



**BILFINGER**

## **GENERAL TERMS OF SUPPLY AND DELIVERY FOR INDUSTRIAL AND SPARE PARTS**

### **General**

Unless stipulated otherwise in writing, the following terms are alone applicable to supply and delivery.

These terms shall be deemed accepted not later than the date on which our goods are accepted.

### **1. Offers**

Our offers shall remain subject to prior sale until such time as we acknowledge the order in writing. In particular, we reserve the right to make alterations in the light of new technical regulations and findings. Our offers must not be made accessible to third parties.

### **2. Prices**

a) Our prices are to be understood net, free German border or FOB North Sea export port, or FCA Düsseldorf airport, including export packing, but excluding all the fees etc. due outside the Federal Republic of Germany, such as taxes, customs duty, transport insurances etc.

b) Our prices apply only to undivided orders. Deviations require our confirmation.

### **3. Payment**

a) Regarding payment of the purchase price we reserve the right to make special arrangements with you.

b) The date of payment for payments of all kinds shall be deemed the day on which we have the agreed purchase price at our disposal.

### **4. Delivery Time**

The delivery period begins on receipt of the letter of credit accepted by us. We shall indicate dates of completion and delivery to the best of our ability, yet such dates shall only be approximate and without engagement. Dates given in offers are based on the stocks, available production capacities and subcontractor delivery dates ascertained on the day of submission. New dates may have to be fixed if these points change by the time the order is awarded, especially as stocks are subject to prior sale.

Unless stipulated otherwise, we shall not accept any liability for non-compliance with the date of delivery indicated in the order confirmation. The time of delivery shall commence when all the technical details and the scope of delivery have been fully settled. The date shall be deemed observed if the goods leave the works by the date indicated. In cases where the goods cannot be dispatched punctually, or not at all, through no fault of ours the date shall be deemed observed upon notification of readiness for shipment.

We have the right to make partial shipments.

If mistakes in delivery are made we shall be given an appropriate amount of time to supply replacements.

The purchaser shall immediately accept and take delivery of the goods when they are ready for shipment or the date for delivery is reached.

Unforeseen events beyond our control as well as events under labour dispute, mainly strike and lockout, shortage of raw materials in our works or in the works of one of our suppliers lead to a reasonable extension of the delivery time. If these events should be of long duration and lead to a considerable delay we are also entitled to the rights according to point 10.

### **5. Passing of Risk**

The risk passes to the orderer not later than the shipment of the consignment.

### **6. Retention of Title**

All materials are supplied subject to retention of title; they remain our property until payment is rendered in full. We shall retain the joint title to products incorporating subcontracted parts until payment is rendered in full.

### **7. Guarantee**

a) We shall at our option repair or replace free of charge any products which show deficiencies in materials or workmanship, provided we can be held liable for these deficiencies and provided they occur or are identified within six months of commissioning on day working or 3 months on day and night working, yet not later than 9 months from the date of delivery. Moreover, our guarantee will apply only if the orderer exercises due care in storage, maintenance, installation and use. We cannot be held liable for normal wear, chemical influences, damage due to force majeure or similar circumstances beyond our control.

b) We shall pay for incidentals incurred in remedying deficiencies, yet only to the value of the deficient part concerned.

c) As regards the supply and delivery of outside products, we are liable within the framework of the terms of supply and delivery of our subcontractors.

d) As regards industrial parts which we manufacture with reference to the orderer's designs and drawings, and also as regards repairs and other jobs, our guarantee is exclusive to the professional execution of the work specified and to the use of satisfactory materials.

As regards repairs and other jobs our guarantee for verified defects in workmanship or any other faults on our part is limited by the value of the repair or treatment of the defective part. We cannot assure any liability for the work piece or material placed at our disposal.

e) The orderer shall grant us an appropriate period of time to repair or replace defective products which are refused under the guarantee.

f) The orderer shall have no other claims, especially to compensation for damage which has not been done to the actual delivery item or materials being treated.

### **8. Other Claims for Damages**

The orderer shall not be able to make any other claims against us or our agents for damage, unless malicious intent is involved.

### **9. Cancellation on the Part of the Orderer**

The orderer shall have the right to cancel the contract if we culpably fail to repair or replace deficient products within an appropriate period of time fixed for that purpose.

### **10. Cancellation on the Part of the Supplier**

The contract will be adjusted accordingly if unforeseen, serious events occur which considerably alter the economic significance or contents of the contract or have a considerable influence on the supplier's operations, or if it is subsequently found that the fulfilment of the contract is impossible. Should such adjustment not be economically viable, the orderer and supplier shall have the right to cancel the contract fully or partly. Neither party shall be entitled to any claims for damages for cancellation of this kind.

### **11. Erection**

Erection work tendered in our offers and order confirmations shall be exclusively subject to the terms of our erection department prevailing at the time of the execution of the work.

### **12. Jurisdiction and Place of Performance**

Place of performance and of jurisdiction for both parties is Oberhausen (Federal Republic of Germany).

We also have the right to file suit at the orderer's registered office. Besides the contractual provisions, the law of the Federal Republic of Germany, which is binding for legal relations between domestic parties, shall be applied exclusively. Application of the UNCITRAL Convention dated 11.04.1980 shall be excluded.

### **13. Validity of these Conditions**

The contract as such shall remain effective even if some of these conditions prove to be null and void. Special agreements must be confirmed by us in writing.