for which FRIES Kunststofftechnik GmbH is both the client and the purchaser. These terms and conditions shall also apply to all future transactions.
- Deviations from the terms and conditions of purchase shall only apply after written approval by Fries.
- With each delivery or performance, the contractual partner shall acknowledge the exclusive validity of these purchasing conditions.

## 2 Order / enquiries

- FRIES shall only be bound by an order if it is placed in writing (letter, e-mail).
- Any aids enclosed with our enquiries or orders (e. g. plans, drafts, data, samples, tools, etc.) shall remain the property of FRIES and may only be used for FRIES purposes. If necessary, a confidentiality agreement provided by FRIES shall be signed by the contracting party. Tools and samples shall be returned unsolicitedly at the latest with the invoice. The contractual partner shall bear the risk of accidental damage to the item until it is returned.
- Quotations shall be provided free of charge including all associated specifications. Technical specifications of the contractual partner shall be binding

## 3 Delivery / performance

- The delivery date specified in the order shall be the time when the goods and accompanying documents must arrive at the specified place of receipt. Performance and delivery shall result from the order. All relevant data such as order number, offer number, article number, quantity, etc. shall be stated on the delivery documents.
- FRIES shall be entitled to refuse acceptance of an early or late delivery / performance and to return the goods to the sender at the expense and risk of the sender or to store them with third parties.
- If the contractual partner realises that a punctual delivery / performance is not possible, it must notify us immediately and inform us of the new date. FRIES shall be entitled to withdraw from the contract or to accept the new delivery date offered after setting a reasonable period of grace.
- FRIES shall be entitled to withdraw from the contract by unilateral declaration if circumstances arise on the part of the contracting party which give rise to doubts about the performance of the contracting party.
- A delivery / performance shall only be deemed to have been fully rendered when FRIES has received the delivery / performance together with all associated documents (delivery papers, CMR, specific test reports, performance report, etc.). The handover of this delivery / performance shall be a prerequisite for the due date of the payment.
- The contractual partner shall be obliged to provide FRIES on request with all proofs such as the declaration of conformity, in particular the regulations EU10/2011, EU1935/2004, EG1907/2006. This shall also include the proof of tests carried out by the contractual partner.
- In the event of delay in delivery by the contractual partner, FRIES shall be entitled to demand a contractual penalty of 1 % of the order amount per started week of the delay up to a maximum of 10 %. Any damage caused by this delay shall be compensated by the contractual partner.
- The obligations assumed towards FRIES shall pass to the legal successors. There shall be no changes to the delivery / performance.
- FRIES shall have no obligation whatsoever to dispose of the packaging. The contractual partner shall confirm the disposal in accordance with VPVO BGBI [German Packaging Ordinance Federal Law Gazette] II 184/2014 and / or to participate in a collection and / or recovery system.

## 4 Transport / place of delivery / performance / transfer of risk

- The transport shall be carried out at the expense and risk of the contractual partner according to the currently valid INCOTERMS DDP "delivered to our factory and duty paid".
- If no other agreement has been made, the recipient and place of the delivery shall be the same as the invoice recipient.
- Transfer of risk shall take place after unloading of the goods at the place of delivery.

## 5 Prices, invoice and payment

- The prices agreed on the order shall be fixed prices. Additional costs can only be charged with the written consent of FRIES.
- All relevant data such as order number, article number / text, offer number, etc. shall be stated on the invoice.
- Compliance with the terms and conditions of payment shall presuppose a defect-free delivery and proper invoicing. Payment shall be made within 14 days of receipt of the invoice with 3 % discount or within 60 days net unless otherwise agreed.
- If a defect is detected, FRIES shall be released from its obligation to pay until the defective goods are repaired or replaced.

## 6 Guarantee / warranty / compensation for damages

- Unless otherwise agreed, devices, machines, systems, etc. shall be covered by a warranty of 12 months starting with the acceptance of the system. The warranty shall cover all parts of the delivery. Any defects occurring within this period must be remedied by the contracting partner immediately at its own expense or FRIES must be granted a price reduction.
- The period of guarantee / warranty shall begin anew with the rectification of the defect and / or with the replacement delivery.
- The legal warranty shall be valid for at least 24 months and shall not be agreed.
- The contractual partner shall undertake to check the quality and quantity itself. Machines and plants must comply with the specifications and legal standards handed over by FRIES. Safety and function must be ensured.
- The contractual partner shall be liable for damages to persons and property due to defective delivered goods.
- In urgent cases FRIES shall be entitled to remedy the defects itself or have them remedied by third parties. The costs incurred for this shall be borne by the contractual partner.

## **7 Product change / replacement, material change**

- The contractual partner shall inform FRIES in good time and unsolicitedly in advance in writing of any changes in recipes, manufacturing processes, suppliers and vendor parts of raw materials and of parts manufactured for us.
- These changes may only be made after prior examination and written approval by FRIES.
- In the event of changes to these materials, the contractual partner must provide FRIES unsolicitedly with an updated declaration of conformity including data sheets (TDS, MDS, SDS).
- The contracting partner shall inform FRIES at least 6 months before production is discontinued if the material has been purchased from FRIES. FRIES must have the opportunity to ensure that this product is kept in stock for at least 6 months.

## **8 Property rights**

- All trade secrets of any kind which become known to the contracting party through the business relationship with FRIES, in particular the production methods used by us, shall be kept secret. The contractual partner must ensure that the persons entrusted with the fulfilment of the order comply with this secrecy obligation (see Confidentiality agreement point 3).
- Documents made available by us may only be copied, used or made accessible to third parties with our express written consent.
- Existing contracts may only be transferred to third parties with the written consent of FRIES.
- In the event of a breach of this confidentiality obligation, we shall be entitled, without prejudice to the assertion of further claims for damages, to demand a contractual penalty amounting to 5 times the value of the goods delivered, or in the event that several deliveries have been made, 5 times the total value of the goods delivered.

## **9 Data protection**

- FRIES shall give its consent that the personal data provided may be processed in accordance with the Data Protection Act.

## **10 Product liability**

- Should FRIES be held liable for damages under the Product Liability Act by a product supplied by the contracting partner, the contracting partner undertakes to immediately join any legal dispute as intervener and to indemnify and hold FRIES harmless in respect of all claims.
- Should FRIES be called upon to provide compensation, the contractual partner undertakes both to reimburse in full for the compensation provided by us and to reimburse all costs and other ancillary fees associated with the necessary legal defence.

## **11 Final provisions**

- Place of performance shall be Sulz.
- The court of jurisdiction shall be agreed to be the competent court for Feldkirch.
- Austrian law shall apply to the contractual relationship, unless the rules of the UN Convention on Contracts for the International Sale of Goods contain applicable provisions.
- Should one or more provision(s) of these terms and conditions be(come) invalid, this shall not affect the validity of the remaining content.
- The contractual partner may use deliveries / performances and / or the cooperation with FRIES for advertising purposes or as a reference only with the prior written consent of the latter.