

General Conditions of Purchase

Current at: January 2016

1. Scope of Application/Offers

- (1) These General Conditions of Purchase apply to all business transactions, including future ones, with our suppliers (hereinafter referred to as the "Seller") and only apply if the Seller is an entrepreneur within the meaning of section 14 of the German Civil Code (*Bürgerliches Gesetzbuch* - BGB), a legal person under public law or a special fund under public law.
- (2) The Seller acknowledges that all existing and future contracts for the sale of goods and/or supply of services will be exclusively governed by the framework of these General Conditions of Purchase, without any necessity for IOI OLEO GmbH (hereinafter referred to as the "Buyer") to specifically incorporate them in each individual case.
- (3) All Conditions of Sale of the Seller are herewith rejected by the Buyer. In addition, the Buyer will not be deemed to have accepted the Seller's Conditions of Sale, even if it does not reject them again after receipt and even if, despite its knowledge of their existence, it unconditionally accepts the Seller's goods or services.
- (4) Whenever the General Conditions of Purchase use the terms 'delivery' or 'sale of goods', these terms comprise also the supply of services, regardless if this is explicitly mentioned.
- (5) Orders placed by the Buyer are deemed binding offers to enter into a contract. Offers by the Seller are deemed accepted only if the Buyer has expressly accepted them. The Buyer may cancel an order without incurring any costs if it has not received a confirmed copy of its order within 2 weeks of placing it.
- (6) The Buyer may make changes to its order at any time. The Seller will notify the Buyer of any possible effect of such changes on costs or delivery dates and of other important consequences without delay. The execution of the altered order with the indicated effects requires the Buyer's prior consent.
- (7) The version of the Incoterms published by the International Chamber of Commerce that is current at the time the contract is concluded apply.
- (8) Any references to the application of statutory provisions are only for the purposes of clarification. Even without such clarification, statutory provisions only apply to the extent that the General Conditions of Purchase do not directly alter or expressly exclude them.

2. Weight

- (1) The Seller may only deliver goods whose weight falls short of or exceeds the agreed weight if it has the Buyer's consent. Where the Parties agree to an "approximate" weight, a difference of 2% above or below the agreed weight is permissible. The Seller must report any excess or shortfall in weight without any delay or at the latest at the time of delivery or partial delivery.
- (2) The weight of the goods ascertained through weighing or measuring them at the time of arrival is the relevant weight; each Party may attend the weighing/measuring itself or through an agent. Axle weighing is not permissible.
- (3) In the event that the weight is found to be different from that agreed, the price will be adjusted proportionately. In case of any significant deviations, Buyer is entitled to refuse the acceptance of delivery.

3. Delivery of the Agreed Quantity

- (1) The Seller may only deliver goods whose quantities falls short of or exceed the agreed quantities if it has the Buyer's consent. The Seller must report any excess or shortfall in quantity without any delay or at the latest at the time of delivery or partial delivery.
- (2) If the Parties agree on a quantity of goods within fixed limits (from - to), the mean value is the basis for assessing whether the Seller has delivered the agreed quantity.
- (3) In the event that the quantity is found to be different from that agreed, the price will be adjusted proportionately. In case of any significant deviations Buyer is entitled to refuse the acceptance of delivery.

4. Quality

- (1) Where goods are bought by sample, at least their appearance and their critical, quality-relevant characteristics, respectively their analysis data must be correspondence with that of the sample.
- (2) Where goods are bought "as is", the Buyer is required to accept the goods irrespective of their quality provided that the goods are of the kind described in the contract, can be regarded as commercial goods and are free from defects.
- (3) At the Buyer's request, a certified independent expert will take a sample at a location chosen by the Buyer.
- (4) In the event a sample is taken, it will be used for determining the characteristics of the goods. In all other cases, the factory sample will be used.
- (5) The Seller must notify the Buyer in writing of any changes in the specifications or quality as compared with the contractually specified, customary or agreed quality without delay or, at the latest, 2 days before shipment of the goods, and obtain the Buyer's written consent to such changes.
- (6) The goods delivered must be of merchantable quality even where no express written agreement to this effect has been made.
- (7) For the purposes of examining the goods, the Buyer may inspect the Seller's production, business and storage facilities or those of any third party commissioned by the Seller to produce or store the goods. It may do so during normal business hours provided it gives timely notice of its planned inspection. At the Buyer's request, the Seller will provide it with the documents it needs for a proper inspection and examination. The Buyer is entitled to exercise the aforementioned rights by engaging an independent expert to carry out the inspection and examination.
- (8) At the Buyer's request, the Seller will provide it with free samples of the goods.

5. Prices

- (1) Unless agreed otherwise, the sales prices include cost of duty, freight, packaging, loading costs, transport insurance and taxes (DDP in accordance with the version of the Incoterms published by the International Chamber of Commerce that is current at the time the contract is concluded). Unless agreed otherwise in writing, all prices are quoted in euros.
- (2) Any governmental or regulatory measures taken to the detriment of the Seller after the conclusion of contract which negatively affect the purchase price (e.g. in connection with taxes, customs duties, other border taxes, food law and the like) will not establish a right to compensation on the part of the Seller against the Buyer.
- (3) Where customs duty has not been paid on goods, all costs associated with customs clearance will be borne by the Seller.
- (4) If the agreed delivery destination changes, the price will be adjusted in accordance with the associated increase or decrease in the costs, provided that the Buyer has given his written approval to such change of destination change.

6. Payment Modalities

- (1) The Seller must provide the Buyer with an invoice that shows the Buyer's order number, the exact details of the order content and weight, and contains the mandatory information required by section 14 of the Value-Added Tax Act (*Umsatzsteuergesetz* - UstG). One copy of the invoice must be sent separately from the goods on the shipment date. As a rule, the Buyer will not accept invoices with false or missing information. These will be returned to the Seller for correction or completion.
- (2) Unless agreed otherwise, the Buyer may make payment within 14 days from proper receipt of the goods/supply of services and receipt of invoice with a 3% discount for prompt payment or pay the net invoice amount within 30 days from proper receipt of the goods(supply of services and receipt of invoice. Payment must be made in euros unless the Parties have agreed in writing on another payment currency.
- (3) The time limit for payment will not under any circumstances commence before the agreed delivery/supply date, the proper delivery of goods/supply of services free from defects and receipt of a proper invoice.
- (4) The Buyer will be entitled to the full range of set-off and lien rights stipulated by law in respect of the Seller and/or any of its affiliates. A set-off by the Buyer will have the same effect as payment.

- (5) The Seller may only set off claims that are undisputed or legally enforceable; it has no right to refuse to perform its obligations under the contract or to exercise any lien rights.
- (6) Neither the Seller nor its affiliates may assign any claim arising from a contract with the Buyer or group companies unless the Buyer or the relevant group company has given its written consent to such assignment.

7. Delivery/Supply of Services/Acceptance

- (1) Working days as used in these General Conditions of Purchase are the weekdays Monday through Friday, excluding public holidays and 24 and 31 December.
- (2) The delivery dates specified in the order are binding. The relevant date for determining whether the goods have been delivered / services have been provided on time is the date the goods are received by the Buyer or a third party specified by the Buyer respectively when the services provided by the Seller have been accepted by the Buyer. In the event that the Seller becomes aware of circumstances that will preclude its complying with an agreed delivery/supply date, it must notify the Buyer of this in writing without delay. If the Buyer accepts a late delivery, this will not be deemed a waiver of its remedies for late delivery or its rights of rescission
- (3) Unless agreed otherwise in writing, delivery must be made Delivered Duty Paid (DDP) in accordance with the version of the Incoterms published by the International Chamber of Commerce that is current at the time the contract is concluded.
- (4) Where "no time for delivery is fixed", the Seller must specify the date for delivery/supply of services and receipt of the goods/services within the agreed time limit. The Seller must notify the Buyer of the delivery/supply date at least five (5) working days before such date; the date of notification is not counted for the purposes of calculating the notice period.
- (5) Where the goods are to be delivered "as required", the Buyer will specify the delivery date within the agreed time limit. It must notify the Seller of the desired delivery date at least five (5) working days before such date; the date of notification is not counted for the purposes of calculating the notice period.
- (6) In the case of the contracts in subsections (4) and (5), the term "immediately" means three (3) working days and the term "promptly" ten (10) working days from the date the contract is concluded; the date the contract is concluded is not counted for the purposes of calculating the delivery period.
- (7) In the case of a contract for delivery/acceptance in installments, the agreed quantity of goods must be delivered/accepted in approximately equal installments during the agreed delivery/acceptance period. Each Party must give the other Party at least five (5) working days' prior notice of the delivery/acceptance; the date of notification is not counted for the purposes of calculating the notice period.
- (8) The Seller may not make partial deliveries or early deliveries without the Buyer's written consent.
- (9) If the Seller delivers the goods earlier than agreed, the Buyer may refuse to accept them. If it accepts goods even though they were delivered earlier than agreed, the goods will be stored by the Buyer or a third party specified by it until the agreed delivery date. The goods will be stored at the risk and at the expense of the Seller.
- (10) Where the Seller fails to deliver on the agreed date and the Buyer does not insist on performance of the contract, the Buyer may, following the Seller's failure to deliver during an extended period for delivery, cancel the unperformed part of the contract or demand damages for non-performance. Where the Buyer extends the delivery period, it must allow the Seller an extension of at least three (3) working days in the case of contracts where delivery is required "immediately" and at least six (6) working days in the case of all other delivery dates. The Buyer is not required to extend the period for delivery in the case of fixed-date contracts.
- (11) Notwithstanding the Buyer's rights pursuant to subsection (9), where the Seller makes a late delivery it will be required to pay a contractual penalty of 1% for each calendar week or part thereof of delay. However, its penalty will not exceed a total of 5% of the entire value of the outstanding goods or services. The penalty will be set off against any claim for damages of a higher amount. The Buyer may reserve the right to claim a contractual penalty up until the time that it makes its final payment.
- (12) Where the date for delivery/supply and receipt in a contract has expired, and if neither Party has sent the respective other Party a written reminder notice regarding performance of its obligations, the contract will be deemed rescinded.
- (13) In the event of any natural disaster, state of emergency, strike or similar industrial measure, business disruption (e.g. fire), import or export restriction or any other event of force majeure, the affected Party will be excused from its obligation to comply with the time limit for delivery/supply of services or, as the case may be, acceptance of the goods. Where a force majeure event occurs, the affected Party must notify the other Party in writing without delay or at the latest 48 hours after the event becomes known. The agreed time limits for delivery/acceptance will be automatically extended for the duration of the force majeure event. The Seller must compensate the Buyer for any costs incurred by it as a result of the delays. If performance is prevented due to force majeure for more than thirty (30) days from the agreed date for delivery/acceptance, the Seller and Buyer will both be entitled to rescind the contract within the following seven (7) working days by giving notice in writing.
- (14) The goods must be delivered packaged if they are goods of a kind requiring packaging during transportation. The packaging must be suitable for use in transportation and in conformity with all legal and regulatory provisions governing the mode of transport used and any packaging rules stated in the Buyer's order. The Seller will be responsible for the packaging costs. The Buyer is only obliged to return the packaging if this has been agreed in writing; the costs for the return of packaging will be borne by the Seller.
- (15) If the goods are delivered to their destination in damaged packaging or if the goods are handed over to the carrier in damaged packaging, the Buyer may have the goods returned to the Seller without examining them. The Seller will be responsible for the costs.
- (16) The Seller will, without request, submit all documents and papers related to the goods that are required under the relevant statutes, rules and regulations to the Buyer at the latest at the time of the first delivery of the goods. These will include any possible safety data and leaflets, user manuals and similar documents. Wherever possible the Seller must submit the originals of the documents to the Buyer; otherwise copies may be submitted.
- (17) Where the Seller or a third party commissioned by it delivers or ships goods to a location outside of the territory of the Federal Republic of Germany, the Seller will be obliged to submit to the Buyer the proof of export necessary under tax law and the relevant provisions concerning customs duties without request.

8. Securities

The Buyer is entitled to securities of the usual type and scope in relation to its claims, even when these are conditional or limited.

9. Title / Retention of Title

- (1) Title to the goods passes to the Buyer upon acceptance of the goods by it or a third party specified by it.
- (2) The Buyer will retain title to all documents (e.g. drawings, illustrations, calculations), samples, substances and other items which the Buyer or a third party instructed by it hands over to the Seller in connection with the order. The documents, samples, substances and other items to be retained by the Seller are intended entirely for the purposes of the Buyer's business relationship with it. The Seller must treat them with confidentiality, and it may not disclose them to third parties without the Buyer's written consent. The Seller must return the documents, samples, substances and other items to the Buyer without request after the execution of the contract unless they are needed for further orders. If expressly requested to do so by the Buyer, the Seller will dispose of the documents, samples, substances and other items in an appropriate manner, at its own expense, after the execution of the contract.
- (3) If the Buyer provides the Seller with its own substances or other materials, they will remain the property of the Buyer. If the Seller or a third party specified by it mixes or combines the substances or materials provided by the Buyer with other goods, this will be deemed to be done on the Buyer's behalf but will not result in any obligations for it. The Buyer will have title to the new item created by the treatment or processing of its substances or materials.
- (4) If the substances or materials provided by the Buyer are mixed or combined with substances or materials belonging to third parties, the Buyer will acquire coownership of the new item in the proportion of the value of its substances or materials to the total value of the new item.
- (5) To cover the eventuality that the substances or materials provided by the Buyer are mixed or combined with other items, the Seller transfers herewith its ownership or, as the case may be, co-ownership rights in the mixed or combined items; it will be deemed to hold such items as custodian for the Buyer.
- (6) If the Seller develops and/or produces substances, materials, documents or other items in the course of executing the contract, the Parties agree that the Seller will transfer property and other rights in same to the Buyer and hold such items as custodian for the Buyer at its own expense.

- (7) The Seller is not entitled to reserve title to its goods unless the Buyer has consented in writing to same.

10. Warranty Claims / Liability of the Buyer

- (1) The Seller warrants that it will properly perform the contract. The Seller warrants that it will deliver goods/supply services of the agreed quality and specifications, that the goods/services will be in conformity with the relevant statutory and regulatory provisions as well as recognized technical standards, and be free from defects. The Seller warrants that the goods delivered have the same characteristics as previous deliveries of goods which were free from defects - except where changes were agreed with the Buyer in writing in advance.
- (2) The Seller is liable for defects in quality and defects in title in accordance with the statutory provisions unless otherwise provided below.
- (3) In the event of a defect, the Buyer may, at its option, demand repair or replacement. The Seller will be responsible for all costs and expenses that arise in connection with the examination and repair or replacement even if the goods have been relocated to a place other than the place of delivery. The same applies even where the Buyer only has reasonable grounds for suspecting the existence of a defect. If it is not possible to repair the defects at the location of the goods, the Seller will be required to collect them from such location and subsequently return them to the same location or another location specified by the Buyer. The warranty period will be suspended during the period of repair or replacement. The Buyer reserves the right to assert further claims.
- (4) After one failed attempt by the Seller to remedy the defect, the Buyer may rescind the contract and/or demand damages in lieu of performance. The Seller is not entitled to a second - even partial attempt - to remedy the defect. The Buyer reserves the right to assert further claims.
- (5) In urgent cases, the Buyer may, at the Seller's expense, remedy the defect itself, have it remedied by a third party or purchase replacement goods. The Buyer will notify the Seller that it has exercised the aforementioned rights as soon as possible. The Buyer reserves the right to assert further claims.
- (6) The Seller must compensate the Buyer for any expenses or damage it incurs in connection with the defects in the goods. These include but are not limited to the Buyer's expenses if it has to recall the goods or satisfy repair or replacement claims of third parties. The Buyer will notify the Seller as best it can with regard to any recall measures that have to be taken and, to the extent possible and reasonable, allow the Seller an opportunity to influence the recall measures. The Buyer reserves the right to assert further claims.
- (7) The Buyer will report obvious defects within fifteen (15) working days from the delivery of the goods/supply of services and the related documents. This time limit will be extended by a reasonable length of time if examination of the goods for obvious defects takes longer due to the technical or other examination conditions or the absence of the documentation for the goods. If the goods have hidden defects, the aforementioned time limit will first begin to run when the Buyer discovers the defect. This applies irrespective of whether the goods have already been processed or forwarded. The Buyer is in compliance with the time limit if it sends its notice of defects within this time limit.
- (8) The Buyer will be only liable for its breaches of contractual or non-contractual obligations or those of its executive staff or agents in the event of intentional wrongdoing or gross negligence. These limitations on liability will not, however, apply in the event of willful or negligent breaches of material obligations or where damage results from willful or gross negligent injury to life, body or health. Liability for willful or negligent breaches of material contractual obligations is limited in the case of slight negligence to the typical damage that the Buyer can be expected to foresee at the time of entering into the contract. The Buyer will not be liable for damage or consequential damage caused by defects. The foregoing does not affect any mandatory claims by injured parties pursuant to the Product Liability Act (*Produkthaftungsgesetz*) or other mandatory legislation.

11. Product Liability

Where a third party brings a product liability suit against the Buyer, irrespective of the reason and irrespective of whether or not it is based on German or foreign law, the Seller will indemnify the Buyer against any damages claims if the Seller caused the damage and is responsible for same according to fault-based liability principles. The indemnity will also cover any expenses incurred in defending such suit. The Seller is required to take out product liability insurance and provide proof of same upon request.

12. European Chemicals Regulations (REACH)

- (1) The Seller guarantees that all of the substances and materials supplied by it are in conformity with the provisions of the REACH Regulation (EC Regulation 1907/2006), and in particular that the registrations with the European Chemicals Agency required under the Regulation have been carried out.
- (2) The Seller will provide the Buyer, free of charge, with all of the information and documents that it requires pursuant to the REACH Regulation. The Seller guarantees that the information and documents provided are correct, in particular with regard to chemical safety reports and safety data sheets. The Seller guarantees in addition that it will comply with the obligation to keep information which is contained in the REACH Regulation.
- (3) The Seller will, upon first demand, indemnify the Buyer against all third party claims arising from a violation by the Seller of the REACH Regulation. The Buyer will immediately notify the Seller if a claim is brought against it. The indemnity will also cover any legal expenses necessarily incurred by the Buyer.

13. Intellectual Property Rights

- (1) The Buyer will remain the owner of all intellectual property rights in all the documents (e.g. drawings, illustrations, calculations), samples, substances and other items which the Buyer or a third party instructed by it hands over to the Seller in connection with the order.
- (2) If the Buyer concludes a contract with the Seller for development or project work or the Seller performs development or project work in the course of such contract, the Buyer will be entitled to all work results, the related know-how, and all other intellectual property rights and intangible rights (hereinafter referred to as "IP Rights"). The Seller will assign all "IP Rights" to the Buyer and hand over the originals of all documents, or alternatively copies thereof, as well as information regarding the IP Rights without request. If it is not possible (in part) to assign the IP Rights, the Buyer will be entitled to an exclusive license to exploit them. The Seller, its employees and other agents as well as the third parties commissioned by it undertake to assist the Buyer in the protection of the IP Rights.
- (3) The Seller warrants that neither the goods delivered nor their utilization violates intellectual property rights or other rights of third parties. In the event that a violation of such third-party rights occurs, the Seller will, irrespective of its or the Buyer's awareness of such rights, compensate the Buyer for any resulting damage. In addition, the Seller will, upon first demand, indemnify the Buyer against all third-party claims for intellectual property right violations.

14. Confidentiality

The Seller will treat all business transactions with the Buyer or a group company and information, data, documents, substances, samples and other items received in the course of the respective business transaction confidentially and will not disclose same to third parties except where disclosure of the existence and content of the business transaction is absolutely necessary for the implementation of the transaction or a regulatory or statutory disclosure obligation exists. For every violation of this confidentiality obligation, the Buyer will be entitled to demand payment from the Seller of a contractual penalty in an amount up to € 25,000.00. In this context, the possibility of treating multiple breaches as constituting a single breach is excluded. The Buyer reserves the right to assert further claims. The amount of the penalty will be set off against any damages claimed.

15. Others

IOI Oleo GmbH operates an energy management system according to DIN EN ISO 50001:2018, as well as EMAS. We would like to point out that the energy-related performance is a criterion for evaluation when procuring new energy-using products, plants, equipment and services with a significant influence on our energy consumption. We ask you to proactively offer us energy-saving options and to price additional costs.

16. Governing Law

The laws of the Federal Republic of Germany will govern all legal and contractual relations between the Seller and the Buyer. The United Nations Convention on Contracts for the International Sale of Goods (CISG) will not apply.

17. Place of Jurisdiction/Court of Arbitration

Exclusive place of Jurisdiction is Hamburg, Germany. All disputes arising out of or in connection with this contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law. The arbitral tribunal shall be comprised of three members. The seat of the arbitration is Hamburg, Germany. The language of the arbitration shall be German. The rules of law applicable shall be the laws of the Federal Republic of Germany.

18. Savings Clause

The invalidity of one or more of the provisions of these General Conditions of Purchase will not affect the validity of its remaining provisions. Any invalid provision will be replaced by that legally valid provision whose economic intent most closely approximates the purpose of the invalid provision.