

# PURCHASE TERMS AND CONDITIONS

Last update: October 2019

## §1. GENERAL PROVISIONS

§1.1. Unless otherwise expressly agreed, all orders for goods and services placed by Bruck GmbH & Co. KG are subject exclusively to the following terms and conditions. The provisions of contract partners' standard terms and conditions or as contained in their order confirmation are hereby expressly excluded. The unconditional acceptance of order confirmations or deliveries does not constitute acceptance of such provisions.

§1.2. An initial delivery by the supplier under these Purchase Terms and Conditions shall imply that the Supplier acknowledges that they also apply exclusively to subsequent orders.

§1.3. Orders and commissions for work are binding once made or confirmed in writing.

§1.4. Bruck may at any time cancel any order with immediate effect without requiring to observe any notice period up to the month-end. Should the foregoing provision be legally unenforceable, it shall be superseded by the relevant statutory terms, which shall apply to all written-form contracts.

## §2. SHIPMENT AND DELIVERY

§2.1. Delivery is to be made as stipulated in the order or in subsequent instructions from Bruck on the agreed dates. Contract partners are to give immediate notification of any change in delivery dates.

§2.2. Contract partners must comply with the shipping requirements laid down by Bruck and by the freight forwarder or carrier. Bruck's order and item numbers must be specified in all shipping documents, correspondence and invoices.

§2.3. Unless expressly agreed to the contrary, transport costs including packaging, insurance and all other ancillary charges are the responsibility of contract partners.

## §3. TERMS AND DATES OF DELIVERY

§3.1. Delivery terms or dates specified in orders are binding and imply fulfilment at the place of performance.

§3.2. Bruck is entitled to refuse reception of goods that are not delivered according to delivery terms specified in the order and to return them at the cost and risk of contract partners or to arrange their storage at third-party premises.

## §4. QUALITY AND ACCEPTANCE

§4.1. Contract parties warrant that goods comply with all notified specifications, relevant standards and the state of the art.

§4.2. Bruck reserves the right to defer acceptance of goods till after it examines them for manifest, ostensible defects, which it will promptly do after receipt. Contract partners may be charged the costs of the examination and of replacements in the event of Bruck discovering anything untoward. Regardless of type of defect, the deadline for notifying a complaint is 14 days after Bruck finds that it has grounds to do so. During the warranty period, contract partners agree not to raise time-barred notification as a defence to complaints of latent defects.

§4.3. A delivery's binding dimensions, weights and item quantities are deemed to be those determined upon examination at the time of goods reception.

§4.4. Failure to expressly claim liquidated damages for late delivery at the time of acceptance does not have the effect of extinguishing Bruck's right to make such a claim subsequently. Nor shall failure to issue reservations at the time of acceptance vitiate the right to make any other claim.

## §5. PRICES AND PAYMENT TERMS

§5.1. The agreed prices may in no event be exceeded; any reduction in price occurring between the time of ordering and payment of the invoice shall inure to the benefit of Bruck.

§5.2. Invoices must be issued promptly after the shipment of goods and must quote the relevant order and item numbers. VAT is to be indicated separately.

§5.3. Clearance for payment will only be given after due and proper delivery and provided all prices and calculations are correctly stated. Should Bruck discover defects covered by a warranty, it may defer payment until such time as the warranty obligation is satisfied.

§5.4. Invoices will be paid within 14 days of tax point subject to a 3 % discount or within 30 days of tax point net.

## §6. SETTLEMENT AND ASSIGNMENT

§6.1. Set-off by contract partners is allowable only in the case of claims that are undisputed or enforceable by court order.

§6.2. The assignment of rights enforceable against Bruck requires its written consent.

## §7. WARRANTIES

§7.1. The warranties owed by contract partners are those set down by statute unless otherwise stated in the following. Upon their being notified of a claim to such effect, contract partners shall, to the extent of the liability apportioned to them, indemnify Bruck for all and any third-party claims founding on defects, infringement of third-party protected rights or damage to items that they have supplied. Contract partners confirm that they have adequate product liability insurance cover.

§7.2. The warranty period shall be the greater of: 12 months from delivery at the contracted place of performance; and any period of more than 12 months that is provided by statute.

§7.3. In the event of defective delivery, Bruck may choose either: to request the contract partner to supply a replacement at no charge; or, in accordance with law, to reduce the price to be charged in the measure of the reduced value supplied; or to remedy the defect at no charge. In pressing cases, Bruck is within its rights, after advising and at the expense of its contract partner, to remedy defects itself, to have them rectified by a third party or to arrange a replacement by some other means. Likewise if its contract partner should delay in fulfilling warranty obligations. In the event it is shown using the statistical test procedure specified in the order that the maximum permissible error contribution is exceeded, Bruck is entitled to claim breach with regard to the entire delivery or, after advising the contract partner and at its cost, to arrange for an examination of said entire delivery.

§7.4. Contract partners bear liability for replacement deliveries and for rectifying defects in the same measure as for the originally delivered items, including, without prejudice to the generality, all shipping, infrastructure and labour costs. Warranties over replacement items commence running on the day they are delivered.

§7.5. Contract partners require to pay the costs reasonably incurred in relation to recalls under the laws pertaining to product liability. Prior thereto, Bruck will with all practicable haste send contract partners a note requesting their position on the matter.

## §8. INFORMATION AND DATA

Property is expressly reserved in all and any plans, designs, samples, production specifications, internal company data, tools, equipment and such like that we provide to contract partners to enable them to prepare offers or perform their contract. Such items may not be used for any extraneous purpose and may not be duplicated or made accessible to third parties; they are to be held by contract partners in accordance with the mercantile standard of reasonable care.

## §9. DATA PROTECTION

Contract partners give their consent, until they advise us otherwise, to lawful processing by Bruck of personal data communicated by them.

## §10. SEVERABILITY CLAUSE

If any provision of these standard terms and conditions is or becomes invalid, the validity of the remaining provisions is thereby unaffected.

## §11. PLACE OF PERFORMANCE / JURISDICTION / APPLICABLE LAW

§11.1. The place of performance of deliveries is the shipping point as stipulated by Bruck.

§11.2. Contracts that are hereby contemplated are exclusively subject to the laws of Germany.

§11.3. Jurisdiction falls to the courts competent for the place of Bruck's registered office at 44628 Herne.

## §12. SIDE AGREEMENTS

Failing our written agreement thereto, arrangements purporting to provide otherwise than is set forth in these Purchase Terms and Conditions fall to be deemed unenforceable.