

General Purchasing Terms and Conditions of American Maplan Corporation dba battenfeld-cincinnati USA (as of: October 2017)

I. General/Validity

We place purchase orders solely on the basis of our General Purchasing Terms and Conditions. We object to Supplier's conflicting, different or additional terms and conditions and they shall not be accepted unless we have given our express and written consent thereto.

II. Offer/Acceptance of offer

1. If Supplier does not accept our offer in a purchase order from us within 2 weeks of receipt, the offer is withdrawn and we shall no longer be bound by the offer.
2. Purchase orders, contracts of any nature and any changes or additions thereto shall be binding only if effected in writing, by data transfer or by machine-readable data media.
3. Execution of our purchase orders shall constitute acceptance of our terms and conditions.

III. Prices, invoices, payment, claims, offset, retention

1. The agreed prices are fixed prices as quoted, unless otherwise agreed to in the specific contract, with goods shipped free to the receiving plant including packaging, freight and transport insurance net of any tax applicable at the time. Unless specifically agreed otherwise in the pertinent contract, the definition of prices shall be as per the terms contained in our Purchase Order.
2. Payment shall be rendered either with deduction of 3% cash discount within 30 days of delivery/performance and receipt of a due and proper invoice and after our inspection and acceptance of the goods, or after 90 days strictly net. In the event we revoke acceptance of the goods, no payment shall be rendered.
3. Supplier shall not be entitled to offset purported claims against us without our prior written consent, unless the claim is undisputed or adjudicated and final.
4. Supplier shall not be entitled to assert a right of retention for disputed claims against us.
5. Contractual claims against us under or in conjunction with the purchase order shall be time barred after 2 years from the date the shipment and invoice were received, unless Supplier takes appropriate action before then.

IV. Dispatch, delivery, transfer of risk

1. All order references and numbers must be listed in all documents pertaining to our purchase order (order confirmation, delivery note, freight documents, invoices, etc.).
2. Delivery notes and invoices shall be submitted in duplicate.
3. Delivery of goods shall be made only Mondays through Thursdays between 8:00 am and 4:00 pm, Fridays between 8:00 a.m. and 2:00 p.m. or by prior arrangement.
4. We shall accept higher costs and charges due to variance from the normal dispatch procedures or the mode of shipment we stipulated (road, rail or such) only if this has been agreed to in advance in writing. This shall apply in particular if goods have to be expedited to us due to missed deadlines.
5. All deliveries shall be effected free of freight and incidental costs. Our specific shipping instructions must be followed in full.
6. Shipping is at Supplier's risk. The risk of any deterioration, including accidental loss, shall be borne by Supplier up to delivery to our requested shipping address or point of use.
7. Supplier shall be liable for the consequences of incorrect bill of lading declaration. A dispatch note shall be submitted immediately after the sending of every shipment. Supplier shall bear the costs arising if the stipulated receiving unit, department, battenfeld-cincinnati article number, order number, subject comment or issue comment are missing from the shipping documents.
8. We shall accept part shipments only after Supplier obtains our prior written consent. If part shipments have been agreed to, the outstanding balance must be shipped.
9. In the event of delivery earlier than agreed, we reserve the right to return the goods at Supplier's expense. If goods from such premature delivery are not returned, we shall hold the goods until the delivery date at Supplier's expense and risk. Payment of the invoice shall be deemed timely with respect to the agreed deadline.

V. Delivery date, default with delivery, damages, acceptance of goods, revocation

1. The agreed deadlines are binding. For Supplier to comply with the delivery date or period, we must receive goods of fault-free quality at our stipulated delivery address or point of use by the date and time specified. Once the goods are received, we may either reject or accept them.
2. If Supplier realizes that the agreed deadlines cannot be met for any reason, Supplier shall notify us in writing immediately, stating the reasons for and the duration of the delay.
3. In the event of default with delivery, we shall be entitled to receive damages of 0.1% of the price of the goods per working day of default, subject to a maximum of 5% of the price.
4. If we accept delivery of goods and then discover that they do not conform to the purchase order, we have the right to revoke acceptance within a reasonable time.

VI. Environmental protection and health and safety

Supplier shall take all necessary environmental and health and safety precautions with respect to the goods and services, and comply with all federal, state and local laws and administrative regulations. We reserve the right to demand a certificate from the pertinent authorities that shows compliance with all health and safety regulations.

VII. Specification, warranty, liability

1. Supplier warrants that all items it supplies and all services it renders to us are to the latest state of the art as of the time of delivery/performance and comply with all federal, state and local laws and administrative regulations and requirements of all professional organizations. Supplier also warrants that all goods and services conform to our instructions and specifications, and are free from defects in materials and/or workmanship, and are merchantable and fit for our purposes. Supplier shall first obtain our written consent if deviations from such laws or regulations are necessary in particular cases. This provision shall be without prejudice to Supplier's warranty and guarantee obligation.
2. We shall be entitled to stipulate the manner of performance in the case of contracts for subsequent work.
3. After expiration of a reasonable grace period we have set to cure a defect in the supplied product or failure in the services rendered, we shall be entitled to remedy the defect ourselves and to subsequently receive reimbursement of the expenses incurred by us in remedying the defect or failure. We shall also be entitled to recover damages against Supplier for breach of warranty. In urgent cases, we shall be entitled to avoid the risk of considerable damage, to have the defect or failure remedied at Supplier's expense without setting a grace period for subsequent performance by Supplier.
4. If we have to return a product, accept a price or payment reduction or pay a customer damages or indemnification due to a defect in the item supplied or failure in the services rendered by Supplier, our warranty claims against Supplier shall not require the setting of a grace period.
5. Seller shall reimburse us for all of the damages and expenses that we incur with respect to our subsequent performance obligations towards our customers (especially freight, travel, work and material costs) if the defect or failure raised by our customer against us was present when the goods were delivered to us.
This warranty period shall be 24 months unless expressly stipulated otherwise. It commences with delivery of the item to us or the third party we have stipulated at the point of receipt or use we have stipulated. Insofar as acceptance is required by law or contract, the warranty period shall commence upon acceptance of the item by us or our customer. If acceptance of an item is delayed without Supplier being responsible therefor, the warranty period shall commence at the latest 12 months from delivery of the said item for acceptance.
6. If a defect is discovered during the first 12 months of the warranty period, it shall be presumed that this defect was present upon transfer of goods to us at delivery, unless that presumption is incompatible with the nature of the item and the defect.

7. All of the aforementioned and the statutory warranty rights shall be time barred 24 months from notification to Supplier of the complaint by us within the warranty period, unless stipulated otherwise by law or contract. However, the time bar shall not apply before the end of the warranty period. The time bar for the aforementioned and the statutory warranty rights shall apply at the earliest as of the date when we have met any recourse claims from our customer with respect to the defect. This stay of period shall end at the latest five years after Supplier delivered the item to us or we accepted the services.
8. If Supplier satisfies its duty of subsequent performance by way of defect rectification, the time bar for that performance shall commence anew from the acceptance of the defect repair work. If Supplier satisfies its duty of subsequent performance by way of replacement delivery, the time bar for the product / work as replacement shall commence anew from delivery / acceptance thereof.
9. In the case of defects or failures, Supplier shall indemnify and hold us free and harmless from and against any third-party claims that may arise. The time bar for defects claims shall be three years. This time bar shall commence at the end of the year in which the claim arose and we became aware or should have become aware of the circumstances giving rise to the claim and who caused the same.
10. If Supplier is unclear as to the manner of performance or finds errors in our documentation or drawings, Supplier must notify us in writing without delay.
11. Our inspection of the goods for variance in quality and quantity is timely if carried out within 10 working days of delivery; our complaint is timely if it is received by Supplier within 10 working days of the defect or failure being found.
12. Signing for receipt of items and acceptance or approval of submitted drawing shall not constitute waiver of our warranty and other rights.

VIII. Documents for purchase orders, items

1. If Supplier produces tools, forms, models, print plates etc. to our instructions or design material, the samples and documents provided shall be returned to us unsolicited within 10 days of the order being completed.
2. Supplier agrees to not make available or provide our documentation, samples and other items to any third party without our prior written consent.
3. Tools, forms and devices shall become our property after complete payment has been rendered therefor. Handover of the tools to us shall be replaced by Supplier's duty of retention and their loan to Supplier to carry out our orders.
4. Supplier shall be liable for any loss incurred by virtue of the tools, forms or devices being lost, damaged or misused. Supplier shall also bear the risk of their destruction.

IX. Product liability, indemnification

1. If claim is made against us due to breach of safety regulations by Supplier or due to our products not meeting domestic or foreign product liability legislation because of a product we have sourced from Supplier, we shall be entitled to indemnification of such loss from Supplier insofar as it was due to Supplier's products. The same shall apply for actions taken against us under product safety legislation.
2. Supplier agrees to indemnify and hold us free and harmless from third-party damages claims upon first demand. In this context, Supplier also agrees to reimburse any expenses arising from any recall action we undertake.

X. Property rights

1. Supplier warrants and covenants that Supplier has title to the goods and that all deliveries are free from third-party property rights and in particular that the delivery and use of the subject matter shall not infringe patents, licenses and other property rights of third parties. Insofar as Supplier is aware that we also sell its products in other countries, the above shall also apply for those countries.
2. Supplier shall indemnify and hold us and our customers free and harmless from third-party claims arising from violations of property rights and shall bear all the costs incurred in conjunction therewith.
3. We shall be entitled to use the items and services provided by Supplier, which will defend any claims as to property rights.

XI. Sundry, legal forum, place of fulfillment, severability clause

1. Our Assembly Terms and Conditions shall also apply for assembly work.
2. Supplier shall provide us with drawings of machine parts etc. that are subject to wear and tear and also assembly drawings and other such documentation free of charge. We and third parties we engage shall be entitled to use these drawings to produce spare parts, to make changes and revisions thereto. In such cases, claims for violation of Supplier's rights shall be excluded.
3. No remuneration of any nature shall be rendered for visits, producing plans or such. The submission of quotations is always free of charge.
4. The purchase order and all applicable contracts shall be governed and construed in accordance with the laws of the State of Kansas, USA. The exclusive forum for any dispute shall be the District Court of McPherson County, Kansas, USA.
5. Unless expressly agreed otherwise, the place for delivery of the goods is the place of receipt or use that we stipulate.
6. If any of these Terms and Conditions are found to be invalid or unenforceable, that shall not affect the remaining provisions herein.