

General Terms and Conditions of Purchase of the Photon Group

1. Preliminary remark

Photon AG and its subsidiaries Photon Laser Engineering GmbH, Photon Laser Manufacturing GmbH, Photon Meissener Technologies GmbH, and future affiliated companies within the meaning of Section 15 of the German Stock Corporation Act (AktG) (Purchaser) procure goods and services from suppliers exclusively on the basis of the following Terms and Conditions of Purchase. Any deviating terms and conditions of delivery of the supplier are hereby rejected. Agreements – in particular those that amend these terms and conditions – shall only become binding upon written confirmation by the Purchaser.

2. Conclusion of the contract

- 2.1. Delivery contracts (order and acceptance) and delivery schedules, as well as any amendments and additions thereto, must be made in writing. Delivery schedules may also be transmitted via remote data transmission.
- 2.2. If the supplier does not accept the order within 3 working days of receipt, the purchaser is entitled to revoke the order or procure the goods elsewhere. Delivery schedules become binding at the latest if the supplier does not object within 3 working days of receipt.
- 2.3. The purchaser may, within the bounds of what is reasonable for the supplier, request changes to the design and execution of the delivery item. In this case, the effects, in particular with regard to additional and reduced costs as well as delivery dates, shall be settled by mutual agreement.
- 2.4. Price escalation clauses, inflation surcharges, etc. shall only apply if the customer expressly confirms them in writing.

3. Payment

- 3.1. Payment shall be made in accordance with individual agreements. If premature deliveries are accepted, the due date shall be based on the agreed delivery date.
- 3.2. In the event of incorrect delivery, the purchaser shall be entitled to withhold payment in proportion to the value until proper performance.
- 3.3. The supplier is not entitled to assign its claims against the purchaser or to have them collected by third parties without the prior written consent of the purchaser, which may not be unreasonably withheld. In the event of extended retention of title, consent shall be deemed to have been given.

4. Notification of defects

The purchaser must notify the supplier in writing of any defects in the delivery as soon as they are discovered in the normal course of business. In this respect, the supplier waives the objection of late notification of defects. The supplier must respond to notifications of defects within 3 working days; if the supplier fails to comply with this obligation, the purchaser shall be entitled to make covering purchases, etc.

5. Confidentiality

- 5.1. The contracting parties undertake to treat as business secrets all non-public commercial and technical details that become known to them through their business relations.
- 5.2. Drawings, models, templates, samples, and similar items may not be disclosed to unauthorized third parties or otherwise made accessible; they may only be used for the purposes of the respective contract between the supplier and the purchaser and not for any other purposes of the supplier. The reproduction of such items is only permitted within the scope of operational requirements and copyright provisions. Subcontractors must be obligated accordingly.
- 5.3. The contracting parties may only advertise their business relationship with prior written consent.

6. Delivery dates and deadlines

Agreed dates and deadlines are binding. The date of receipt of the goods by the purchaser shall be decisive for compliance with the delivery date or delivery period. The supplier shall make the goods available in good time, taking into account the usual time required for loading and shipping.

7. Delayed delivery

The supplier is obliged to compensate the purchaser for damages caused by delay. This does not apply to lost profits and damages resulting from business interruption. If the supplier has reasonable doubts that it will be able to meet the agreed delivery dates, it must inform the purchaser immediately; if it fails to do so, the purchaser is entitled to all statutory claims for damages. In cases of slight negligence, compensation shall otherwise be limited to additional freight costs, retrofitting costs, and, after setting a grace period without result or if interest in the delivery has ceased to exist, to the additional expenses for covering purchases.

8. Force majeure

Force majeure, labor disputes, unrest, official measures, and other unforeseeable, unavoidable, and serious events shall release the contracting parties from their performance obligations for the duration of the disruption and to the extent of its effect. This shall also apply if these events occur at a time when the affected contracting party is in default. The contracting parties are obliged, within the limits of what is reasonable, to provide the necessary information without delay and to adjust their obligations to the changed circumstances in good faith.

9. Quality and documentation

- 9.1. The supplier must comply with the recognized rules of technology, safety regulations, and the agreed technical data for its services. Changes to the delivery item require the prior written consent of the purchaser (initial sampling and documentation).
- 9.2. The contracting parties shall inform each other of any opportunities for quality improvement. Furthermore, the supplier shall receive information from the purchaser on request regarding relevant safety regulations.
- 9.3. The supplier shall keep special records of when, how, and by whom the delivery items have been inspected with regard to the characteristics subject to documentation, and what results the required quality tests have yielded. The test documents shall be kept for 10 years and presented to the purchaser upon request. The supplier shall impose the same obligations on its upstream suppliers to the extent permitted by law. The VDA publication "Verification – Guidelines for the Documentation and Archiving of Quality Requirements," Frankfurt am Main 1998, is referred to as a guide.
- 9.4. If authorities responsible for vehicle safety or similar matters request access to the purchaser's production process and test documents for the purpose of verifying certain requirements, the supplier agrees, at the purchaser's request, to grant them the same rights at its premises and to provide all reasonable assistance in this regard.

10. Liability for defect

In the event of delivery of defective goods, the customer may, if the respective legal requirements and the conditions listed below are met and unless otherwise agreed, demand the following:

- 10.1. Before production (processing or installation) begins, the purchaser must first give the supplier the opportunity to sort out and remedy defects or make a replacement delivery, unless this is unreasonable for the purchaser. If the supplier is unable to do so or fails to comply immediately, the purchaser may withdraw from the contract without setting a further deadline and return the goods at the supplier's risk. In urgent cases, the purchaser may, after consultation with the supplier, remedy the defect itself or have it remedied by a third party. The costs incurred as a result shall be borne by the supplier. If the same goods are repeatedly delivered in a defective condition, the purchaser shall be entitled to withdraw from the contract after issuing a written warning in the event of another defective delivery, including for the unfulfilled scope of delivery.
- 10.2. If, despite compliance with the obligation under No. 4 (notification of defects), the defect is only discovered after the start of production, the customer may a) demand subsequent performance and reimbursement of the transport costs (excluding towing costs) necessary for the purpose of subsequent performance, as well as removal and installation costs (labor costs; material costs if agreed) in accordance with § 439 (1), (3) and (4) BGB (German Civil Code) or b) reduce the purchase price.
- 10.3. In the event of a culpable breach of duty going beyond the delivery of defective goods (e.g., in the case of a duty to provide information, advice, or investigation), the customer may demand compensation for the resulting consequential damage caused by the defect as well as for the consequential damage caused by the defect reimbursed by the customer to its customer in accordance with the law in accordance with No. 11. Consequential damage is the damage suffered by the customer as a result of the delivery of defective goods to legal interests other than the goods themselves. The customer shall only have further claims for expenses and damages due to the delivery of defective goods under § 437 BGB or directly under the provisions specified therein if this has been contractually agreed.
- 10.4. Claims arising from liability for defects shall become time-barred 24 months after the transfer of risk of the purchaser's end product to its customer, but no later than 30 months after delivery to the purchaser. In the case of defective deliveries, the purchaser's claims under the Product Liability Act, tort, and agency without authority shall remain unaffected by the provisions of No. 10 above. Quality and durability guarantees must be expressly designated as such in writing in detail.

11. Liability

- 11.1. Unless otherwise stipulated elsewhere in these terms and conditions, the supplier shall only be obliged to compensate the purchaser for damage incurred directly or indirectly as a result of a faulty delivery, violations of official safety regulations, or any other legal grounds attributable to the supplier.
- 11.2. Liability for damages shall only apply if the supplier is at fault for the damage caused by him. If claims are made against the purchaser on the basis of strict liability under non-negotiable law, the supplier shall be liable to the purchaser to the same extent as he would be directly liable. The principles of § 254 BGB (German Civil Code) shall apply mutatis mutandis to the compensation for damages between the purchaser and the supplier. This shall also apply in the event of a direct claim against the supplier.
- 11.3. The obligation to pay compensation shall be excluded if the purchaser has effectively limited its liability towards its customer. In doing so, the purchaser shall endeavor to agree on limitations of liability in a legally permissible manner, also in favor of the supplier.
- 11.4. The supplier shall be liable for measures taken by the purchaser to prevent damage (e.g., recall campaign) to the extent that it is legally obliged to do so.
- 11.5. If the purchaser intends to make a claim against the supplier in accordance with the above provisions, it shall inform and consult the supplier immediately and comprehensively. It shall give the supplier the opportunity to investigate the damage. The contracting parties shall agree on the measures to be taken, in particular in the case of settlement negotiations.

12. Property rights

- 12.1. The supplier shall be liable for claims arising from the use of the delivery items in accordance with the contract due to the infringement of property rights and property right applications (property rights), at least one of which from the property right family has been published either in the supplier's home country, by the European Patent Office, or in one of the following countries: the Federal Republic of Germany, France, Great Britain, Austria, or the USA.
- 12.2. The supplier shall indemnify the purchaser and customer against all claims arising from the use of such property rights. This shall not apply if the supplier has manufactured the goods in accordance with drawings, models or other equivalent descriptions or information provided by the purchaser and does not know or, in connection with the products developed by him, does not need to know that this infringes property rights.
- 12.3. The contracting parties undertake to inform each other immediately of any risks of infringement and alleged cases of infringement that become known and to give each other the opportunity to counteract such claims by mutual agreement.

13. Use of production equipment and confidential information of the purchaser

Models, dies, templates, samples, tools, and other production resources, as well as confidential information provided to the supplier by the purchaser or in which the purchaser has made a significant contribution to the costs, may only be used for the fulfillment of the respective contract with the purchaser and only with the prior written consent of the purchaser for the supplier's own purposes and for deliveries to third parties.

14. Retention of title

The supplier retains ownership of all goods delivered by him until full payment has been made; in this case, all deliveries are considered a single delivery transaction. In the case of a current account, the retained title shall serve as security for the supplier's balance claim. If the goods are combined by the customer with other items to form a single item and if the other item is to be regarded as the main item, the customer shall be obliged to transfer proportional co-ownership to the supplier, insofar as the main item belongs to him. If the customer resells the delivered goods in accordance with their intended use, he hereby assigns to the supplier all claims against his customers arising from the sale, including all ancillary rights, until all of the supplier's claims have been settled in full. For justified reasons, the purchaser is obliged, at the supplier's request, to notify the third-party purchasers of the assignment and to provide the supplier with the information and documents necessary to assert his rights. The supplier shall release the securities held by it to the extent that their value exceeds the claims to be secured by more than 20% in total.

15. Other agreements

- 15.1. The place of performance for services is the registered office of the purchaser.
- 15.2. If individual provisions of the contract are invalid, the remaining provisions shall remain valid.
- 15.3. The place of jurisdiction for all legal disputes, including bills of exchange and check proceedings, is Berlin. In addition, the purchaser is entitled to sue the supplier in the respective courts of its general place of jurisdiction.
- 15.4. All legal relationships between the purchaser and the supplier shall be governed exclusively by the law of the Federal Republic of Germany applicable to legal relationships between domestic parties.

1 January 2016

PhotonAG