

General Purchase Conditions of Mahlo GmbH & Co. KG

I. Contents of contract

1. These Purchase Conditions shall be the basis of all and any agreements. They shall be deemed accepted by Supplier's confirmation of order.
2. Contradictory conditions of sale of Supplier shall not become a component part of the contract, even if Mahlo GmbH + Co KG did not expressly contradict.
3. Subsidiary, oral agreements or amendments shall require the written form to be valid.

II. Documents; business secrets

1. Mahlo GmbH + Co KG shall retain the proprietary right and the copyright in all and any drawings and other documents that are given to Supplier temporarily. Supplier shall be obligated to deliver these documents to Mahlo GmbH + Co KG immediately upon Supplier having fulfilled Supplier's contractual obligations towards Mahlo GmbH + Co KG.
2. Supplier shall not make these documents available to third parties.
3. Supplier shall be obligated to provide to Mahlo GmbH + Co KG free of charge all and any instructions and documents required for assembly and repair of the subject matter of the contract.
4. Only weights determined at Mahlo GmbH + Co KG shall be decisive for calculation.

III. Offer and preliminary work - conclusion of contract

1. Offers and preliminary work of Supplier shall be free of charge. Supplier, without being asked, shall expressly point to possible deviations in the enquiry or purchase order that forms the basis. Acceptance of offer, purchase order and agreements shall only be valid if they are in writing (except small orders and samples).
2. Supplier shall be obligated to confirm the purchase orders of Mahlo GmbH + Co KG within 3 days in writing, by stating the date of delivery, the price, the prescribed specification and the article number. If the purchase order does not state a fixed price or if the confirmed price deviates from the price on the purchase order, Mahlo GmbH + Co KG shall only be bound if Mahlo GmbH + Co KG does not, within 5 working days upon having received the confirmation, complain about the price stated by Supplier on Supplier's acceptance.
3. If Supplier does not send a confirmation within the period according to subsection 2, Mahlo GmbH + Co KG shall retain the right to revoke the order placed or rescind the contract concluded without paying the cost. Otherwise, the purchase order shall be deemed fully accepted.
4. In case of product or process changes in relation to the supply, Supplier shall be obligated to inform Mahlo GmbH + Co KG early.
5. The ordered quantities shall be adhered to. No partial deliveries shall be accepted. Overdeliveries shall only be accepted if a special agreement on this exists.

IV. Pricing, payment and payment conditions

1. Invoices shall be served upon/sent to Mahlo GmbH + Co KG 5 days after dispatch of the goods at the latest. Collective invoices shall be exempt from this. Invoices must not be attached to the subject matter of the contract, but shall be sent separately. Invoices not properly issued shall be deemed not received.
2. The period allowed for payment shall start on delivery of the subject matter of the contract. If Supplier's invoice, however, is received at Mahlo GmbH + Co KG only after delivery of the subject matter of the contract, the period allowed for payment shall start only on the date on which the invoice is received. If early deliveries are accepted, the due date shall be based on the original date of delivery.
3. Mahlo GmbH + Co KG, on defective delivery, shall be entitled to retain payment of the share in value until proper fulfilment. Payment does not mean acknowledgement of the supply as contractual and faultless and shall not be a waiver in regard to raising complaints or any other claims resulting from the supply.

4. When paying within 30 days after the start of the period allowed for payment, Mahlo GmbH + Co KG shall be entitled to deduct 3% discount.
5. If the payment is delayed by circumstances that can be attributed to the invoice not properly served, Mahlo GmbH + Co KG can claim discount deduction also for the duration of this delay.
6. If the supplier violates Article 138 MwStSystRL, the value added tax is not payable by Mahlo GmbH + Co KG.

V. Delivery time, scope of delivery

1. Supplier shall be obligated to adhere to the delivery time and/or period agreed and to notify about any delay as soon as it is perceivable. Deliveries before the agreed date shall only be possible on Mahlo GmbH + Co KG's approval.
2. On any delay of Supplier, even if this delay is not Supplier's fault, as e.g. delay due to labour dispute, strike and/or lockout, interruption of operations, force majeure, delivery to Supplier not in good time or not contractual, Mahlo GmbH + Co KG shall be entitled to claim damages for non-performance or rescind the contract if the delivery is not carried out within the reasonable extension of time granted by Mahlo GmbH + Co KG.

VI. Dispatch

All and any shipments must include a packing slip and a delivery note with our purchase order number on it. Supplier shall be obligated to manufacture the goods for us in a way that Bundesbahn or forwarder is not entitled to refuse liability for transport damage. Supplier shall be obligated to select the cheaper way. We shall only pay the cost for special transportation if the sender asks for our approval, by stating the cost. We shall not pay freight charge for pick-up and delivery.

VII. Place of performance

If dispatch is done by Supplier or Supplier's agent, then the place of performance shall be the headquarters of Mahlo GmbH + Co KG or the domicile of the branch to which the delivery is made or for which the performance is provided.

VIII. Mahlo GmbH + Co KG's warranty claims for defects

1. Supplier shall guarantee that no defect in the subject matter occurs during the warranty period pursuant to section VIII of these Conditions that could annihilate or diminish the value or the contractual fitness for use of the subject matter.
2. Supplier shall also guarantee that the expressly or in an implied way promised properties really exist.
3. If there is a defect according to number 1 and number 2 of this subsection, Mahlo GmbH + Co KG, on its option, may demand rectification or supply of a subject matter that is free from defects. In case of warranted properties lacking, Mahlo GmbH + Co KG, on its option, can also demand damages for failure of performance. Irrespective of whether or not Supplier is at fault, Mahlo GmbH + Co KG in this case can also demand compensation of consequential damages if and in so far that the consequences of promise of properties include the risk of consequential losses.
4. If the defective part is a product supplied to Supplier by a third party, Supplier shall not be entitled towards Mahlo GmbH + Co KG to limit Supplier's liability primarily to assigning the liability claims that Supplier has against the third party.
5. The purchase orders from Mahlo GmbH + Co KG identify the drawing number including the technical change index. Supplier shall be obligated to check the drawings provided against the change index stated on the purchase order. The good shall be in accordance with the specifications, drawings and other data and shall be checked by Supplier before the dispatch accordingly.
6. Supplier shall be obligated to fulfil Supplier's duties to control and supervise carefully; Supplier shall notably be obligated to ensure adherence to the technical quality standards and contractual properties by careful quality controls.

7. In urgent cases of safety hazards by a failure, or in case of manufacturer's delay in rectifying the failure, or in any other cases of special urgency, Mahlo GmbH + Co KG shall be entitled to rectify the failure itself and demand reimbursement of actually incurred cost.
8. The total cost of rectification, notably transportation, labour cost and cost of materials shall be borne by Supplier.

IX. Other claims for damages of Mahlo GmbH + Co KG

1. Mahlo GmbH + Co KG shall be entitled to claim damages, irrespective of whether they occurred directly at the subject matter or indirectly by the defective subject matter if Supplier is at fault and the interest of Mahlo GmbH + Co KG's reputation is in the fore.
2. Supplier shall thereby be responsible for intent and any kind of negligence of Company or its statutory bodies, managers and any other its vicarious agents respectively.
3. If Mahlo GmbH + Co KG due to a defective machine or equipment is made a claim on, Supplier shall reimburse the loss occurred for Mahlo GmbH + Co KG if and in so far Supplier's supply was defective and the cause of the damage.
4. Mahlo GmbH + Co KG shall be entitled to demand exemption from all and any duty to rectify defects that is imposed on Mahlo GmbH + Co KG by its customer if and in so far Supplier set the cause that was the reason for the failure and liability. The same shall be applicable for all and any obligation of Mahlo GmbH + Co KG to pay damages if and in so far Supplier is responsible for the failure.
5. The burden of proof for not being responsible shall be borne by Supplier in all and any cases of this subsection.

X. Limitation period

1. The limitation period for warranty claims at Mahlo GmbH + Co KG shall be 24 months und starts on the time of delivery of the subject matter.
2. A new warranty period of 6 months shall begin for all spare parts and/or repaired parts supplied due to warranty for defects. It, however, shall last minimum until expiry of the warranty period according to number 1 of this subsection.
3. The warranty period shall be blocked on the date of the notification of defect. The blocking shall only be set aside when the subject matter can be used again.

4. Mahlo GmbH + Co KG's limitation period for liability in tort for defective products shall not be affected by this subsection.

XI. Provision of materials

Materials provided shall remain the property of Mahlo GmbH + Co KG. Those materials shall be stored, identified and managed separately. Provided materials must only be used for purchase orders from Mahlo GmbH + Co KG. Supplier shall keep the good in the name of Mahlo GmbH + Co KG free of charge and with due diligence. The good shall be ensured sufficiently against fire, theft and water.

XII. Manufacturing means

Models, moulds, gauges, patterns, tools and any other manufacturing means that are paid by Mahlo GmbH + Co KG in whole or in part shall be transferred to Mahlo GmbH + Co KG's property in correspondence with the amount paid. It is notably determined for the manufacturing means that Mahlo GmbH + Co KG has paid in whole or in part and therefore has become owner that the tools or models respectively shall be kept safe free of charge and sufficiently insured against fire, water and theft. The delivery required for procurement of ownership shall be replaced by Supplier keeping the manufacturing means safe. Models, moulds, gauges, patterns, tools and any other manufacturing means shall be returned on request at any time free of charge. Models, moulds, gauges, patterns, tools and any other manufacturing means, as well as confidential data provided by buyer to Supplier or paid by Buyer in full shall only be used for supplies to third parties on prior written approval of Buyer.

XIII. Place of jurisdiction; applicable law

1. The place of jurisdiction for all disputes from the contractual relationship shall be the place of Mahlo GmbH + Co KG's headquarter. Mahlo GmbH + Co KG, however, shall be entitled to go to the court at Supplier's headquarters.
2. As agreed, this contractual relationship shall be subjected to the German law.
3. If one or several of the above provisions be or become void in whole or in part, the other provisions shall not be affected. The latter shall remain agreed. The void provision, however, shall be replaced by a valid one that comes as close as possible to the economic purpose intended. The same shall be applicable if a gap that requires completion occurs.

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