

CeramTec GmbH Terms & Conditions for Subcontracting

Last updated: February 2017

1. General information

The following terms and conditions apply exclusively to all legal relationships with regard to subcontracting/external processing. We do not recognise contrary terms or other terms of the Contractor that deviate from these conditions, even if we do not expressly reject them in a specific case. The latest applicable version of our terms and conditions applies.

2. Conclusion & amendment of contract

2.1 Orders, the conclusion of contracts and any additions and amendments to them must be in writing, which includes notice by fax or electronic data interchange. Verbal agreements on or after conclusion of contract shall only have effect once they have been confirmed by us in writing. This applies in particular to changes and/or additions to our terms and conditions. The Contractor must confirm orders in writing within five working days, stating binding prices and delivery deadlines.

2.2 The following are integral parts of the contract:

- a) The purchase order with all attachments
- b) The details in the offer
- c) These Terms & Conditions for Subcontracting and any applicable additional order-specific conditions

In the event of conflicts, the parts of the contract listed under a) and b) shall apply in the same order as above.

2.3 References to any existing commercial relationship with us for advertising and other purposes require our prior consent.

3. Delivery deadlines

3.1 Agreed delivery deadlines and periods are binding. Receipt of the processed goods at the place specified in the order is definitive for whether the delivery deadline or period has been complied with. If delivery "ex works" (Incoterms 2010) is not agreed, the Contractor must have the goods ready in good time for loading and shipping, taking into account the applicable time to be agreed with the carrier.

3.2 If it becomes apparent that it will not be possible to meet an agreed delivery deadline, the Contractor must inform us immediately and in writing, stating reasons and the anticipated length of delay.

3.3 If the Contractor is in default, without prejudice to other rights we shall be entitled to demand a contractual penalty of 0.2 % of the total order value for each working day or part thereof, up to a maximum of 8 %. Acceptance of the late delivery without reservation does not constitute waiver of a right to damages or the contractual penalty to which we are entitled as a result of late delivery.

4. Deliveries

- 4.1 Delivery must be made at the place specified in the order. Goods must be packaged correctly, depending on type, to exclude any loss of quality, e.g. as a result of damage, contamination or changes during transport. Load capacity and stackability must be taken into account when selecting packaging. The applicable EC directives must be followed.
- 4.2 Irrespective of any inspection of incoming goods, we are entitled to reject excess deliveries as not agreed and under-deliveries as partial deliveries, in each case at the Contractor's expense.
- 4.3 Delivery or processing of the order by a third party shall require our prior consent.

5. Prices & invoicing

- 5.1 Agreed prices are in accordance with the Incoterms[®] 2010, ICC, as stated in the order, including standard commercial, secure packaging.
- 5.2 Invoices must be sent to the specified invoice address immediately after delivery with a unique reference (preferably as PDF file by email to kreditor@ceramtec.de). There shall be no obligation to pay invoices not issued in proper form and such invoices shall be returned to the Contractor unpaid. Shipments for cash on delivery are not accepted.

6. Payment terms

- 6.1 Unless agreed separately, our payments are made net 15 days after receipt of the invoice. Payments do not constitute acknowledgement that performance is compliant with contract.
- 6.2 Irrespective of any inspection of incoming goods, only the value equivalent to the performance actually received shall be owed.

7. Warranty

- 7.1 Performance is accepted subject to inspection for defects, including in particular inspection for proper function, accuracy and completeness. We shall be entitled to inspect the goods, to the extent that and as soon as inspection is practicable in the ordinary course of business. We shall give notice of discovered defects immediately after their discovery. If these conditions are complied with, the Contractor shall not claim notice of a defect was given late.
- 7.2 The statutory regulations shall apply to existing material defects and defects of title, unless provided for otherwise below.
- 7.3 The Contractor guarantees that its performance meets the agreed specifications and quality criteria, is suitable for our purposes and does not have defects that reduce or cancel its value or suitability for the typical use or use required under the contract. Furthermore, the Contractor guarantees that its performance also complies with the latest state of the art and the applicable DIN standards, applicable environmental, accident prevention and other work safety regulations and generally recognised technical safety and occupational medical rules that apply in the Federal Republic of Germany or have already been passed with a transitional period.
- 7.4 The Contractor guarantees that all statutory and technical safety requirements of the country of the manufacturer and customer for restricted, poisonous and hazardous materials have been complied with in the manufacturing processes used for processing and that the products/materials comply with the requirements that apply in the country of the manufacturer and customer with regard to the environment, electricity and electromagnetic fields.

- 7.5 We shall have the general right to choose the nature of cure. The Contractor has the right to reject the cure we have selected, subject to the requirements of Section 439 para. 3 of the German Civil Code (BGB).
- 7.6 If a defect is not eliminated, despite request by use, we shall be entitled in urgent cases to eliminate such a defect ourselves or have such defect eliminated by a third party, at the Contractor's expense, in particular to prevent acute hazards or to avoid more substantial loss.
- 7.7 The warranty period for material defects is 2 years. The limitation period shall begin on delivery of the goods (transfer of risk) or on completion of any cure. The warranty period for defects of title is 10 years. In the event of defects of title, the Contractor shall also indemnify us against potential claims by third parties.
- 7.8 If a material defect becomes apparent within 6 months of the transfer of risk, it shall be assumed that the defect already existed on transfer of risk.
- 7.9 If we incur costs as a result of defective performance, in particular costs for transport, labour, materials or for incoming inspection beyond the ordinary scope of inspection, the Contractor shall be obliged to pay such costs.
- 7.10 If we take back manufactured products as a result of a defect in the item delivered by the Contractor or we have to accept a reduction in the purchase price or any other claim is brought against us because of such defect, we reserve the right to recourse against the Contractor. We shall also be entitled to demand compensation from the Contractor for the costs that we have had to pay in our relationship with our customer, as a result of the customer's right to compensation of the costs required for the purpose of cure, in particular the costs of transport, labour and materials.

8. Product liability

If a product liability claim is brought against the Purchaser, the Contractor must indemnify us against such claims, to the extent that the damage has been caused by a defect in the item delivered by the Contractor and the defect has been caused by processing by the Contractor. In such cases, the Contractor shall accept all the costs that have been and are incurred, including the costs of any recall campaign. Otherwise, the statutory regulations shall apply.

9. Infringement of property rights

The Contractor shall be liable for breach of any industrial property rights held by third parties by performance or exploitation of its performance. In the event that third parties bring claims, the Contractor shall make every effort to support us at its own expense and shall indemnify us against the claims and the costs incurred as a result in the event of well-founded claims.

10. Working equipment & hazardous materials

- 10.1 If necessary, the parties must agree separately on the use, ownership and maintenance of equipment, systems and tools, moulds, dies, measuring and testing equipment.
- 10.2 We shall only be required to accept the delivery of processed products and other goods that must meet statutory requirements or the requirements of professional associations if the required, properly issued safety data sheets are enclosed and/or if other adequate documentation is enclosed.

11. Confidentiality & documents

- 11.1 The Contractor shall treat all information of a technical and commercial nature that it receives in the course of the order as strictly confidential, regardless of whether a contractual relationship is established, including after the expiry or end of any contractual relationship. This shall only not apply if it can be shown that the information is publicly known. Specific details must be regulated in a separate confidentiality agreement, as necessary.
- 11.2 At our request, all information originating from us (including copies, records etc.) and objects that we have lent the Contractor must be returned to us or destroyed immediately and completely.
- 11.3 Specifications, drawing, samples, models and other documents supplied by us remain our property and - unless required to perform the order - must not be disclosed or duplicated in whole or in part, their content - even in part - utilised, processed electronically or made accessible to third parties or the public or otherwise exploited commercially without our written consent. Any processing of the above is performed on our behalf.

12. Place of performance

Place the performance is the place at which the processed goods are to be delivered, as per the order.

13. Miscellaneous provisions

- 13.1 If any provision of these terms and conditions or the agreements made pursuant to these terms and conditions is or becomes invalid, the validity of the remaining provisions shall not be affected. The parties shall replace the invalid provision with a provision that comes as close as possible to achieving the economic effect of the invalid provision.
- 13.2 German law, excluding conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG), applies exclusively.
- 13.3 Place of jurisdiction for all legal disputes arising from contractual relationships based on these terms and conditions of purchase is Stuttgart; however, we may also elect the court with jurisdiction at the Contractor's head office or place of establishment or the court of the place of performance.