

General purchasing and ordering conditions of Indufil B.V. in Duiven

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Article 1: Definitions

Agreement: the agreement (to be) entered into between Indufil and Supplier with respect to the Good(s) and/or Service(s) and/or Semifinished Food(s).

General Purchasing conditions: these general purchasing and ordering conditions of Indufil B.V.

Good(s): the finished movable good in the broadest sense, as described in the Order Indufil Indufil B.V., the user of the General Purchasing Conditions

Item(s): such as models, templates, moulds, drawings, etc. and know-how provided by Indufil to the Supplier for the execution of an Order or which are purchased or manufactured at Indufil's expense.

Order: the written purchase order from Indufil to the Supplier regarding the purchase of the Good(s) and/or Semifinished Good(s) and/or Services.

Semifinished Good(s): the semi manufactured product ("halfabrikkat").

Service(s): refers to work and services provided to Indufil by the Supplier.

Specification: the technical description of the Good(s) and/or Semifinished Good (s) listed in or referred to in the Order.

Supplier: the counterparty of Indufil which is the supplier of the Goods and/or Semifinished Good(s) and/or provision of Services.

Quality Check Report: report which is used by Indufil to indicate whether the Goods and/or Semi-Finished Goods comply with the provisions of the Order.

Article 2: General

2.1. Unless expressly agreed otherwise in writing, the General Purchasing Conditions apply to all of Indufil's orders for the supply of Goods and/or Semi-Finished Goods and/or provision of Services to Indufil, as well as to offers and deliveries made to Indufil.

2.2. Indufil does not accept the Supplier's terms and conditions of delivery.

2.3. Neither Indufil nor the Supplier will be bound by any amendments of, omissions from or additions to these conditions, unless both parties have agreed thereto in writing.

Article 3: Agreement

3.1. Indufil submits an Order to the Supplier. The Order is accepted by the Supplier when the Supplier issues a written order confirmation to Indufil within a week after the submission of the Order by Indufil. Verbal agreement between Indufil and the Supplier will only become binding upon written confirmation by Indufil's purchasing department.

3.2. An amendment to the Agreement is binding between Indufil and the Supplier if Indufil has confirmed by written notice the amendment to the Agreement.

3.3. Indufil is entitled to withdraw the Order as long as the Supplier has not accepted the Order as mentioned in article 3.1.

Article 4: Prices

4.1. All prices are fixed and carriage paid to the delivery address, exclude VAT and include proper packaging. Price alterations and the formation of the Agreement are and will remain the responsibility of the Supplier. Prices must be expressed in Euros.

Article 5: Delivery periods and penalty

5.1. The Supplier must deliver the Goods and/or the Semifinished Goods and/or provide the Services on the date specified in the Order, or by no later than the end of the delivery period stipulated in the Order. This period commences on the date on which the Agreement comes into force.

5.2. The Supplier is obliged to pay Indufil a penalty of 1%, subject to a minimum of € 150.00, for each day of delay up to a maximum of 10% of the price of the Goods and/or Semifinished Goods and/or Services that are not delivered on time, without prejudice to the right of Indufil to recover damages in excess of penalties, insofar as they exceed. The penalty may be set off against the Supplier's invoice.

5.3. The Supplier is obliged to notify Indufil in writing as soon as it has reason to believe that it will not be able to deliver on time. The notice must indicate the nature of the reason and when the Supplier expects to be able to deliver. If Indufil considers that this latter date constitutes an unacceptable failure to meet the deadline for delivery or the delivery period as specified in the Order, Indufil will be entitled to terminate the agreement and make a covering purchase elsewhere. The additional costs relating to this covering purchase are payable by the Supplier. If the Supplier fails to give the aforementioned notice, the Supplier loses its right to rely on article 6:75 of the Dutch Civil Code and will be in default by operation of law pursuant to article 6:83 a of the Dutch Civil Code.

5.4. In the event of termination by Indufil as in article 5.3, the Supplier must, at Indufil's discretion:

- pay an immediately due and payable penalty of 10% of the agreed purchase price; or
- compensate Indufil's actual damage.

5.5. All obligations of Indufil under the Agreement will be suspended until the amount that Indufil can claim from the Supplier in damage and costs has been established and has been paid by the Supplier to Indufil.

Article 6: Place of delivery / transmission of ownership

6.1. Delivery must take place carriage paid. Delivery of the Goods and/or Semifinished Goods takes place at the moment the Goods and/or Semifinished Goods are at the place of delivery specified in the Order. Delivery of Services takes place at the moment the Services are provided to Indufil as specified in the Order. The place of delivery of the Goods and/or Semifinished Goods and/or Services are specified in the Order.

6.2. Subject to article 8, ownership of the Goods and/or Semifinished Goods passes to Indufil upon delivery of the Goods and upon written acceptance by Indufil pursuant and in accordance with the Quality Check Report.

6.3. If the prices are agreed 'ex factory', deliveries must still take place carriage paid to the delivery address. The freight costs can be charged in this case. If the Goods and/or Semifinished Goods are collected by or on Indufil's behalf, the Supplier is obliged to assist with loading without charging anything for this purpose. Subject to article 8, the ownership in the event of collection by or on behalf of Indufil, passes to Indufil upon collection of the Goods and/or Semifinished Goods and upon written acceptance by or on Indufil's behalf pursuant and in accordance with the Quality Check Report.

Article 7: Transport

7.1. In case of delivery carriage paid at the place of delivery, the Supplier bears the transport risk. The Supplier is liable for damage – of any nature – suffered by Indufil which is caused by, during or in relation to the transport.

Article 8: Rejection / approval / risk

8.1. The acceptance of the Goods and/or Semifinished Goods by Indufil is subject to the conformity of the Goods and/or Semifinished Goods with the Quality Check Report.

8.2. The ownership of the Goods and/or Semifinished Goods passes upon delivery and upon a written acceptance of the Goods and/or Semifinished Goods by Indufil pursuant and in accordance with the Quality Check Report. Neither taking delivery nor payment of the Goods and/or Semifinished Goods implies an acceptance of the Goods and/or Semifinished Goods by Indufil.

8.3. Inspection or testing of the Goods and/or Semifinished Goods will take place within 14 days of delivery.

8.4. In case of a negative outcome of the inspection or testing of the Goods and/or Semifinished Goods as mentioned in article 8.3, Indufil reserves the right, at its discretion:

- a. to request repairs; or
 - b. if repairing the defects is not possible or a realistic option, in view of the time and money to be spent thereon, to return the Goods and/or Semifinished Goods concerned or the entire consignment at the Supplier's expense and risk and demand replacement at no charge; or
 - c. after consultation with the Supplier, carry out repairs or arrange for repairs to be carried out by a third party at the Supplier's expense; or
 - d. terminate the agreement in whole or in part, with immediate effect and without judicial intervention,
- all of the above notwithstanding the right of damage compensation of Indufil.

Article 9: Quality control

9.1. Prior to shipment, the Supplier must carefully inspect and test whether the Goods and/or Semifinished Goods are in conformity with what the parties have agreed. If Indufil requires, the Supplier must give due notice of such a test. Indufil is entitled to be present at the test. The Supplier must also provide an authenticated copy of its test report at Indufil's request.

9.2. If such has been expressly agreed, Indufil will be entitled to view and test the Goods and/or Semifinished Goods during processing, manufacturing or storage. If Indufil exercises this right, the Supplier or a third party it instructs must arrange for such facilities as may be reasonably requested by Indufil.

9.3. If Indufil finds as a result of any inspection or test, in accordance with the articles 9.1 and/or 9.2 of this article, that the Goods and/or Semifinished Goods are not in conformity with the Quality Check Report, or that this will probably be the case upon completion of the processing or manufacturing, Indufil will inform the Supplier thereof in writing and the Supplier must then take all necessary measures to comply with the provisions of the agreement.

9.4. The Supplier is obliged to carry out the Services in accordance with the duty of care as required.

Article 10: Assignment and subcontracting

10.1. The Supplier may not assign the Agreement, any part thereof, or claims against Indufil to third parties without Indufil's written consent.

10.2. The Supplier may not further subcontract the Agreement or any part thereof without Indufil's written consent, other than if it relates to raw materials and parts of minor importance, or that part of the Order whose manufacturer is mentioned in the Order or Specification. The consent will not release the Supplier from any obligation under the agreement.

Article 11: Items

11.1. Items will remain Indufil's property under all circumstances. The Items will be sent carriage paid.

11.2. The Supplier is obliged to mark the Items in such a way that their identification as Indufil's property is and remains possible at all times.

11.3. The Supplier is liable for damage – of any nature – caused to or by the Items.

11.4. The Supplier must keep the Items in a good state of repair to Indufil's satisfaction and insure them at its own expense.

11.5. Unless expressly agreed otherwise, the Items must be returned to Indufil carriage paid immediately after the last delivery.

11.6. The Supplier may not use, arrange for the use of, or allow the use of the Items or the provided know-how by third parties for or in connection with any purpose other than the execution of Orders for Indufil.

Article 12: Warranty

12.1. The Supplier gives a warranty on the Good(s) for a period of 36 months starting after the acceptance of the Goods by Indufil as set out in article 8.1 and 8.2 with regard to proper material, construction quality and proper functioning. The Supplier gives a warranty on the Semifinished Good(s) for 12 months after the use of the Semifinished Good(s) by the customer of Indufil.

12.2. The warranty entails that the Supplier must, at Indufil's discretion:

1. repair all defects and faults on demand;
 2. attend to the immediate and free replacement of defective Goods and/or Semifinished Goods;
 3. assume liability for the associated risks and costs if Indufil has carried out repairs itself or had these carried out by a third party due to the urgent nature thereof or by arrangement with the Supplier,
- all of the above notwithstanding Indufil's other statutory rights.

Article 13: Liability

13.1. The Supplier must fully indemnify Indufil against all direct and indirect damage (including damage to property, personal injury or trading losses) that may arise for Indufil, its personnel or customers from or as the result of an attributable breach or tort of the Supplier, its personnel or agents. This includes damage that may arise due to the presence, use, supply or removal of the Supplier's property during the execution of the Order.

13.2. Non-attributable breach of performance (force majeure) will be understood according to its meaning in general Dutch law. Force majeure may not be relied on in case of breach by the supplier's subcontractor or as the result of equipment failure, process disruptions or strikes.

13.3. If a force majeure situation lasts for longer than one month, Indufil will be entitled to terminate the agreement unilaterally and without judicial intervention by means of simple notice to the Supplier, insofar as the agreement has not yet been performed. Indufil will also be entitled to terminate the agreement on the same basis if the force majeure situation lasts for less than one month and Indufil no longer has any reasonable interest in the delivery after the end of the force majeure situation.

13.4. In the event of the assertion or commencement by any person of any claim or legal proceeding with respect to which the Seller may become obligated to fully indemnify, hold harmless, pay compensate or reimburse Indufil against any third-party for the compensation of damage as referred to in article 13.1. If a third party institutes any claim in this regard against Indufil, Indufil will immediately notify the Supplier thereof and provide the necessary details being understood that the failure to such notify the Supplier shall not in any way limit the rights of Indufil under the Agreement. If the Supplier within a reasonable time after receipt of such notice, fails to defend, then Indufil may proceed with the defence of the third-party claim or the legal proceeding. The Supplier shall not settle compromise or otherwise dispose of any third-party claim without the prior consent of Purchaser. The Supplier shall keep Indufil reasonable informed of any development in the dispute of such third-party claim and of its intentions on how to proceed.

Article 14: Industrial property

14.1. The Supplier warrants that the Goods and/or Semifinished Goods to be supplied and/or Services to be provided to Indufil do not infringe with third-party rights – of any nature – and indemnifies Indufil against all claims that may be instituted against it in that regard as mentioned in article 13.4. The Supplier must reimburse Indufil for all costs, losses and interest as a result of any infringement.

14.2. By means of the transfer of ownership, the Supplier grants Indufil a non-exclusive licence to its patents in relation to the Goods and/or Semifinished Goods and/or Services if applicable. The fee for the licence is included in the price. The licence includes:

a. the authority to use the relevant invention(s) in its own business, including repairing and/or arranging for repairs to these Goods and/or Semifinished Goods and/or Services to the extent applicable, however excluding manufacturing or arranging for the manufacturing of the Goods and/or Semifinished Goods concerned by a non-entitled party;

b. the authority to supply the part, whether or not they form a component of the Good and/or Semifinished Good to third parties.

14.3. The Supplier must fully indemnify Indufil against all costs, losses and interest arising from any infringement of patents, licences, copyright, registered drawings or designs, trademarks or trade names that are protected in the Netherlands.

14.4. If any action under this article is instituted against Indufil, Indufil will immediately notify the Supplier thereof and provide the necessary details being understood that the failure to such notify the Supplier shall not in any way limit the rights of Indufil under the Agreement. The Supplier must then conduct all negotiations to reach a settlement or conduct any proceedings that may arise at its own expense with due observance of article 13.4.

Article 15: Confidentiality

15.1. The Supplier is obliged to observe absolute confidentiality with regard to third parties concerning all that comes to its attention under the Agreement in relation to Indufil's business affairs, in the broadest sense, including details relating to regulations, models, drawings, schemes, designs, etc.

15.2. The Supplier is not entitled to disclose the existence of the Agreement to third parties in brochures, advertisements or otherwise in the media or letters, etc. without Indufil's prior written consent.

Article 16: Payment

16.1. Payment will take place within 60 days of receipt of the invoice by Indufil, unless the Goods and/or Semifinished Goods have not been accepted by Indufil as set out in article 8.1. Payment of the Services will take place within 60 days of receipt of invoice by Indufil, unless the Supplier has failed to carry out the Services in accordance with the duty of care as required.

16.2. In case of advance or instalment payments, Indufil will be entitled to request a bank guarantee, pledge or a non-possessory pledge on materials and parts and on the products manufactured from these materials and parts that are at the Supplier's premises, or similar security. Indufil will be entitled to set-off any amounts owing to it from a Supplier, for any reason, at all times.

16.3. Indufil is entitled to suspend its payment for as long as the Supplier does not fully comply with its obligation under the Agreement.

16.4. Indufil is entitled to set-off any payment obligation under the Agreement against any claim towards the Supplier.

Article 17: Identification of the Items

17.1. All identification requirements set out in the Order or expressed otherwise must be strictly observed and clearly implemented.

Article 18: Termination

18.1. Notwithstanding the provisions of article 5.3 and 13.3, Indufil is entitled to terminate the Agreement in whole or in part by means of a written notice, if:

a. the Supplier is declared bankrupt, placed in liquidation or granted a moratorium on the payment of its debts;

b. the Supplier commits breach of Agreement or otherwise fails to comply with its obligations.

18.2. The Supplier is liable for damage that Indufil incurs as a result of the termination. Upon termination the existing claims between the parties become immediately due and payable as far they have not been due and payable.

Article 19: Disputes

19.1. All disputes, including those that are only regarded as a dispute by one of the parties, are subject to the judgment of the civil court in Arnhem.

19.2. Dutch law applies exclusively to all agreements, offers and deliveries that are entered into or made under these conditions.

