

## Terms and conditions of purchasing

(Date 07/01/2020)

### 1. General

- 1.1 The present terms are valid for the POLYRACK TECH-GROUP Holding including all affiliated companies in Germany and the subsidiaries abroad.
- 1.2 Client's terms and conditions of purchasing shall apply exclusively; contradictory general terms and conditions of business of Supplier or such deviating from the present terms, shall only be acknowledged by the client if their validity has been expressly approved in writing.
- 1.3 These terms and conditions of purchasing shall also apply to all future deliveries and services of Supplier to Client until the validity of new terms and conditions of purchasing.

### 2. Conclusion and amendments of agreement

- 2.1 Orders, conclusions and delivery calls as well as amendments and supplements thereof shall be in written form. Orders and delivery calls can also be made by remote data transmission or telefax.
- 2.2 Amendments or supplements of the order shall only be effective if the client has confirmed them in writing.
- 2.3 Client can revoke the order in writing if Contractor has not accepted it in writing within two weeks of receipt (order confirmation).
- 2.4 If the order confirmation deviates from the order, Client shall only be bound if it has approved the deviation in writing. In particular, Client shall only be bound by general terms and conditions of business if they correspond to its terms or it has approved them in writing. Acceptance of deliveries or services as well as payments shall not mean approval.
- 2.5 Contractor shall render its deliveries and services free of third-party rights.

### 3. Delivery

- 3.1 Agreed dates and periods shall be binding.
- 3.2 Receipt at the destination stated by Client shall be decisive for punctuality of deliveries, acceptance being decisive for punctuality of services and of deliveries with erection or assembly.
- 3.3 In the event of recognizable delay of a delivery or service, Client shall be notified without delay and its decision obtained.
- 3.4 Unreserved acceptance of delayed delivery or service shall not entail a waiver of the claims to damages accruing to Client on account of the delayed delivery or service.
- 3.5 For quantities, weights and dimensions, the values determined by Client in the control of incoming goods shall be decisive, subject to any other kind of proof.

### 4. Passage of risks and dispatch

- 4.1 For deliveries with erection or assembly and for services, risk shall pass with inspection, for deliveries without erection or assembly with receipt at the destination stated by Client.
- 4.2 To the extent not agreed to the contrary, costs of dispatch and packaging customary in the trade shall be charged to Contractor. In pricing ex works or ex sales warehouse of Contractor, dispatch shall be at the lowest costs in each case insofar as Client has not prescribed a certain form of transport. Additional costs due to a dispatch provision not being complied with shall be charged to Contractor. In pricing franco recipient, Client can also determine the kind of transport. Additional costs for any accelerated transport necessary to comply with a delivery date shall be borne by Contractor.
- 4.3 Deliveries ex works/ex warehouse at home and abroad shall be given transport insurance by Client. Contractor shall give the forwarding companies a roll-on/roll-off insurance ban. Contractor shall assume no such premiums.
- 4.4 Each delivery shall contain packaging sheets or delivery

notes with the contents and the complete order number. Dispatch shall be notified immediately with the same information.

- 4.5 Insofar as deliveries are sent directly to a customer or sub-supplier of Client, the delivery note shall clearly state that the delivery is being made on behalf of Client.

### 5. Force majeure

- 5.1 Force majeure, industrial disputes, disturbances of operation without fault, unrests, official measures and other unavoidable incidents shall entitle Client to withdraw from the agreement partly or totally insofar as they are not of an inconsiderable duration and result in a considerable reduction of its requirements.

### 6. Invoices

- 6.1 Invoices shall contain the order reference and the numbers of each individual item. As long as this information is missing, invoices shall not be payable. Invoice duplicates are to be marked as such.
- 6.2 Invoicing shall be in the currency of order or the valid successor currency in question.

### 7. Payment

- 7.1 If not agreed to the contrary, payments shall be made on the 20<sup>th</sup> of the month following delivery with 3% discount.
- 7.2 The payment period shall commence as soon as the delivery or service has been completely rendered and the properly issued invoice has been received. Discount shall also be admissible if Client sets off or retains payments to a suitable amount as a result of defects; the payment period shall commence after complete remedying of the defects.
- 7.3 Payments shall not mean recognition of the deliveries or services as being contractual.

### 8. Liability for defects

- 8.1 To the extent not expressly regulated to the contrary, Contractor shall comply with the statutory provisions on defects in quality and title for its deliveries and services. The warranty period shall commence with passage of risk (no. 4.1). For deliveries to places at which Client implements orders outside its factories or workshops, it shall commence with acceptance by Client. Interim checks or final inspections done by Client and/or Contractor shall not release Contractor from the liability for defects.
- 8.2 If defects are established before or upon passage of risk or occur during the warranty period, Contractor shall either remedy the defects or deliver or provide service free of defects, at its own expense at Client's choice. This shall also apply to deliveries for which the examination is limited to random samples. The choice shall be made by the client in its own fair discretion.
- 8.3 If Contractor fails to remedy the defects or to provide the new delivery or service within a reasonable period to be set by Client, the latter shall be entitled
  - to withdraw partly or totally from the contract without reimbursement,
  - to demand a reduction of the price,
  - to carry out after-working or new delivery itself or have it carried out at Contractor's expense,
  - to demand damages on account of non-performance.
 The same shall apply if Contractor declares itself not in a position to carry out the remedy of the defects or the new delivery or service within a suitable period.
- 8.4 Reworking can be done at Contractor's expense without a period being set if delivery is made after the start of arrears and Client has an interest in immediate reworking due to avoidance of its own arrears or for other urgent reasons.

- 8.5 The aforementioned claims shall be barred by limitation one year after notification of the defect.
- 8.6 Further statutory claims, in particular for reimbursement of processing or machining costs in vain, shall be unaffected.
- 8.7 Defects can be notified within one month of delivery or service or, to the extent that the defects are only noticed in processing or machining or in putting into use, after their establishment.
- 8.8 The aforementioned regulations apply according to the services or remedying of defects.
- 8.9 Contractor shall bear the costs and risks of the return of defective objects of delivery.

## **9. Product liability and recall**

- 9.1 In the event of claims being made against Client for product liability, Supplier shall be obliged to hold it harmless against such claims insofar and to the extent that the damage has been caused by an error in the contractual object delivered by Supplier. Insofar as the cause of damage is in the sphere of responsibility of Supplier, it shall bear the onus of proof to this extent.
- 9.2 In such cases, Supplier shall assume all costs and expenditure, including the costs of any legal action or recall actions. Apart from this, the statutory provisions shall apply.

## **10. Forwarding of orders to third parties**

- 10.1 Forwarding of orders to third parties shall be inadmissible without written approval of Client and shall entitle Client to withdraw from the contract totally or partly and also to demand damages.

## **11. Provisions**

- 11.1 Materials provided shall remain property of Client and shall be stored separately, marked and administered free of charge. Use shall only be admissible for orders of Client. In the event of reduction of value or loss, Contractor shall reimburse. This shall also apply to the charged provision of order bound material.
- 11.2 Processing or reforming of the material shall be done on Client's behalf. The latter becomes direct owner of the new or reformed object. If this is not possible for legal reasons, Client and Contractor agree that Client becomes the owner of the new object at any point in time of the processing or reforming. Contractor shall keep the new object on Client's behalf free of charge with the due care of a prudent businessman.

## **12. Confidentiality and documents**

- 12.1 Tools, moulds, samples, models, profiles, diagrams, norm sheets, print templates and gauges provided by Client as well as objects produced on their basis may not be forwarded to third parties or used for purposes other than contractual ones without the written approval of Client. They shall be secured against unauthorised insight or use. Subject to further rights, Client can demand their return if Contractor infringes these duties. Upon our or Client's request, all the information originating from it (if applicable, including copies or records made thereof) and objects lent by it shall be returned to it or destroyed completely and without delay.
- 12.2 Products manufactured according to documents drawn up by Client such as diagrams, models or similar, or according to confidential information from Client or with its tools or copied tools may not be used by Supplier itself or offered or supplied to third parties.

## **13. Assignment of claims**

Assignment of claims shall only be admissible with written approval of Client.

## **14. General provisions**

- 14.1 Place of jurisdiction shall be the place from which the order was placed. Client shall further be entitled to sue Supplier at the Court of its registered office or branch establishment at its own choice.
- 14.2 If a provision of the present terms and the further agreements made is or becomes ineffective, the validity of the

remainder of the terms shall not be affected. Contracting Parties shall be obliged to replace the ineffective provision by a regulation coming as close as possible to the commercial intention.

- 14.3 The contractual relationships shall be governed exclusively by German law. International sales law (CISG) shall not be applicable.