

GENERAL TERMS AND CONDITIONS OF PURCHASE
of SPX Flow Technology Moers GmbH
Version 06/2003

1. General, Scope of Applicability

- 1.1 These purchase terms are applicable vis-à-vis enterprises, legal entities under public law, and special funds under public law. By accepting receipt of these purchase terms without objection, or by fulfilling our order without objection, the supplier declares its agreement to their exclusive applicability with respect to all supplies and services. We do not acknowledge contradictory or deviating conditions of the supplier, unless we have expressly agreed in writing to their applicability. Our acceptance of the goods or services under our orders without objecting to any supplemental or contradictory terms of the seller does not constitute our acceptance of the seller's terms and shall not be construed as a waiver of any objection to such terms.
- 1.2 All agreements reached by us and the supplier for the purpose of the implementation of this agreement must be documented in writing. Oral side agreements are only valid if they are expressly confirmed by us in writing. Confirmation by our purchase department is solely decisive.
- 1.3 Our purchase conditions also apply to all future transactions with the supplier.

2. Offer, Offer Documentation, Responsibility

- 2.1 The supplier must confirm our order within 2 days. Our order is not to be assigned to any third party. Supplements, reductions or other deviations from the order, respectively the pertaining documentation, require the written consent of our purchase department.
- 2.2 The supplier must treat our order and the conclusion of the contract and its terms as confidential. It may only mention our order as a reference or for advertising purposes with our written consent.
- 2.3 We reserve the title and copyrights to pictures, drawings, calculations, tools, models and other documents; they may not be made accessible to third parties without our express written consent and only to those of the supplier's employees who need to know them for the performance of the contract. They are to be used exclusively for the production underlying our order; once the order has been dealt with they are to be returned to us without us having to demand them. They are to be kept secret from third parties. The supplier is liable towards us with respect to all damages incurred as a result of its contravention of this provision.
- 2.4 Our consent with respect to drawings, calculations and other documents does not affect the supplier's sole responsibility for the item to be delivered. This also applies to proposals, recommendations and other involvement on our part.

3. Prices, Payment Conditions, Set-Off, Assignment

- 3.1 The price shown in the order is binding. The price does not include the applicable statutory value added tax. Lacking any deviating written agreement, the price includes delivery "free house", including freight costs and standard trade packaging. We are free to select the carrier. If a price is agreed to be "ex works" or "ex warehouse", we only assume the most favourable freight costs. All costs incurred until provision of the delivery item to the carrier, including loading fees and the charge for the transfer of goods to and from a railway depot, are borne by the supplier.
- 3.2 Invoices can only be processed if they state the order number given in our order in accordance with the instructions set forth in the order.
- 3.3 Unless otherwise agreed in writing, we effect payment within 14 days of orderly delivery minus 2% discount, otherwise within 60 days without any deductions.
- 3.4 Our payments are made subject to the reservation of the examination of the invoice and the reservation of our rights on the basis of deficient supplies or services. To the extent defects are already known when payment is due, we are entitled to retain payments in a reasonable amount.

- 3.5 We have rights of set-off and retention in the statutory scope.
- 3.6 Claims directed against us can only be assigned with our prior written consent. This does not apply to assignments within the framework of an extended reservation of title. Section 354a German Commercial Code (HGB) is unaffected hereby.
- 3.7 Disputes over the amount of the remuneration do not entitle the supplier to wholly or partially suspend its services, not even temporarily.

4. Delivery Period, Delay, Force Majeure

- 4.1 The delivery period stipulated in the order is binding. Early deliveries, deliveries of excessive or insufficient volumes, as well as partial deliveries are only permissible if and insofar as we have expressly consented thereto in writing.
- 4.2 The supplier is obliged to inform us without undue delay if circumstances arise or become known to him which will make it impossible for the stipulated delivery period or agreed specifications to be met.
- 4.3 In case of a delay we are entitled to demand lump sum default damages in the amount of 0.5% of the order price per completed week, however not exceeding an aggregate amount of 5%, or, after the expiry of a subsequent deadline set by us, to have the performance owed by the supplier rendered by a third party at the supplier's costs. We reserve the right to assert further-reaching statutory claims. In particular, after the unsuccessful expiry of a reasonable subsequent deadline, we are entitled to demand damages instead of performance, offsetting the paid contractual penalty against these damages. The supplier is at liberty to prove that we incurred no damage or less damage as a result of its default.
- 4.4 The unreserved acceptance of the delayed supply or service does not constitute a waiver of our damage claims.
- 4.5 Subject to the provision of proof to the contrary, the values determined by us during the incoming goods inspections are authoritative as far as the number of units, weights and measurements are concerned.
- 4.6 If labour disputes, operational disruptions beyond our control, unrest, official measures or other unavoidable events (force majeure) are of more than minimal duration and consequently lead to a considerable decrease of our demand, then irrespective of our other rights we are entitled to wholly or partially rescind the contract.

5. Transfer of Risk, Delivery and Shipping Documents

- 5.1 The risk lies with the supplier until the arrival of the consignment at our company or at the recipient named by us (transfer of risk).
- 5.2 The supplier is obliged to give the order number on all shipping documents and delivery notes. Should it fail to do so, we are not responsible for the delays and/or losses caused thereby and the supplier has to indemnify us accordingly.

6. Warranty, Recourse

- 6.1 The supplier warrants that its supplies conform to acknowledged state-of-the-art standards, comply with all the pertinent norms and have the contractually agreed qualities, and that they also fulfil the pertinent safety provisions, have the warranted qualities and are also free from material and legal defects.
- 6.2 We are obliged to check the good for any quality or quantity deviations insofar and as soon as this is expedient in the ordinary course of business. We will notify defects without undue delay upon their discovery. Insofar, the supplier waives the defence of the delayed notification of defects.
- 6.3 Acceptance of the supply or service is always made subject to the reservation of all rights, in particular rights arising from the deficient or delayed supply. If the acceptance of the supply or service is hindered or seriously hampered through circumstances beyond our control, then we are

entitled to postpone the acceptance of the supply or service for as long as this situation lasts. If this situation continues for a period of more than four weeks, then the supplier is entitled to rescind the contract; further-reaching claims on the part of the supplier are excluded.

- 6.4 Our claims with respect to material and legal defects are in the full statutory scope. Irrespective hereof, we are entitled to demand from the supplier at our discretion either the remedy of the defect or a substitute delivery, insofar as the supplier is not entitled to reject our choice of subsequent performance pursuant to sec. 439 para. 2 German Civil Code (BGB).
- 6.5 If the supplier does not begin remedying the defect without undue delay upon our demand, we are entitled in urgent cases to take the necessary steps ourselves or to have these steps taken by a third party, after giving the supplier opportunity to comment, at the supplier's expense.
- 6.6 The limitation period for claims based on material defects is 36 months, calculated as of the transfer of risk. We are entitled to any lengthier statutory limitation periods provided in secs. 438, 479 and 634a German Civil Code, in the full scope.
- 6.7 In case of legal defects the supplier also indemnifies us against any claims of third parties. Claims on the basis of legal defects become time-barred in 10 years.
- 6.8 For goods repaired or delivered as replacements within the limitation period, the limitation period agreed here begins anew.
- 6.9 If, as a result of the deficient supply or service, we incur transport costs, infrastructure costs, labour and material costs or costs for incoming goods checks in excess of the norm, then these must be reimbursed by the supplier. The same applies to all expenses which we must bear vis-à-vis our customer on the basis of its claims to subsequent performance.
- 6.10 If we must take back goods manufactured and/or sold by us due to the deficiency of the supply or service on the part of the supplier or if the purchase price demanded by us is reduced as a result of this, respectively if we are faced with other claims on the basis of defects as a result of this, we are entitled to take recourse against the supplier without setting a deadline which would otherwise be necessary.
- 6.11 Irrespective of the provision in point 6.6, our claims pursuant to points 6.9 and 6.10 become time-barred at the earliest 2 months after the time when we have fulfilled the claims of our customers aimed against us, at the latest, however, 5 years after the delivery of the good by the supplier.
- 6.12 If, within 6 months of the transfer of risk, a material defect arises, then it is presumed that this already existed at the time of the transfer of risk, unless this presumption is irreconcilable with the nature of the object or defect.

7. Product Liability, Recall, Indemnification, Insurance Cover

- 7.1 If product liability claims or any other claims based on the seller's breach of warranties according to Section 6.1 are asserted against us, the supplier must indemnify us against them upon first demand, insofar as and to the extent that the damage has been caused by a fault in the good or service delivered by it. In cases of liability depending upon culpability, however, this only applies if the supplier is at fault. Insofar as the cause of the damage lies within the supplier's sphere of responsibility, it bears the burden of proof insofar.
- 7.2 In the cases described in 7.1 the supplier assumes all costs incurred in this connection, in particular the costs of our legal defence and any recall actions. We will notify the supplier, to the extent possible and reasonable, of the content and scope of such recall actions. We reserve our right to assert further-reaching statutory claims.
- 7.3 Points 7.1 and 7.2 apply correspondingly to the extent product defects have been caused by suppliers or services of suppliers or subcontractors of the supplier.
- 7.4 The supplier must adequately insure itself against the risks covered by Section 7.1, including recall actions, and must provide proof of such insurance cover upon demand at any time.

8. Intellectual Property

- 8.1 The supplier warrants that no rights of third parties are infringed in connection with its supplies and services. If a third party takes action against us on this basis, the supplier must indemnify us against these claims upon our first written demand.
- 8.2 In the event of an infringement of a patent, trademark, copyright or other proprietary interest by reason of the manufacture, delivery, license, use, or sale of the goods and services supplied or performed by the supplier, the supplier shall, at its own costs, obtain for us a perpetual, royalty-free license with respect to such item, or shall replace or modify the item in a manner satisfactory to us, so as to avoid the infringement without any degradation in performance. Supplier's obligations shall apply even though we furnish any portion of the design or materials or manufacturing processes used by the supplier.

9. Provision of Materials

- 9.1 Materials, parts, model, containers, special packaging tools, molds, data, drawings, designs and software provided by us remain our property and may only be used for their intended purpose. The processing of materials and the assembly of parts is undertaken on our behalf. It is agreed that we are co-owners in the ratio of the value of the materials provided vis-à-vis the value of the overall product produced therewith; the supplier keeps custody of this shared property on our behalf, free of charge.
- 9.2 The items listed in Section 9.1 shall be marked as our personal property and shall be separately stored and insured by the supplier. The supplier assumes all risk of loss and liability related to such items until they are returned to us. The item shall be used by the supplier only for performing its obligations under this contract and are subject to immediate removal upon our written request.
- 9.3 The supplier shall provide us with all information and documents that the supplier develops in relation to the work or service performed under this contract. Designs, models, software and other intellectual property that the supplier develops in conjunction with its work for us shall be our property.

10. Place of Jurisdiction, Place of Fulfilment, Choice of Law

- 10.1 Insofar as the supplier is a businessman, legal entity under public law or special fund under public law, our place of business is the place of jurisdiction for all disputes arising from this contractual relationship. However, we are also entitled to sue the supplier at its general place of jurisdiction.
- 10.2 Place of performance is the place where the goods are to be delivered pursuant to the order.
- 10.3 The relevant law of the Federal Republic of Germany applies, without exception, to the legal relations between domestic contractual partners; the applicability of UN purchase law (CISG) is herewith excluded.