

## 1. Formation of the contract / Formal requirements

1.1. For us, only written orders are binding. Any agreements made personally or by phone have to be acknowledged by us in writing. The written clause can only be changed in written form.

1.2. These purchase terms form an essential part of the buying contract. We only conclude contracts on the basis of these terms. Should our business partner's general terms of trade partly or completely differ from our purchase terms, they are not binding for us even without our explicit contradiction, except you have our explicit approval. The lack of binding force can't be cured by sending additional or repeated general terms of trade, e. g. on delivery notes, invoices etc. Even the complete or partial payment or acceptance of services doesn't mean we accept such conditions.

1.3. In case the supplier doesn't send his written contradiction within 10 working days after receipt of the written order, we consider this as confirmation.

## 2. Extent of supply

2.1. The supplier will see to that he has been informed about all facts or details important for the completion of his contractual commitments as well as our intended use of the delivery in good time. He is responsible for his deliveries comprising all services necessary for the prescribed safe and economical use, that they are suitable for the application intended and that they correspond to the actual standards of science and technology. Providing his performances, the supplier will consider all relevant standards, laws and statutory orders, especially the relevant rules concerning environmental protection, dangerous substances, dangerous cargo and accident prevention, as well as the generally accepted rules concerning safety and industrial medicine, and he will meet our company's standards.

2.3. The supplier has to inform us about all necessary official licenses and registration requirements for the importation and the use of the supply items.

2.4. All intended technical or other modifications have to be coordinated with us before they are made.

## 3. Terms of delivery

3.1. Transport insurance and the insurance against breakage was effected by us. There is no need of further transport insurances from the supplier, and we won't reimburse them. Please put the following note on the shipping documents for the forwarding company: „Consignee is waiver customer“.

3.2. Deliveries to our company are effected DDU (Incoterms always in their actual valid version) including conservation and packing, if not agreed differently, i.e. we only pay transportation expenses, conservation and packing if stipulated separately.

3.3. On deliveries from preferential countries, the supplier has to add the preferential evidence to each delivery. The long-term supplier declaration according to EG-VO 1207/2001 has to be presented once a year. If the goods delivered are subject to an export license duty we must be informed without delay.

## 4. Delivery, dates and acceptance

4.1. Stipulated delivery dates and time limits are binding. Regarding the compliance with the delivery terms, the arrival of the goods in our company is relevant.

4.2. The supplier has to inform us about a recognizable delay in delivery without delay giving reasons and the estimated period of delay in writing. The supplier can only refer to reasons for the delay not caused by him if he has fulfilled his duty to report.

4.3. In case of non-compliance with the stipulated delivery dates and time limits, we are entitled to claim a penal sum from the supplier that amounts to 1% per each current week of delay, but not exceeding 10% of the total value of the order on the whole. Our claims concerning the delay in delivery, that we are legally entitled to, are not affected by the agreement on a penal sum or its enforcement. Any penal sums paid have to be counted to any claims of damages. The penal sum can be enforced until the payment of the late delivery of the goods.

4.4. If a fixed delivery date was explicitly stipulated, we are entitled to straightaway withdraw from the contract in case of non-compliance, and the supplier is bound by contract to pay damages. The acceptance of late deliveries does not mean that we waive our claim for damages.

4.5. We are not obliged to accept or to pay for any part or additional deliveries that were not stipulated in the contract.

## 5. Act of God/Inability to supply goods over longer terms

5.1. The supplier and we are relieved of our performance obligation during the annoyance and to the extent of its impact in case of industrial disputes, disturbances, governmental measures or other unpredictable and unavoidable events. The sufferer has to inform the other contract party comprehensively without delay about the end of the annoyance.

5.2. In case of inability to supply goods over longer terms, in case of suspension of payments, the opening of insolvency proceedings, the refusal of the opening of such proceedings „return unsatisfied“ or in case of institution of comparable proceedings on one of the contract parties, the other contract party is entitled to withdraw from the contract concerning the part that has not been fulfilled yet. Should the supplier be affected by one of the events mentioned above, he will support us to the best of his ability in the displacement of the production of the delivery subject to our company or to a third party including the licensing of all industrial rights necessary for the production at customary conditions.

## 6. Prices/Terms of payment

6.1. The contract comes to pass on the basis of the conditions mentioned in our order. You need our approval for all variances of conditions, especially for price variance. Payment does not mean the acknowledgment of conditions and prices.

6.2. The prices stipulated are fixed prices. The time limits set for us begin on the day when we receive both the goods and the proper and verifiable invoice in duplicate. Every invoice has to show our collective number resp. counter number, order number, ID number and supplier number as well as the delivery note number of the supplier.

6.3. Should prices by weight be stipulated in the contract, the net weight determined in our company is valid for the calculation.

6.4. Our payments are effected within the credit period stipulated. Should the goods arrive after receipt of invoice, the period of payment begins on the day the goods arrive. The method of payment is our decision.

## 7. Liability for defects/Repayment of expenses

7.1. As far as there is no other compelling statutory provision, the supplier is liable for defects occurring during a period of 24 months from arrival in our company resp. acceptance on (if it is a statutory provision or formulated in the contract).

7.2. In case of subsequent specific performance the time limit will extend by that time when the subject of delivery can't be used as stipulated in the contract. There are the same time limits for subsequent specific performances. The limitation of warranty claims arises two months after the end customer's claims have been fulfilled at the earliest. This suspension of limitations ends 5 years after delivery to our company at the latest.

7.3. Any visible defects on the outside and visible identity and quantity deviations discovered by our delivery supervision are claimed without delay. We reserve the right of a further inspection of the goods delivered. Furthermore we notify defects as soon as they are discovered in the course of a proper conduct of business. As far as this is concerned, the supplier waives his right of reclamation of a late notice of defect.

7.4. Payments or receiving sheets effected in the meantime do not count as acknowledgment of a proper delivery.

7.5. In case of discovered defects we are entitled to return the complete delivery at supplier's expense and risk.

7.6. Besides all legal rights we are entitled, in coordination with the supplier, to rectify defects on our own or to have it done by a third person in case of „periculum in mora“ and/or of the possibility that a short-term rectification of defects could finally lead to the economic success of the contract after all, or to maintain our supply capability, with all costs for this to be borne by the supplier.

7.7. Should a special incoming inspection be necessary due to defective delivery, we are entitled to charge a 100.- € lump-sum damage to the supplier for every defective delivery. The supplier is legally entitled to the counter-evidence of less expenses. He has to compensate for any further expenses, too, if we prove them.

7.8. Returned goods remain our property up to the arrival of a substitute delivery or the settlement of the equivalent amount.

7.9. Product liability concerning his deliveries within the limitations of the legal requirements is the supplier's duty. Should any claim against us arise as far as his product is concerned, the supplier is obligated to indemnify us against any liability in the internal relationship if and when the fault is his area of responsibility (especially construction, production and control duties) on the principles of „prima facie evidence“ or further legal regulations.

## 8. Secrecy

8.1. The supplier will keep all information given to him secret such as drawings, documents, cognitions, patterns, direct and indirect material, models, data carrier etc. He shall not open them up to a third person (even not to subcontractors) without our written approval and shall not use them for other purposes than stipulated by contract. The same applies to duplications. This duty does not apply for any information that he already knew rightly on receipt without being bound to secrecy by contract or that he will know afterwards rightly without being bound to secrecy by contract, that – without breach of contract by one of the parties – are generally known or will be known or any information he has got the written permission for using them otherwise.

8.2. The supplier commits himself to place an obligation on any subcontractor to keep the information to the same extent secret.

8.3. Without our prior written approval, the supplier is not allowed to advertise with his business relation.

8.4. We reserve the right of ownership and all other rights (e.g. copyright) on the information placed at someone's disposal. We receive the ownership for duplications when they are produced. It is herewith understood that the supplier keeps the duplications for us. The supplier has to keep the documents and objects placed at his disposal as well as their duplications carefully and at his own expenses. He has to take care for them, to insure them and to hand them out at any time when demanded, resp. to destroy them. He has not got the right of retention for any reason. He has to attest the complete return resp. destruction in written form.

## 9. Tools

9.1. Irrespective of any other agreements we receive the legal title resp. the co-ownership to the extent we contribute to the proved costs for tools for the production of the article to be supplied. On payment, the tools pass into our co-ownership. They remain on loan at the supplier's.

9.2. Only with our approval is the supplier entitled to actually or legally dispose of any tools, to transfer their location or to make them long-term workable. The supplier has to mark the tools showing our (co-)ownership. The supplier has to bear all costs for the maintenance, repair and substitute of the tools. Replacement tools are owned by us according to our share of the original tool.

9.3. In case of co-ownership of a tool we have the right of first refusal on the supplier's part of the co-ownership.

9.4. The supplier is only allowed to use the tools co-owned by us for the production of the articles to be supplied. After completion of supply the supplier has to return the tools on demand without delay; as far as co-owned tools are concerned we have to refund the supplier after receipt of the tool for the current value of his share in the co-ownership. On no account has the supplier got the lien on goods. The supplier has got the duty to surrender possession even in case of insolvency demanded against him or in case of a long-term interruption of the supply.

9.5. The supplier has to insure the tool to the extent agreed, and in case there is no agreement, to the customary extent.

## 10. Reservation of title

10.1. We don't accept the supplier's reservation of title surpassing the basic reservation of title, for instance in prolonged or enlarged form.

10.2. Any parts placed at supplier's disposal remain our property. They may only be used according to the regulations. The processing and construction of parts is made for us. It is understood that we are co-owners of the products made by using our parts in proportion of the value of the provision of materials to the value of the final product.

## 11. Industrial property rights of third parties

The supplier is liable for that patents, licenses or industrial property rights of third parties are not violated by the delivery and the use of the supply items as far as this is not caused by our absolutely imperative instructions. In case of violation, the supplier is bound by contract to change the object of the contract so that it doesn't violate the industrial property right no longer, or to acquire the beneficial interest from the owner of the industrial property right. Should neither of the two things be possible we are entitled to withdraw from the complete contract. Any fees or further claims of third parties in this connection have to be borne by the supplier.

## 12. Assignment of claims

Claims can only be assigned with our approval.

## 13. Separability

Should any individual provision or any part of the provision be or become void by a later event, or in case any gaps should appear in the conditions, the validity of the remaining provisions hereof shall in no way be affected.

## 14. Place of fulfillment and jurisdiction and enforceable law

14.1. Place of fulfillment concerning all liabilities of both contract parties resulting from the contract is 72649 Wolfschlugen.

14.2. Jurisdiction for all legal disputes resulting from the contract as well as on its formation and its effectiveness is determined by our company's registered office.

14.3. The contract is only subject to the law of the Federal Republic of Germany. The UN Convention of Vienna concerning the international merchandise purchase (CISG) does not apply.

Level of April 2019

**Thomson Neff Industries GmbH**  
Nürtinger Str. 70  
D – 72649 Wolfschlugen

Phone: +49 (0) 7022 / 504 - 0

Fax: +49 (0) 7022 / 504 - 410

E-mail: [purchasing.wolfschlugen@thomsonlinear.com](mailto:purchasing.wolfschlugen@thomsonlinear.com)