



General Terms and Conditions of Purchase of MAG IAS GmbH (MAG)

1. Scope of Application

- a) These General Terms and Conditions of Purchase shall apply exclusively to all contracts - also in the future - with MAG, under which MAG purchases goods. Any additional terms and conditions, or terms and conditions of the supplier which differ from these General Terms and Conditions of Purchase are not recognised by MAG unless MAG expressly consented to their validity. Our terms and conditions shall also apply if MAG accepts deliveries without reservation although MAG is aware that the terms and conditions of the supplier either contradict or deviate from our terms and conditions.
- b) These General Terms and Conditions of Purchase shall only apply to entrepreneurs as defined in §310 (1) of the German Civil Code (*Bürgerliches Gesetzbuch*).
- c) If MAG has concluded a frame supply agreement with the supplier the validity thereof shall remain unaffected.

2. Offer of Supplier/Order/Order Confirmation/Correspondence

- a) A request by MAG for a supplier to submit an offer on the basis of specifications/requirement profiles provided to it by MAG shall not be deemed binding for MAG. The offer shall be made free of charge. Cost estimates shall only be remunerated if there is a separate written agreement.
- b) Orders, conclusion of agreements and call-offs and amendments or additions thereto must be in writing; oral agreements with employees shall only be binding if confirmed in writing by MAG. The supplier shall confirm each order in writing within 10 calendar days of receipt. If the supplier does not accept the order within 10 calendar days of receipt MAG shall be entitled to revoke the order. Call-offs shall become binding if supplier does not object to them within 10 calendar days of receipt.
- c) In all written correspondence with MAG the supplier shall indicate the order number and, if specific parts are mentioned, the MAG article number.

3. Documents, Materials, Confidentiality

- a) MAG reserves all ownership rights, copyrights and other industrial property rights in all images, plans, drawings, calculations, instructions and other documents (Documents). Documents shall be used exclusively for preparation of an offer within the meaning of Section 2 a) and/or for execution of an order from MAG. They shall be returned to MAG without delay or destroyed as soon as MAG so requests. MAG shall be informed immediately of any legal or factual impairment to the Documents.
- b) The above provision shall apply accordingly for fabrics and materials as well as for tools, masters and samples and other items provided to the supplier by MAG for production (Materials). Materials - provided that they have not been processed - shall be marked as property of MAG, they shall be stored separately and insured at replacement value against damages, destruction and loss to the usual extent at the cost of the supplier. Upon receipt of the above items the supplier shall inspect these and inform MAG in writing without undue delay of wrong deliveries, incomplete deliveries or defects.
- c) The supplier is obliged to maintain confidentiality with regard to all Documents, Materials, information and knowledge provided to it to prepare an offer or to execute an order - in particular regarding type and construction of products manufactured by MAG and the goods to be supplied by supplier and the respective prices with regard to internal procedures at MAG, regardless of whether tangible or intangible, electronic or in other form ("Know-how") even if not expressly designated as secret or confidential and to use them exclusively for the purpose of preparation of an offer or to execute an order. The confidentiality obligation also includes the fact that any respective order has been placed and continues to apply after execution of the order. The confidentiality obligation shall lapse when and to the extent that the Know-how or the existence of the respective order has become public knowledge.
- d) The supplier shall also oblige its employees to secrecy accordingly. The confidentiality obligation for the employees of the supplier shall also be imposed - to the extent legally permissible - for the time after termination of the employment contract.
- e) The supplier shall only grant such advisers access to confidential information if they are subject to professional secrecy or if they have been obliged to maintain confidentiality obligations prior thereto which are at least in accordance with the scope set out under Section 3 of these General Terms and Conditions of Purchase. Furthermore the supplier shall only disclose Know-how to the employees and advisers who need to know such information in order to prepare an offer or execute an order.
- f) On request from MAG all Know-how originating from MAG (including any copies or records made) and any objects provided on loan shall be handed back to it without undue delay and in full or, if so requested by MAG, destroyed irredeemably.
- g) The supplier may only refer to business connections with MAG in advertising material and reference lists with the prior written consent of MAG.

4. Prices/Terms of Payment/Offsetting

- a) The prices agreed with the supplier are fixed prices and are subject to statutory VAT at the rate applicable, however, they do include all packaging, transport and other additional costs unless expressly agreed otherwise. Subsequent price adjustments shall require the express written consent of MAG. At the request of MAG the supplier must take back the packaging materials during normal business hours at its own cost at the place of delivery. If another type of pricing is agreed in an individual case this shall not affect the agreement on delivery and place of performance pursuant to Section 5 d).
- b) Invoices can only be processed by MAG and payment deadlines do not commence until invoices received by MAG indicate the order number of the respective order, the MAG article number and the order date; the supplier shall bear responsibility for all consequences which result from non-compliance with this obligation, unless it can prove that it is not responsible for such non-compliance.
- c) Invoices shall be sent to MAG by post, separately from the goods. Invoices shall include the order date, delivery date, the amount and a description of the contents of each package; Section 4 b) shall remain unaffected.
- d) Payments on an invoice are made subject to verification of the invoice and shall not constitute acknowledgement of the goods as being in accordance with contract. MAG's right to offset and right of retention, in particular in the event of a delivery of defective goods, are as provided for under statute.
- e) MAG does not owe interest on payments which are due (*Fälligkeitsszinsen*). The supplier's claim to payment of default interest remains unaffected. The statutory provisions shall apply with regard to the occurrence of default by MAG. In any event a payment reminder from the supplier shall be required.
- f) MAG is entitled to also pay by check or with discountable bills of exchange; all expenses for bills of exchange or discount expenses shall be to the detriment of MAG.

- g) The supplier shall only have the right to offset and the right to retention if its claim has been determined final and absolute, or if it is undisputed or acknowledged by MAG in writing. Furthermore the supplier shall have a right of retention for claims from the same contractual relationship to the extent that the conditions set out under sentence 1 have been satisfied.

5. Delivery/Passage of Risk/Contractual Penalty

- a) The agreed delivery periods shall commence from the order date and are - just like the agreed delivery dates - binding as material contractual content. Compliance with the delivery period or the delivery date shall be defined by receipt of the goods and orderly delivery documentation by MAG or by the reception point specified by MAG. Regardless of any rights which may result therefrom, the supplier shall inform MAG of foreseeable delays in delivery in writing without undue delay.
- b) In the event of a delay in delivery MAG shall be entitled to all statutory rights. In addition, MAG is also entitled to demand a contractual penalty of 0.3% of the net price per working day, however not more than a total of 5% of the net price of the goods for which there is a delay in delivery by the supplier. MAG may demand the contractual penalty in addition to satisfaction. MAG reserves the right to assert any further-reaching compensation claims; the contractual penalty shall be offset against any further-reaching compensation claim. Unconditional acceptance of a delayed delivery or service shall not indicate waiver of any claims to which MAG may be entitled. If MAG accepts delayed performance MAG must assert the contractual penalty at the latest with the final payment.
- c) MAG is entitled to demand delivery of part amounts in writing. Otherwise MAG only has to accept surplus deliveries or partial deliveries if MAG consented in writing before delivery. If such partial delivery is made without the prior consent MAG shall be entitled to have it returned at the expense of the supplier; the supplier releases MAG from third-party claims in this regard.
- d) Delivery of goods ordered shall be free domicile to the reception point specified by MAG, i.e. in particular at the risk of and cost of the supplier. If MAG did not specify a reception point, delivery shall be free domicile to the MAG branch that placed the order according to the letterhead of the order. In each case, the destination shall also be the place of performance. The supplier shall also bear the risk of delivery even if MAG assumes the delivery costs. The supplier shall insure the delivery at its own cost against loss and damages during transport. If, in individual cases, diverging trade clauses are agreed these shall be interpreted in accordance with INCOTERMS in the (most recent) version which prevails on conclusion of the contract.
- e) A separate delivery note shall be issued for each delivery. The supplier is obliged to state the order number indicated for the respective order, the MAG article number and the order date precisely on all dispatch papers and delivery notes; if it fails to do so MAG shall not be liable for delays in processing.
- f) All documents (certificates, inspection records, works certificates, drawings, plans, instructions etc.) required for acceptance, operation, maintenance and repair of the goods shall also be delivered by the supplier free of charge, if necessary in a form which can be duplicated.
- g) Deliveries by passenger cars, trucks or messengers can only take place Monday to Friday between 8:00 and 15:00 hours. Deliveries at other times may be rejected. Cases, crates, cartons and packages shall contain papers which accompany the goods in accordance with the industry standard VDA 4902 transport label including a copy of the delivery note indicating the order date. Individual parts for construction or machinery shall be also be marked with the article number in a legible manner.
- h) For the purpose of calculating the delivery weights, the delivery weights measured on a calibrated scale shall apply. For all deliveries, in particular truck deliveries, the documents accompanying the goods shall indicate the weights.
- i) The supplier is not entitled, without the prior written consent of MAG, to have the service owed by it performed by a third party. The supplier shall bear the procurement risk for its services unless it is an individual construction.
- j) The supplier declares that it is willing to store the delivery beyond the delivery date agreed with MAG at its own risk if MAG is not able to issue a release for dispatch, or not able to receive or accept shipment for reasons for which MAG is not responsible. MAG shall inform the supplier without undue delay as to the grounds and the expected length of such hindrance.
- k) The provisions of this Section 5 shall also apply by analogy for deliveries to be made on behalf of MAG to third parties unless otherwise agreed. If the supplier delivers directly to a third party named by MAG, MAG shall also be sent notification of delivery in simplified form stating the gross and net weight. Neutral shipping documents with the following note must be enclosed with the delivery: "on behalf of MAG IAS GmbH, Stuttgarter Straße 50, 73033 Göppingen".

6. Force Majeure

Force majeure and other events unforeseeable at the time of conclusion of the agreement including war, unrest, lawful industrial conflicts, illegal strikes, orders of higher authority, lack of raw materials or energy, traffic disruptions, unavoidable disruptions of operation and fire shall release MAG from its duty to perform for the duration of the disruption and to the extent of its effect. If the duration is unforeseeable, circumstances within the meaning of sentence 1 of this provision entitle MAG to rescind the agreement in whole or in part without the supplier being entitled to compensation; this shall also apply if said circumstances make it uneconomical to execute the agreement long-term and MAG can no longer be reasonably expected to observe the agreement. MAG shall inform the supplier without delay in the event of force majeure or similar occurrence.

7. Changes to the Object of Delivery or the Delivery Date

- a) In the event of a significant change in the requirements of MAG which was not foreseeable at the time the order was placed MAG shall be entitled to demand a change to the object of delivery if this can be reasonably expected of the supplier. For determination of reasonableness the interests of both contractual parties, in particular the implications of the change with regard to additional/reduced costs and delivery dates, shall be taken into account.
- b) MAG reserves the right to interrupt continuation of the order (suspension) for urgent operational reasons or to demand postponement of the delivery date if it can be reasonably expected of the supplier taking into account the interests of both contractual parties. In this case the supplier shall store the goods and with the prior written consent of MAG insure them at MAG's cost against damage, destruction or other loss.
- c) MAG shall bear the costs incurred by the supplier during the suspension or delay, however not lost profit; the supplier shall first provide MAG with a detailed overview of such costs.

8. Warranty/Notification of Defects

- a) The supplier shall only use top grade material and the most modern normed process engineering techniques for manufacturing. It undertakes to manufacture products which are in accordance with the

latest state of the art technology and which are unconditionally suitable for the intended purpose - if known. Moreover the supplier shall carry out proper quality assurance and extensive inspection of outgoing goods. If requested by MAG, the supplier is obliged to provide documentation thereof. If the supplier has reservations about the design type desired or instructions given by MAG the supplier shall inform MAG of this immediately in writing.

- b) The supplier warrants in particular that the applicable provisions and standards of the Association for Electrical, Electronic & Information Technologies (VDE), the German Industry Norm DIN or the Euronorm and their conditions have been observed. The supplier shall obtain the written consent of MAG if deviations from these provisions are necessary in an individual case. This consent shall not affect the supplier's warranty obligations.
- c) The supplier undertakes to deliver all deliveries and part deliveries in the quality and composition demanded and accepted by MAG. This shall also apply for a sample provided by the supplier. The supplier warrants that all deliveries and part deliveries have the characteristics of the sample.
- d) MAG shall only inspect the goods supplied with regard to variations in identity and quantity and obvious transport damage. Defects ascertained hereby shall be asserted vis-à-vis the supplier within ten (10) calendar days following receipt of the goods. Latent defects, meaning in particular defects which can only be ascertained during processing or use of the goods supplied shall be deemed as reported in due time if they are asserted vis-à-vis the supplier within ten (10) days of discovery.
- e) MAG shall be entitled to the statutory warranty claims in full. The supplier shall be entitled to subsequent performance, at the discretion of MAG either in the form of defect remedy (subsequent improvement) or delivery of a defect-free replacement good (replacement delivery), once within an appropriate deadline set by MAG. If after subsequent performance the goods are still defective the subsequent performance shall be deemed to have failed, which entitles MAG in particular to rescission, price reduction and, unless the supplier can prove that it is not at fault, to a claim for compensation and reimbursement of futile expenditures.
- f) If the supplier does not satisfy its obligation of subsequent performance - at the discretion MAG through remedy of the defect (subsequent improvement) or supply of defect-free goods (replacement delivery) - within an appropriate deadline set by MAG then MAG shall be entitled to remedy the defect itself or through a third party and to demand reimbursement for the expenses required or to demand an appropriate advance payment. If subsequent performance by the supplier has failed or MAG cannot reasonably be expected to accept it (e.g. due to particular urgency, endangerment to operational safety or impending disproportionate loss) there is no need to set a deadline: the supplier must be informed of this without undue delay, if possible before implementation of the self-help remedy.
- g) The supplier warrants that the goods have the agreed characteristics at the time of passage of risk. The agreed characteristics shall mean at least the product descriptions (namely the specifications provided and/or requirements provided by MAG) which in particular through the description or reference thereto in the respective order or order confirmation are subject of the respective agreement or have been included in the agreement in the same manner as these General Terms and Conditions of Purchase. There is no difference whether the product description is from MAG, the supplier or the manufacturer.
- i) Departing from § 442 (1) sentence 2 of the German Civil Code (*Bürgerliches Gesetzbuch*) MAG shall also be entitled to claims for defects without limitation if MAG was unaware of the defect upon conclusion of the agreement due to gross negligence.
- j) The costs incurred for the purpose of inspection and remedy by the supplier shall also be borne by the supplier if it becomes evident that there is no defect. MAG's liability for compensation for unjustified demands to remedy defects shall remain unaffected; in this respect MAG shall only be liable if MAG recognised, or due to gross negligence did not recognise, that there was no defect.
- k) All dates, in particular for subsequent delivery, pick-up and repair of defective goods from MAG require prior confirmation in writing by MAG; if the supplier has not obtained such confirmation, Section 5 c), sentence 3, 1st and 2nd half-sentence of these General Terms and Conditions of Purchase apply accordingly and MAG is not obliged to handover goods or to grant the supplier access to the goods.
- l) Goods deemed defective by MAG shall be picked up by the supplier within a reasonable deadline set by MAG. If this does not occur within the deadline sections 5 c), sentence 3, 1st and 2nd half-sentence of these General Terms and Conditions of Purchase apply accordingly.
- m) In the event of delivery of defective goods, in particular if the goods do not have the agreed characteristics or durability, the supplier shall bear all necessary expenses for the purpose of determining the cause and consequences of the defect and for the purpose of remedying the defect or for the replacement delivery (also through MAG or a third party). MAG shall be entitled to take samples of and to use the goods which MAG reports to be defective for evidentiary purposes to the extent that this does not unreasonably impair the interests of the supplier in the complete return of the defective goods.

9. Limitation Period for Warranty Claims

- a) In each case the limitation period for all warranty claims shall be 36 months from transfer of risk unless a longer limitation period applies under statute in an individual case or the supplier provided a further reaching guarantee. If the goods have to be accepted, the limitation period begins on acceptance.
- b) If the supplier satisfies its obligation of subsequent remedy through a replacement delivery and it was not just a minor defect, then the limitation period for the goods delivered as a replacement shall commence anew upon their delivery unless the supplier expressly and correctly reserved the right with regard to the subsequent remedy to make the replacement delivery only as a courtesy and to avoid a dispute.

10. Damages Claims/Product Liability/Indemnity/Insurance

- a) If the supplier is obliged to compensate MAG, regardless of the legal grounds, it shall be liable for any form of fault, in particular also for slight negligence: this shall also apply if it engages vicarious agents (*Erfüllungs-/Verrichtungsgehilfen*). An exclusion of liability or limitation of the liability amount are not acknowledged. In the event of liability pursuant to the Product Liability Act (*Produkthaftungsgesetz*) the supplier shall also be liable if it is not at fault.
- b) If the supplier is responsible for damages it shall indemnify MAG from third party claims if the cause lies in its sphere of control and organisation and it is liable to third parties itself directly. In this context the supplier shall also reimburse MAG for any expenses, in particular pursuant to §§ 683, 670 German Civil Code (*Bürgerliches Gesetzbuch*) resulting from or in connection with a warning or recall action by MAG; to the extent that it is possible and reasonable MAG shall inform the supplier of the

content and scope of such actions before they are carried out and give it the opportunity to comment. This shall not affect any further-reaching statutory claims.

- c) The supplier is obliged to maintain product liability insurance with a cover sum of at least EUR 10 million per event of personal injury and damage to property which also covers reimbursement of consequential damages, in particular warnings and recalls, and shall provide evidence of such insurance to MAG upon request: if MAG is entitled to compensation claims in excess of this amount these claims shall remain unaffected.
- d) If in connection with the delivery the supplier breaches rights of third parties and a claim is made against MAG by a third party in this regard the supplier is obliged to indemnify MAG from such claims unless the supplier is not at fault: MAG is not entitled to come to an agreement with the third party, in particular MAG may not reach a settlement, without the consent of the supplier. If existing industrial property rights of third parties hinder use of the goods supplied then the supplier is obliged at its own cost to obtain the consent of the owner of the industrial property right, possibly through a licence, for the designated use of the goods supplied by MAG or to change the goods supplied so that the goods supplied can be used without breaching the industrial property rights of third parties and also be in accordance with the contractual agreements.
- e) The supplier's obligation to indemnify pursuant to Section 10 b) and d) refers to all necessary expenses which MAG may incur as a result of or in connection with the claims asserted against MAG by a third party.

11. Retention of Title/Assignment

- a) The supplier shall not be entitled to an extended or expanded retention of title. Resale and further processing of the item is carried out for MAG and is expressly permitted.
- b) Processing, mixing or connection with objects provided, in particular tools provided by MAG or specially produced for MAG carried out by the supplier shall be deemed carried out for MAG. If through from processing, mixing or connecting with items not belonging to MAG a foreign property right exists, the supplier hereby assigns to MAG co-title pro rata in the new item in the ratio of the value of the item provided to the other items; MAG hereby accepts such assignment. If a combination or mixing occurs in a manner according to which the items belonging to MAG are not viewed as the principal items, the supplier hereby assigns to MAG co-title pro rata in the new item in the aforementioned proportion to the extent that it is entitled to; MAG hereby accepts such assignment. The supplier shall store the goods in safekeeping for MAG free of charge.
- c) The supplier shall not be entitled to assign claims arising from the business relationship with MAG in whole or in part to third parties unless the assignment is within the context of usual business or with the prior written consent of MAG.

12. Quality Assurance/Information Duties of Supplier

- a) The supplier is obliged to have prepared and to provide conformity certificates, and upon request long-term supplier declarations in German for goods with preferential originating status pursuant to EC Regulation No. 1207/2001 and to manufacture in accordance with the content requirements of MAG; the costs for this shall be borne by the supplier unless agreed otherwise.
- b) In addition upon request the supplier shall provide MAG with all documents and issue all declarations vis-à-vis MAG on the quality of products its buys which MAG customarily requires in the business for further processing or resale of products made from the goods supplied; this includes in particular clearance certificates.

13. Drawings and Design Data

- a) Upon request the supplier is obliged to provide to MAG all design data and drawings which are relevant for installing and dismantling, maintenance and care of the goods.
- b) The supplier is obliged to update all design changes in the index and to provide MAG with the updated version.

14. Miscellaneous

- a) If in the context of supplying goods or carrying out work the supplier has to enter factories or branches of MAG it undertakes to comply with the Guidelines for Activity in the Factories and Branches of MAG, which are attached to these General Terms and Conditions of Purchase as **Appendix 1**.
- b) None of the above clauses shall result in a change to the burden of proof to the detriment of the supplier in a manner which gives the supplier the burden of proof for circumstances which are the responsibility of MAG.
- c) If the supplier is an entrepreneur within the meaning of the German Commercial Code (*Handelsgesetzbuch*) then Göppingen shall be exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. MAG shall be entitled to sue the supplier at the court which has jurisdiction for the supplier's place of business or registered office. Mandatory statutory provisions on the exclusive places of jurisdiction shall remain unaffected by this provision.
- d) All agreements made between the supplier and MAG with regard to an order are and shall be recorded in writing unless the parties agreed otherwise in an individual case or agree otherwise in the future. In particular if there is a shortfall or surplus it must be acknowledged in writing by MAG. Orders, call-offs and additions and amendments thereto may also take place by remote data transmission or electronically read data carriers. Deliveries made and services performed without written order will not be acknowledged. Silence in answer to proposals, demands or documentation of the supplier shall in no case be deemed to be consent by MAG.
- e) The laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 (CISG) shall apply even if the registered office of the supplier is in a foreign country.
- f) Should one or more of the provisions of these General Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of the remaining provisions. The parties shall enter into negotiations in good faith with the aim of replacing the invalid provisions with valid provisions which reflect as closely as possible the economic purpose intended with the invalid provisions.

Appendix 1 to the General Terms and Conditions of Purchase of MAG IAS GmbH

Guidelines for Activity in the Factories and Branches of MAG IAS GmbH (MAG)

- 1.) MAG places great value on safety and environmental protection.
- 2.) For execution of the work the supplier shall only engage employees who are trained and suitable for the task, in particular who are able to communicate in German or English.
- 3.) The supplier undertakes to follow and comply unconditionally with all statutory provisions relating to employment protection and environmental protection, all norms, regulations and guidelines including the accident prevention provisions of the commercial trade associations.
- 4.) When it is on the premises of MAG the supplier undertakes to strictly adhere to all instructions from the employee designated by MAG for this purpose.
- 5.) Upon commencement of the work of the supplier and for subsequent changes, alterations, etc. to parts supplied by the supplier or components in factories and branches of MAG the employees of the supplier shall report upon arrival to the factory security office at the factory entrance or the centrally located reception and then to the respective competent employee of the specific department.
- 6.) The employees of the supplier shall receive from MAG a special ID which must be returned daily after completion of the work and before leaving the factory. In the event that the ID is lost the supplier shall bear responsibility for the damages.
- 7.) The supplier shall encourage its employees to brief themselves again with regard to these guidelines, statutory regulations, norms, rules and guidelines including accident prevention provisions of the commercial trade association before commencing work in the factories and branches of MAG.
- 8.) The accident prevention provisions published by the trade association, location specific safety instructions and rules of conduct for emergencies are available for inspection at MAG [location, in the foreman's office (Meisterbüro), factory entrance, central reception]. However, these do not release the supplier in any case from its own information duty.
- 9.) The supplier may only use devices and machines for execution of the work which are in accordance with the statutory regulations, norms, regulations, accident prevention provisions and VDE-provisions.
- 10.) If changes, subsequent improvements etc. are necessary on parts or components supplied by the supplier in factories or branches of MAG, then this must be discussed with the individual responsible at MAG in advance if the parts or components are part of a (partially) assembled plant or a plant which is currently being assembled. This applies in particular if the plant has already commenced operation. Entering plants which have already commenced operation shall always require the prior consent of the head of production or the assembly manager. In this case the supplier and its employees shall be particularly careful when carrying out their work.
- 11.) The supplier undertakes to subject its employees who work in the factories and branches of MAG to all of the above obligations.
- 12.) Upon first demand the supplier shall indemnify and hold MAG harmless from any claims of its employees or other third parties arising from or in connection with carrying out work in factories or branches of MAG and from failure to observe the above obligations for reasons for which the supplier is responsible.