



Makita Engineering Germany GmbH
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TERMS AND CONDITIONS OF PURCHASE

Makita Engineering Germany GmbH – hereinafter referred to as "MEG"

THE REQUIREMENT FOR THE WRITTEN FORM

These Terms and Conditions of Purchase shall govern all business transactions with the Supplier, even if they are not mentioned in future contracts. They shall apply even if the Supplier invokes its own Terms and Conditions, particularly on accepting or acknowledging an order. Our Terms and Conditions of Purchase shall apply to the exclusion of all others. Any terms and conditions of the Supplier which are incompatible with or differ from our Terms and Conditions shall not be acknowledged. These Terms and Conditions shall also apply in the case of silence from MEG. Orders, contracts, and other agreements must be stated in writing. Verbal agreements require our written confirmation. MEG's General Terms and Conditions of Packaging shall apply in addition to these Terms and Conditions of Purchase.

The MEG specified factory standards are valid for all sample and serial production deliveries.

Article 1 Orders, Delivery

MEG expects the Supplier to immediately sign and return a copy of the order as an order confirmation (the Supplier's own forms will be acceptable). If this is not done, our order shall be regarded as tacitly accepted. The price quoted in the order is binding.

Article 1.1 Delivery

It is essential to comply with the agreed delivery date. MEG must be notified within 5 business days of any delays in complying with the delivery date. Each consignment must be accompanied by a delivery note stating the date, the order number and MEG's parts number with a accurate summary of the contents. MEG reserves the right to examine the consignment within 10 days of delivery in order to check the volumes and to ascertain whether the consignment has any quality defects.

Article 1.2 Delays in Delivery

The costs incurred by any delay in delivery or failure to observe the general packaging standards shall be borne by the Supplier in as far as Supplier is responsible for this delay. Regardless of any further legal rights, MEG shall be entitled to withdrawal from the contract or to claim damages for non-performance after the expiration of a reasonably extended deadline or to have the goods replaced by a third party in as far as the Supplier is responsible for the delay. The acceptance of the delayed delivery or performance shall not mean any waiver of claims to compensation.

If a fixed delivery date is agreed upon and there is a delay in delivery, MEG shall have the right to withdrawal from the contract and claim damages without having to set an extended deadline. In the case of delay, a withdrawal by the Supplier is only acceptable if prior notification is given. In the event of strikes, lock-outs, interruptions of operations or acts of God, which prevent the Supplier from performing its contractual obligations, MEG shall not be required to perform its own obligations for the duration of such a hindrance plus a reasonable lead time, without the Supplier being entitled to withdrawal from the contract or claim damages.

Article 1.3 Liquidated Damages

If the Supplier is delayed, MEG shall have the right to claim liquidated damages amounting to 0.5 % of the value of the order for each week or part thereof, but of no more than 5 % of the value of the order. The Supplier shall have the right to prove that there has been no loss or that the loss is substantially less than the liquidated damages. Furthermore, MEG reserves the right to claim liquidated damages even if it accepts a late delivery. The claim to liquidated damages does not rule out the right to claim further damages.

Article 1.4 Packaging & Freight

Deliveries are generally free of charge for MEG, including packaging, unless a different agreement has been made in writing. MEG's packaging rules shall generally apply.

MEG is not obligated to accept the goods prior to the delivery date. MEG reserves the right to return consignments that are delivered prior to the delivery date. MEG is a "forbidden customer" (SVS/RVS Verbotskunde). This means that MEG insures all consignments that are destined for serial production if nothing else has been agreed upon.

Article 2 Proof of Origin

The Supplier is obligated to provide, of its own accord, a customs-related proof of origin (Certificate of Origin) as well as the yearly Long Term Supplier Declaration for all goods produced for MEG.

Article 3 Invoices

As a general rule, invoices must be sent to our address with our order number and parts number and description. Invoices must satisfy the conditions set out in section 14 a of the VAT Act (UStG). If the goods are delivered prior to the delivery date, MEG reserves the right to equate the date of the invoice to our specified delivery date, in as far as the Supplier is responsible for the deviation from the agreed delivery date.

Article 3.1 Payments

Payments shall be made within 14 days of delivery less a 3 % cash discount or 30 days net, unless alternative agreements have been made in writing. In the case of unsatisfactory delivery or performance, MEG shall have the right to withhold payment until the contract has been properly fulfilled.

Article 4 Reservation of Title

In as far as MEG has provided the Supplier with parts, we claim reservation of title for these parts. If the parts are processed or mixed with other items, MEG shall acquire co-ownership of the new item in ratio to the value of the items one to another. The German International Private Law does not apply.



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Article 5 Product Liability

The Supplier is obligated to indemnify MEG from any claims made by third parties on the basis of product liability in as far as the Supplier is responsible for the defective product and any loss incurred relating to the principles of product liability law. Further legal claims will remain unaffected. Furthermore, MEG reserves the right to charge the Supplier for any expenses incurred in connection with product liability.

Article 6 Intellectual Property Rights

The Supplier shall ensure that the goods are not in violation of any domestic or foreign laws. In the event of disputes, the Supplier shall indemnify MEG from any claims made by third parties.

Article 7 Drawings, Data Sets, Drafts, Supplied Materials, Tools and Machinery Materials

Materials such as drawings, data sets, drafts, supplied materials, tools and machinery materials that we provide to the Supplier shall remain our property. Any production equipment which was paid for by MEG and produced by the Supplier or obtained according to our specifications shall remain our property and must be clearly identified as such. A separate loan agreement shall cover such items. The materials and tools must be carefully stored and insured at the Supplier's expense. Production equipment may be scrapped only after MEG has been notified and given express written consent.

Article 7.1 Supplementary Provisions concerning Technical Discussions

All technical discussions, which occur after the signing of the contract, shall, immediately upon completion of the discussions, be written up by the Supplier in a memo, which is consecutively numbered and signed by both parties. No changes to the contract shall result from these discussions or on the basis of the memo contents, without an additional order.

MEG must be notified of any ensuing changes in price and/or delivery date in a separate correspondence within 14 calendar days following such a discussion. This correspondence must contain the price increase and/or decrease and/or the change in delivery date. In as far as an accurate price quotation within the specified period of time is not possible, the Supplier shall provide MEG, on a temporary basis, with an estimate of the price. A firm offer must be submitted within 4 weeks. The manner of submission for this offer must be such that the individual material price and hourly cost are easily determined. MEG shall not recognize any price increases and/or changes in delivery date that are submitted at a later date. MEG is not obligated to accept any submitted price increases and/or changes in delivery date, regardless of timely submission.

Article 8 Confidentiality Agreement

The Supplier agrees to maintain confidentiality concerning the contract and any disclosed business and technical information or know-how throughout and beyond the term of the contract. Drawings, models, stencils or other patterns are entrusted to the Supplier as defined in Article 18 of the German Unfair Competition Law (UWG). Disclosure of given information or use of any supplied pattern other than in fulfilment of the contract is only permitted with MEG's written consent. The Supplier agrees to impose this obligation of confidentiality to those persons who, in fulfilling the order, require access to this information. According to the scope of the contract, the Supplier shall notify its subcontractors of this confidentiality agreement and shall obtain their signed confirmation of this notice. Amendments to this agreement are required to be in writing. MEG shall claim damages for any breach of this confidentiality agreement.

Article 9 Quality, Complaints, Warranty

The Supplier is obligated to comply with the agreed upon technical specifications and point out any possible improvements or variance of the data from legal provisions and other regulations. Technical modifications, e.g. measurements, tolerances, dimensions, colors or changes in materials that differ from the original agreements shall only be permitted with MEG's written consent. The supplier shall observe the provisions of the Equipment Safety Law (*Geräte sicherheitsgesetz*).

The Supplier shall ensure that each supplied item conforms to international laws, safety regulations, other obligations imposed by local and federal authorities or the state-of-the-art requirements, in as far as it is under the Supplier's responsibility. The Supplier shall ensure that the delivered item is free of defects in relation to its design, materials and production process. The general warranty period for all items shall be 24 months from the date of delivery or MEG's approval. MEG shall have the right to return any defective goods for rectification of defects free of charge. The period for submitting complaints regarding recognizable defects shall be 10 days. MEG must notify the Supplier of any hidden defects 10 days after they have been discovered. MEG shall have the right to demand a price reduction when the defect is found. In urgent cases, MEG shall have the right carry out the necessary improvements or shall return the goods at the Supplier's risk and expense.

MEG shall have the right to withdrawal from the contract and/or to demand compensation in as far as the Supplier is responsible for the defects of the items and corrective action has failed. If action to correct defective deliveries has consistently failed after an extended deadline, MEG shall have the right to receive compensation for any loss caused by the defects and reserves the right to rescind that part of the contract which has not been performed.

If claims under warranty are made by third parties against MEG after integration of the delivered item, the Supplier must reimburse MEG for all expenses incurred in rectifying the damage. MEG shall give the Supplier written notification, and include therein the type, scope, and subject of any claims covered by the warranty and made by third parties as soon as it comes to our attention and inform the Supplier that it is liable for the damages. In general, the statutory laws concerning a company's rights of recourse shall apply. The Supplier shall provide compensation for any damage caused by depreciation in value or loss.

Article 10 Inspection Reports and Analyses

MEG's inspection reports and analyses are solely for the Supplier's use and shall not be made accessible to third parties.

Article 11 Place of Performance, Applicable Law, Place of Jurisdiction

The place of performance for supplies and services shall be our factory in Hamburg. This contract is governed by the laws of the Federal Republic of Germany. The place of jurisdiction is Hamburg. MEG reserves the right to take legal action at the Supplier's principle place of business. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply. If any part of these terms should be or become invalid, the remaining provisions shall not be affected.

October 2015
Makita Engineering Germany GmbH