

General Terms and Conditions of Purchase of Benninger Zell GmbH and Benninger Automation GmbH
Last revised March 2016

1. Scope

Unless otherwise agreed in writing, all orders placed by Benninger Zell GmbH or Benninger Automation GmbH (hereinafter referred to as "Benninger" or "we") are exclusively to subject these Terms and Conditions of Purchase. Conditions of the supplier which contradict or deviate from these Terms and Conditions of Purchase shall only apply if we have expressly agreed to their validity in writing. These Terms and Conditions of Purchase shall also apply exclusively if we accept the supplier's delivery unconditionally in the knowledge that the supplier's terms and conditions conflict with or deviate from these Terms and Conditions of Purchase. Amendments and addenda to these Terms and Conditions of Purchase must be made in writing. These Terms and Conditions of Purchase shall also apply to all future transactions with the supplier.

2. Orders

- 2.1 Only orders and agreements placed in writing shall be binding. They can also be made by remote data transmission or by machine-readable data carriers. Oral agreements with our employees require our written confirmation.
- 2.2 The supplier undertakes to confirm the order in writing within a period of five working days of the order date. If it fails to do so, we shall be entitled to revoke our order without the supplier being able to derive any claims from this.
- 2.3 We may, within the bounds of reasonableness, demand changes to the design and execution of the delivery item. The effects, in particular with regard to additional and reduced costs as well as delivery dates, shall be regulated appropriately by mutual agreement.
- 2.4 The supplier undertakes to check the technical and economic feasibility of the products in accordance with the commissioned process when submitting the quotation documents. By concluding the individual agreement or a project agreement, it confirms the feasibility. If the supplier has doubts about the execution requested by us, it must inform us immediately in writing.

3. Delivery dates and deadlines

- 3.1 Agreed delivery dates and periods shall be binding. Compliance with dates and deadlines depends on receipt of the goods in accordance with the agreement at the delivery address specified by us ("place of destination"). If acceptance has been agreed or is specified by law, the declaration of successful acceptance by a person authorised by us for this purpose shall be authoritative.
- 3.2 As soon as the supplier recognises that it is not possible for it to fulfil its delivery and/or performance in due time, in whole or in part, it must inform us immediately in writing, stating the reasons and the expected duration of the delay. The supplier must do everything at his own expense to deliver on time.
- 3.3 In the event of delay, we shall be entitled to demand 0.5% of the agreed total price of the delivery for each completed week of delay as a contracting penalty, but no more than a total of 5%. The supplier shall be entitled to prove that no damage or

substantially lower damage has been incurred as a result of his delay. We reserve the right to assert further legal claims.

The unconditional acceptance of the delayed delivery shall not constitute a waiver of our above claims. We reserve the right to assert the above contractual penalty until final payment.

- 3.4 In the event of delay, we may procure from a third party a replacement after a reasonable period of grace set by us has expired or in urgent cases in which it is no longer possible to set a period of grace, after informing the supplier.

- 3.5 The supplier shall reimburse us for all additional costs and direct and indirect losses resulting from a delay in delivery, e.g. costs of express delivery, our internal additional expenses, all damage, contractual penalties etc. asserted by the customer.

4. Delivery

- 4.1 Unless expressly agreed otherwise, protective devices are included in the scope of delivery. If these are missing on delivery or after work has been carried out, they must be supplied and attached immediately and free of charge.
- 4.2 The scope of delivery shall also include assembly, instructions of use and operation as well as spare parts lists or other documentation necessary for proper use or as required by law.

5. Acceptance

- 5.1 The supplier is not entitled to make excess or shortfall deliveries or partial deliveries.
- 5.2 The supplier assures to have the capacity in accordance with the quantities stated by us in a delivery schedule. The quantities stated in a delivery schedule are not binding for us. We determine the quantities binding for us in the orders or delivery schedules.
- 5.3 If acceptance is agreed to determine the contractual conformity of the delivery or service or if acceptance is specified by law, the declaration of successful acceptance by a person authorised by us for this purpose shall be authoritative.
- 5.4 Force majeure, labour disputes (strikes and lockouts), operational disruptions, lack of energy and raw materials, unrest and other unforeseeable and unavoidable events at our premises or at those of our customers for which we are not responsible shall release us from fulfilling our contractual obligations for the duration of the disruption and to the extent of its effect.
- 5.5 We are entitled at any time, after prior notice, to carry out inspections of the progress of work and acceptances at the supplier's manufacturing plant (pre-acceptance) and to audit the supplier.

6. Prices, invoice and payment

- 6.1 The prices agreed are fixed prices including packaging and are to be understood as DDP destination (Incoterms 2010).
- 6.2 Invoices must always contain our order number, the order date, our supplier number, the bank details and the order data stated in the order letter as well as the declarations of origin in full. If an invoice does not contain this information or does not contain it in full, it cannot be checked and settled; it will therefore be returned to the supplier.
- 6.3 If possible, the invoices shall be issued as collective invoices and sent to us separately in the original (without copies and payment slips) after delivery.
- 6.4 Unless agreed otherwise, payments shall be made at our discretion either within 14 days less a 3% discount or within 30 days net.
- 6.5 The payment deadlines shall commence after complete receipt of the goods in accordance with the contract and receipt of the invoice in accordance with Item 6.2 and the documents in accordance with Item 8.3, but in no case before the agreed delivery date. We are entitled to choose the payment method. In the event of a fault, we shall be entitled to withhold payment to a reasonable extent until proper subsequent performance has been effected.

7. Transfer of perils

The perils shall be transferred to us in accordance with the DDP destination (Incoterms 2010). This shall also apply if, as an exception, we employ our own transport personnel.

If acceptance has been agreed or is specified by law, perils shall be assigned to us on successful acceptance by a person authorised by us to do so.

8. Packaging and shipment

- 8.1 The goods shall be packaged in the customary manner or, at our request, provided with special packaging in accordance with our instructions.
- 8.2 We shall be entitled to specify the mode of shipment and the carrier. Otherwise, the supplier shall be obligated to select the most favourable and orderly mode of shipment for us.
- 8.3 The goods must be accompanied by simple shipping documents containing our order number, the order date, our supplier number and the order data stated in the purchase order as well as the declarations of origin. These shipping documents must be accompanied by a pro forma invoice.
- 8.4 The supplier has not fulfilled its delivery obligation until we have received the proper shipping documents and pro forma invoice. We shall be entitled to store the delivery at the expense and risk of the supplier for this period.

9. Incoming inspection and liability for faults

- 9.1 (a) The supplier is obligated to carry out an outgoing goods inspection.

Upon receipt, we shall inspect the goods for obvious faults, identity, shortages and transport damage. There shall be no further obligation to inspect. We shall notify the supplier

of faults immediately after their discovery. In this respect, the supplier waives the objection of delayed notification of faults.

(b) In the event that the supplier ships the products directly to our customers, the parties shall enter into a different agreement to limit the incoming goods inspection.

(c) The obligation to inspect incoming goods and to give notice of faults shall not apply if acceptance has been agreed or is specified by law.

(d) The Supplier shall coordinate this provision with its business liability insurance to ensure that it corresponds to its insurance cover.

- 9.2 The supplier shall guarantee that the products are free of legal and material faults at the time of transfer of perils and comply with the recognised state of the art, the relevant laws and protective regulations, the approved initial samples as well as the usual and technical quality assurance standards (e.g. DIN, EN, TÜV, Ex directives of the BG). The German version shall take precedence in the event of differences in the design of the standards.

- 9.3 Our claims for faults are based on the statutory provisions, unless stated otherwise below. We are entitled, at our discretion, to demand repair or replacement of the faulty products. Furthermore, after the unsuccessful expiry of a reasonable deadline or - if it is no longer possible to set a period of grace due to particular urgency - after informing the supplier we shall be entitled to remedy the fault ourselves, have it remedied by a third party or otherwise procure replacement; the supplier shall bear the costs incurred in this connection, unless it is not responsible for the fault.

- 9.4 Subsequent delivery must be freight and packaging paid to the place of destination. Returns of unusable goods shall be at the expense and risk of the supplier.

- 9.5 Warranty claims shall become statute-barred 24 months after commissioning, but at the latest 36 months after delivery or - if such is agreed - after acceptance of the product. Insofar as we are also entitled to non-contractual compensation claims due to a fault, the regular statutory limitation period shall apply here, unless the application of the limitation periods of sales law in individual cases leads to a longer limitation period.

- 9.6 If the faulty nature of a delivered product becomes apparent only after installation in an object manufactured by us, the supplier shall bear all expenses for the purpose of rectifying the faults or replacement deliveries at the respective place of use of the products. We shall inform the supplier of the place of use upon request.

- 9.7 If products are repaired or replaced after a notice of faults has been given, the period of limitation in Section 9.5 shall commence with regard to this fault in these products, unless it is an insignificant subsequent performance effort or an express act of goodwill on the part of the supplier.

- 9.8 If damage with the same cause of fault occurs frequently (serial damage), the supplier undertakes to provide faultless parts for the series and for the repair or replacement delivery as quickly as possible.

- 9.9 The supplier shall be liable within the framework of the statutory provisions for measures to avert damage, in particular for preventive replacement. In this respect, it shall also bear the costs of any recall action.

10. Third-party industrial property rights

The supplier guarantees that the use of the goods it delivers - even in the country of use - does not infringe, directly or indirectly, any domestic or foreign intangible property rights (such as patents or utility models, other rights or business or trade secrets of third parties).

The supplier shall indemnify us against any claims of third parties on first written request. This shall not apply if the supplier manufactures the goods exclusively according to our drawings and models and it did not know or was not obligated to know that the manufacture of these goods violates the rights of third parties.

11. Liability

11.1 In the event that we are held liable by a customer or other third party due to product liability, the supplier undertakes to indemnify us against such claims upon first written request if and to the extent that the damage was caused by a fault in the product delivered by the supplier or was also caused by such fault. However, this shall not apply in cases of fault-based liability if the supplier is not responsible for the breach of duty.

11.2 In order to cover the general liability risk, the supplier undertakes to take out liability insurance including personal injury and material damage as well as recall and extended product liability with a cover sum of an appropriate amount and to maintain it for the duration of the business relationship with us as well as for a further 36 months thereafter. At our request, the supplier shall prove the existence of this insurance cover.

11.3 The supplier is also obliged to reimburse any expenses in accordance with sections 670, 683 German Civil Code or sections 830, 840, 426 German Civil Code which result from or in connection with a recall action carried out by us or our customer. As far as possible and reasonable, we shall inform the supplier of the content and scope of the recall measures to be carried out and give it the opportunity to comment. Further legal claims remain unaffected.

11.4 Unless agreed otherwise in writing, the supplier shall mark the products in such a way that they are permanently recognisable as products manufactured by it. By labelling the products and other traceability measures, the supplier shall ensure that, in the event of a fault to the products, it can immediately determine which other products could be affected.

12. Protective regulations

The goods to be delivered must comply with the applicable protective regulations, in particular the relevant statutory work and accident prevention regulations, the regulations of the Machine Protection Act, the laws and regulations on noise reduction and environmental protection as well as the accident prevention regulations of the relevant employers' liability insurance association and the emission protection regulations, e.g. of the employers' liability insurance association for textile clothing as well as the corresponding regulations applicable at the place of destination.

13. Samples, drawings, means of production

13.1 Documents of any kind such as samples, drawings, models and the like which we make available to the supplier or which the supplier prepares at our expense shall remain our property or shall become our property upon creation. We own all rights

to these documents. They shall be sent to us free of charge without request as soon as they are no longer required for the performance of the order. They are confidential information within the meaning of Item 15.1.

13.2 Without our express written consent, the production equipment provided to the supplier or manufactured in accordance with our specifications may not be reproduced or sold, transferred by way of security, pledged or otherwise passed on or in any way encumbered with rights of third parties or used for third parties without our express written consent. The same applies to goods manufactured with the use of these means of production. Means of production are confidential information within the meaning of Item 14.1

14. Confidentiality

14.1 The supplier undertakes to keep secret from third parties all information which it consciously or accidentally receives from us within the scope of the business relationship, e.g. all technical information, trade secrets and details of our orders such as quantities, technical execution, conditions etc. as well as information which it obtains from our information ("confidential information").

14.2 The inclusion of our company in a reference list, the reference to our business relationship or the use of our order for advertising purposes is only permitted after obtaining our written consent.

14.3 Documents and other items of all kind, such as samples, drawings, tools, models, etc., which we make available to the supplier shall be returned to us free of charge without request as soon as they are no longer required for the performance of the order. Such objects may not be used by the supplier for its own purposes or made accessible to third parties.

14.4 The supplier undertakes to pay a contractual penalty of 30% of the order value in the event of violation(s) of this confidentiality obligation, unless it is not responsible for the violation. In addition, in the event of particularly serious violations, we shall be entitled to terminate the entire contractual relationship with the supplier without notice and compensation and, if applicable, to reclaim payments already made. A particularly serious violation shall be deemed to have occurred if the supplier forwards the confidential information to our competitors.

15. Material provision

15.1 Materials provided shall remain our property. The materials provided must be stored clearly and separately as our property, adequately insured against fire, water and theft at the supplier's expense and may only be used as intended. Unused materials must be returned to us with the delivery of the manufactured goods.

15.2 The processing or transformation of the material provided shall only be carried out by the supplier in consultation with us and always on our behalf. If the material is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of the materials provided to the other processed objects at the time of processing. In all other respects, the same shall apply to the object created by processing as to the materials provided.

16. Secondary obligations

16.1 The supplier undertakes to mark the goods in the manner prescribed by us.

- 16.2 It undertakes to ensure the delivery of spare parts for a period of at least 10 years from the last series or main delivery.
- 16.3 If the supplier intends to discontinue the manufacture of a product delivered to us, it undertakes to inform us of this in writing at least one year prior to discontinuation of production. If our supplier is a dealer, it undertakes to inform us in writing immediately after becoming aware of the discontinuation of manufacture of the product delivered to us.

17. Assignment

An assignment or pledging of the rights or claims accruing to the supplier under the agreement may only take place with our written consent. This shall not apply to monetary claims. However, we may make payment to the supplier with releasing effect.

18. Place of performance, place of jurisdiction and applicable law

- 18.1 The place of performance for all deliveries and services shall be the place of destination specified by us.
- 18.2 Place of jurisdiction is the court responsible for the registered office of Benninger; however, we are also entitled to address the court responsible for the registered office of the supplier.
- 18.3 The law of the Federal Republic of Germany shall apply.
- 18.4 Should any provision of these Terms and Conditions and other agreements be or become invalid, the validity of the remainder of the agreement shall not be affected thereby.