



Applicability and Definitions

1. These Special Conditions of Purchase, together with Nolato's General Purchasing Conditions and the relevant agreement and/or purchase order issued by Purchaser, set forth the terms under which the Purchaser offers to purchase Tools, and where applicable including installation, from Seller.
2. The term 'Tools' refers to such tools as has been the subject of a purchasing contract, or has been stated in a purchase order submitted by the Purchaser.

Payment

3. Payment shall be made in three (3) instalments where the invoices shall be issued as follows:
 - a) 10 % on order placement,
 - b) 30% after successfully performed FOT (First out of tool) including documentation delivered to and approved by Purchaser.
 - c) 60 % on successful performed SAT (approved acceptance test by Purchaser and, as applicable, by Purchaser's customer) including drawings and documentations delivered to and approved by Purchaser.
4. The above payments shall be made in arrears against invoice issued by the Supplier, which shall be paid within ninety (90) days after the receipt of invoice.

Transfer of title etc.

5. At the date of the first payment all title to the Tools is transferred to the Purchaser. Paper and electronic copies of all drawings, notated as owned by Purchaser will be issued to the Purchaser at this date or on completion, whichever is the sooner.
6. The plates of the Tools will be marked and all other components tagged as the property of Purchaser such as documents, tools and dies and other items supplied by Purchaser.

Deadline

7. Deadlines should be presented by Seller and agreed by Purchaser prior to the issuance of a Purchase Order.
8. If Purchase Order is issued on a later date, the dead-lines shall be adjusted accordingly, within one (1) week after the Purchase Order is issued, maintaining the same terms as previously.
9. If the deadlines are adjusted at any time without relevant explanation and not agreed in writing between Purchaser and Seller, the Purchaser may cancel the Purchase Order up till 4 weeks after adjusted dead-line is presented, until the Tools have been received by Purchaser.

Delivery

10. Notification of shipment must be sent to Purchaser 14 days before shipment.
11. If Seller foresees that it is likely that it is not able to meet a stipulated milestone or final deadline for any reason, Seller must immediately inform Purchaser in writing, indicating the exact reasons for the delay and the estimated length of the delay.
12. In such cases, Seller shall take all necessary measures (including, if necessary, adding extra shifts, working overtime and/or on weekends and holidays, express delivery), to meet the stipulated interim and final delivery and performance deadlines. Seller shall bear the costs of such measures and are to inform Purchaser in writing, the details of the measures adopted to minimize delays.

Documents

13. If Purchaser provides Seller with patterns, templates, drawings or other documents (hereinafter designated "Documents"), these Documents remain the property of Purchaser. The Documents must be returned to Purchaser when they are no longer required for the execution of the order.
14. Seller shall verify the Documents made available by Purchaser before manufacturing begins to insure that they are complete, correct and up to date. Seller shall in particular check the international dimensional relationships indicated therein.
15. If Seller determines that Documents are missing, incorrect or incomplete or do not reflect the current state of the art, Seller must immediately so inform Purchaser in writing.
16. The Documents may only be modified with permission from Purchaser.
17. Seller agrees to transfer to Purchaser title to the documents delivered, not limited in terms of time, territory or purpose, to use and reproduce the documentation without any restrictions.

Modifications

18. Seller is not entitled to modify the Tools without the explicit permission from Purchaser.
19. Seller shall immediately carry out any modifications requested by Purchaser, including related modifications to the documentation made necessary by the modifications to the Tools.
20. If Seller is of the opinion that a requested modification is not feasible or affects the function of the Tools, Seller shall immediately inform Purchaser thereof in writing.



21. Immediately after the receipt of a change request, but in no case later than ten (10) business days from the receipt thereof, Seller shall send its written proposal to Purchaser concerning any cost or time implications resulting from such change order request.

22. The parties shall come to an agreement on these modifications, although the lack of agreement shall not entitle Seller to delay in executing the modifications.

Insurance

23. Seller is obliged to maintain fire and liability insurance on all Tools until the risk for the Tools has passed to Purchaser.

Warranty of the Tools

24. The Seller warrants Tools for two (2) million cycles. Parts and labour for any repairs or maintenance to make good are the responsibility of the Seller.

25. The Tool will be manufactured to fulfil defined tool specifications.

26. Where the actual cycle time is greater than the defined cycle time by between 5 % and 14 %, a discount will apply.

27. At 5 % greater cycle the discount will be 1 % rising by a further 1 % for each further 1 % increase in cycle time up to a maximum of 10 % discount at 14 % greater cycle time.

28. Where cycle time is greater than that defined by 15 % or more, then Purchaser has the right to reject the Tool and the Seller shall refund all payments made to this date.

29. Where the Tool weight falls outside the range defined the Purchaser has the right to reject the Tool and Seller will refund all payments made to this date.

30. Where dimensions do not comply with those defined the Purchaser has the right to reject the Tool and the Seller will refund all payments made to this date.

31. The refunded payment is to be done as a debit note received by the Purchaser within two (2) weeks after rejection.

Liquidated Damages

32. For every week the Tools approval is delayed by one week a liquidated damages of 2% each week (five working days/week) is deductible from the total Tools price, up to a maximum of fifteen weeks.

33. For the avoidance of any doubt it is stipulated here that Seller shall be in default and thus the contractual liquidated damages shall be imposed if – in particular, without limitation – the Tools is not fully functional, not ready for operation or has not been delivered or completed on acceptance date, and Seller cannot prove that it is not responsible for the delay.

34. Purchaser is entitled to withhold payment or to deduct any contractual penalties imposed from any amounts owed to Seller.

35. Purchaser is also entitled to apply the contractual penalty through the final payment, even without any express reservation at the time of the acceptance.

36. Collection of the contractual penalty is also without prejudice to any other claims to which Purchaser may be entitled under law or contract.

Termination

37. Purchaser is entitled to cancel the purchase order for convenience with immediate effect or if required for urgent technical or operational reasons.

38. Upon such termination, Seller shall, immediately after receipt of the notice of cancellation, stop all work and have its subcontractors also stop all work. After deduction of the expenses not incurred and after submitting written proof of its costs, Seller is entitled to compensation for the work that was performed up to the time of cancellation or the performance of which could no longer be avoided. Under no circumstance may the amount of the refund to Seller exceed the price of the cancelled purchase order.

39. Purchaser is entitled to terminate the purchase order in whole or in part if insolvency bankruptcy proceedings are initiated, or court-supervised or out-of-court composition proceedings are requested against Seller.

40. If there are significant changes in the legal status, ownership structure or ownership of Seller, or changes in the management of Seller such that Purchaser can no longer be reasonably expected to abide to valid purchase order the Purchaser is entitled to terminate it.