

General Conditions of Purchase

As of: November 2017

1. General – Scope

1.1. These General Terms and Conditions of Purchase (hereinafter referred to as “Purchase Conditions”) of Blickfeld GmbH (hereinafter: Blickfeld or we) apply exclusively. We do not recognize the general terms and conditions of the contractor, even those that regulate items not mentioned in our conditions of purchase, unless we have expressly agreed to them in writing. If the terms and conditions of the contractor are covering items to which the following terms and conditions of purchase are silent, then only the corresponding dispositive law shall apply, in no case a deviating condition from the contractor shall apply. Our terms and conditions of purchase also apply if we unconditionally accept a delivery or service of the contractor in the knowledge of conflicting or deviating conditions of the contractor.

1.2. All agreements made between us and the contractor to execute a contract must, in order to be effective, be in writing. Amendments and supplements to the contract must be in writing. This also applies to a waiver of the written form requirement. In the case of declarations made by facsimile or in electronic form which reveal the person making the declaration, the written form shall be deemed to have been fulfilled.

1.3. Our terms and conditions of purchase apply only to entrepreneurs, legal entities under public law or special funds under public law within the meaning of § 310 (1) BGB.

1.4. Our terms of purchase also apply to all future business with the contractor in the context of an ongoing business relationship.

1.5. The Blickfeld guideline for suppliers for quality and environmental management is part of the contract and basis of the order execution.

2. Conclusion of the contract and changes to the contract

2.1. As far as our orders do not expressly contain a binding period, we are bound to this for one week from the date of the order. Decisive for the timely acceptance is the receipt of the written declaration of acceptance by us.

2.2. Verbal agreements after the conclusion of the contract and ancillary agreements of any kind require the written confirmation by Blickfeld in order to be valid.

3. Prices and terms of payment, invoices

3.1. The price stated in the order is binding. Unless otherwise agreed in writing, the price includes the delivery in accordance with Section 4, including packaging. The legal value added tax is not included in the price.

3.2. Invoices are to be provided separately for each order / delivery under the Blickfeld order number to the address of Blickfeld, unless a different billing address is specified in the order. The Contractor is responsible for any consequences arising from failure to comply with this obligation. Duplicate bills are to be marked as such. The contractor shall ensure that his invoice is issued in accordance with the relevant VAT regulations.

3.3. Payments will be made on the terms specified in the order after receipt of the proper invoices and receipt of all ordered goods, provided they are free of defects. Payment terms begin at this time. Payments do not constitute acceptance of prices and conditions or the conformity of the delivered goods. Until full and proper performance of the contract, a reasonable amount of the payment may be withheld. Invoices are generally paid net 20 days after delivery and receipt of invoice with 3% discount from the gross invoice amount or 60 days after delivery. Discount deduction is also permissible if Blickfeld charges within 14 days in relation to the claim of the contractor with justified counterclaims.

3.4. Blickfeld is entitled to offsetting rights and rights of retention within the scope of the law.

4. Delivery and transfer of risk, packaging and documents

4.1. Deliveries are made, unless otherwise agreed in writing, DDP agreed place of delivery (Incoterms 2010). The agreed place of delivery shall be the place of delivery specified in the order, alternatively the registered office of the purchasing department. Partial deliveries are only permitted with our consent.

4.2. In the case of deliveries with installation or assembly and in the case of work performed, the risk of loss and damage of the goods shall pass to us upon acceptance, moreover upon transfer of the goods to the agreed place of delivery. Even if shipment has been agreed, the risk only passes to us when the goods are handed over to us at the agreed place of delivery.

4.3. Each delivery must be accompanied by packing slips and delivery notes stating the part number, the quantity and the associated Blickfeld order number.

4.4. The contractor has to take back packaging on request of Blickfeld at the place of delivery at his own expense.

5. Delivery date, delivery delay, spare parts supply

5.1. The delivery time specified in the order (delivery date or period) is binding. Premature deliveries are not permitted. In the case of premature delivery / performance, Blickfeld may store the goods up to the delivery date at the expense and risk of the contractor instead of rejecting them.

5.2. The contractor is obliged to notify us immediately in writing if circumstances occur or become apparent to him which indicate that the agreed delivery time can not be met. The occurrence of the delay in delivery remains unaffected.

5.3. Strike, lock-outs, interruptions of operations for which the Contractor is responsible and delays in delivery to subcontractors of the Contractor shall in no case be deemed as force majeure excluding the delay.

5.4. In the event of a delay in delivery, we shall also be entitled to demand a contractual penalty of 0.5%, but no more than 5%, of the respective order value for each commenced week of the delay in delivery. We reserve the right to assert further damage. The contractual penalty shall be offset against the damage caused by the contractor.

5.5. The contractor makes sure to be able to supply spare parts for at least 3 years after the delivery / performance to Blickfeld on reasonable terms. If the Contractor discontinues the manufacture of spare parts, he is obliged to provide Blickfeld with an opportunity to make a final order. If he fails to comply with this obligation, he is obliged to compensate Blickfeld for the damage it has caused.

6. Inspection of defects, warranty

6.1. We are obliged to inspect the goods for any quality and quantity deviations within a reasonable period; the complaint is timely, provided that it is received by the contractor within a period of 10 working days, calculated from receipt of the goods or in the case of hidden defects as of discovery. The complaint does not require a special form.

6.2. The warranty obligation of the contractor is governed by the statutory provisions, unless otherwise stated below.

6.3. The warranty period is 36 months from the date of delivery or, if so provided, acceptance. Longer statutory limitation periods remain unaffected.

6.4. Our consent to drawings, calculations and other technical documentation shall not affect the obligations of the contractor with regard to the delivery item and in particular its warranty obligations. This also applies if Blickfeld has made suggestions and recommendations for the contract to the contractor.

6.5. By acceptance or by approval of submitted prototypes or samples we do not waive warranty claims.

6.6. From the receipt of the written notice of defects by the contractor until the removal of the defect, the expiry of the warranty period is suspended. In the case of replacement delivery and remedy of defects, the warranty period for replaced and repaired parts begins again, unless we had to assume, based on the behavior of the contractor, that the latter was not obliged to undertake the measure, but only carried out the replacement or remedy for reasons of goodwill or similar reasons.

7. Liability, indemnification, liability insurance

7.1. Blickfeld shall be entitled to any claims for damages to the extent permitted by law. As far as the contractor is responsible for a product damage, he is obliged to indemnify Blickfeld from claims for damages of third parties on first demand, as far as the cause is within his sphere of control and organisation, and he himself is liable in the external relationship.

7.2. Within the scope of his liability for damages, the contractor is also obliged to reimburse any expenses in accordance with §§ 683, 670 BGB or §§ 830, 840, 426 BGB resulting from or in connection with a recall campaign carried out by Blickfeld. Blickfeld will inform the contractor – as far as possible and reasonable – about the content and scope of the recall measures to be carried out and give him the opportunity to comment. Other statutory claims shall remain unaffected.

7.3. The contractor undertakes to maintain product liability insurance with a coverage of at least EUR 2.5 million per claim. If Blickfeld is entitled to further claims for damages, these remain unaffected.

7.4. The Contractor shall ensure that the goods to be delivered and the services to be rendered do not violate any applicable national or international regulations, in particular import and export regulations. All consequences of non-compliance with this provision shall be borne by the Contractor.

8. Rights of third parties

8.1. The contractor guarantees that no rights – in particular industrial property rights – of third parties in the countries of the European Union, the European Economic Area, North America, the People’s Republic of China or other countries in which he manufactures or has manufactured the products are infringed in connection with his delivery.

8.2. The contractor is obliged to indemnify us from all claims that third parties may have against us for infringement of industrial property rights in the cases described in para. 8.1 and reimburse us for all necessary expenses in connection with such claims.

8.3. Articles marked with Blickfeld trademarks must not be supplied to third parties.

9. Assignment, transfer of orders to third parties

9.1. If the contractor assigns his claim against Blickfeld to a third party without our prior written consent, the assignment shall nevertheless be effective. However, Blickfeld may, at its discretion, make payment to the contractor or the third party with discharging effect.

9.2. The transfer of orders to third parties is not permitted without the prior written consent of Blickfeld and entitles Blickfeld to withdraw from the contract in whole or in part and to claim damages.

10. Provision of material, documentation and tools – secrecy

10.1. Documents or manufacturing equipment of any kind such as samples, drawings, models, tools, technical regulations etc. which Blickfeld makes available to the contractor or which Blickfeld pays attention to the contractor may only be used for deliveries to Blickfeld unless prior written consent is given by Blickfeld. Blickfeld retains ownership of such tools and documents. The copyright and any other industrial property rights to documents Blickfeld has provided to the contractor shall also remain with Blickfeld without restriction.

10.2. The documents or manufacturing equipment referred to in the previous paragraph shall be returned on request in perfect condition as soon as the order has been completed or as soon as it has been established that no order will be placed. Individual items and copies may not be retained. At Blickfeld's request, the Contractor shall destroy documents or manufacturing equipment paid for by Blickfeld and, if necessary, furnish proof to Blickfeld.

10.3. The contractor is obliged to insure tools and objects belonging to Blickfeld at their replacement value against fire, water and theft at his own expense. He is obliged to carry out any necessary maintenance and inspection work at his own expense and in good time. He shall immediately report any incident to Blickfeld. If he culpably fails to do so, Blickfeld shall be entitled to assert the resulting damage.

10.4. The contractor is obliged to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with the prior written consent of Blickfeld. The obligation to maintain secrecy shall also apply after completion or other termination of this contract. Employees and subcontractors shall be bound accordingly in writing.

10.5. In the event of processing or mixing of the parts supplied by Blickfeld, Blickfeld shall acquire co-ownership of the new object in the ratio of the value of the parts and materials supplied by Blickfeld to the processed objects at the time of processing.

11. Software / Rights of Use

11.1. The Contractor's software shall be made available to Blickfeld on commercially available data carriers in machine-readable code together with user documentation.

11.2. If software purchased by Blickfeld from the contractor is no longer supported by the contractor and permanent support cannot be obtained in any other way under reasonable conditions, the contractor is obliged to make the software including source codes and documentation, which allows a third party who is knowledgeable in the programming language to support the software and make any necessary modifications, available to Blickfeld for its own purposes under reasonable conditions to maintain operations.

11.3. Of software developed specifically for Blickfeld, the contractor has to hand over the source codes and all other data and information that are required in addition to the source codes for the creation of a functional compilation from the source codes supplied (e.g. make files, compiler parameters, synthesis parameters) with manufacturer documentation (including details of the development tools used). The data provided must correspond to the program status at the end of the test phase or at acceptance.

11.4. In the event of changes to the Software, which are performed as part of the removal of defects or of updates, Blickfeld shall be provided by the Contractor without delay with updated versions of the aforementioned data.

11.5. All rights to software created specifically for Blickfeld are held by Blickfeld, unless otherwise agreed. The contractor undertakes not to make such software accessible to any third party and not to use the software or components of the software for orders from third parties.

12. Endangerment of fulfillment

If the economic situation of the contractor deteriorates during the term of the contract in a way that seriously endangers performance, if he stops payments (even temporarily) or if insolvency or out-of-court composition proceedings are instituted against his assets, Blickfeld is entitled to withdraw from parts of the contract that have not yet been fulfilled. Blickfeld is entitled to withdraw from the entire contract if partial performance is of no interest to Blickfeld.

13. Corporate responsibility

The Supplier undertakes to comply with the laws and other regulations of the applicable legal system(s), not to tolerate any form of corruption or bribery and to observe the fundamental rights of employees and the prohibition of child and forced labour. He will also assume responsibility for the health and safety of his employees in the workplace, ensure fair wages and working hours and observe the applicable environmental protection regulations.

14. Applicable law, jurisdiction, miscellaneous

14.1. The legal relationship between the contracting parties shall be governed exclusively by the law of the Federal Republic of Germany, excluding the conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

14.2. The exclusive place of jurisdiction for all claims arising from and in connection with the respective contract is Munich.

14.3. Should individual provisions of the contract or these Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of the other provisions. An invalid or unclear provision shall be replaced by such provision or interpreted in a manner that comes as close as possible to the intended economic purpose.