

**General Conditions of Purchase of  
Wiha Werkzeuge GmbH, hereinafter referred to as "Wiha",  
Effective October 2015, Version 01**

**1. Scope of application**

These general conditions of purchase apply to all orders, including those placed on the basis of framework contracts. Modifications and amendments made to these terms and conditions by the Supplier require both the prior written consent of Wiha and the recognition of its terms and conditions of sale and delivery. The acceptance of deliveries and services shall not constitute approval of varying terms and conditions of sale and delivery.

Deviating or supplementary general business terms and conditions shall not become part of the contract as a result of the Supplier confirming the order or Wiha accepting the services.

Even if Wiha refers to correspondence containing or referencing the terms and conditions of the Supplier or a third party, this shall not be viewed as consent to the validity of those terms and conditions.

**2. Inquiry and offer materials**

Wiha shall reserve proprietary rights, copyrights, and all other rights to all inquiry and offer materials it provides to the Supplier. If no offer is submitted, the Supplier commits to destroy all these documents immediately or return them to Wiha free of charge and without delay.

If the Supplier's offers to Wiha vary from the original inquiry, the Supplier making the offer must indicate this expressly in writing when submitting the offer.

Subject to agreements to the contrary, the Supplier is bound to its offer for at least six months.

**3. Order, framework order, and contract conclusion**

3.1 In general, contracts shall be concluded in writing by placing an order, including on the basis of a previously agreed framework order.

3.2 The Supplier shall confirm Wiha's written order in writing within seven days of its receipt specifying the order number, article number, quantity or weight, delivery period, and prices, as well as the customs tariff number and information regarding the country of origin.

3.3 If the Supplier does not accept the specific contents of the order within ten days, Wiha is no longer bound to order and accept the goods.

- 3.4 Technical or commercial alterations will only take effect if they are explicitly listed in the Supplier's order confirmation and verified in writing by Wiha.
- 3.5 In consultation with the Supplier, Wiha is authorised to require changes to the design, delivery period, and delivery quantities. The implications of any changes must be settled with the interests of the Supplier by mutual agreement. If an agreement cannot be reached with the Supplier, Wiha may terminate the contract with reasonable compensation for expenses accrued by the Supplier.
- 3.6 The Supplier must not make any changes to a product with standard designs without the written consent of Wiha. If deliveries are made with modified properties without prior express written consent, Wiha can refuse to accept the delivery and the payment and consequently return the goods to the Supplier free of charge.

#### **4. Prices, invoices, payments, and terms of payment**

- 4.1 The prices listed in the order are considered maximum prices; it is permissible to fall below them but not to exceed them. Unless agreed otherwise, the price stated includes delivery and packaging to the delivery address specified by Wiha in the order.
- 4.2 Unless agreed otherwise, payment is due within 14 days with 3% discount or within 60 days net following receipt of the invoice or delivery which is complete and free of defects. This period assumes complete information is detailed on the delivery notes and invoices, including the order number, article number, quantity or weight, delivery period, and prices, as well as the customs tariff number and information regarding the country of origin; value-added tax must be disclosed separately.
- 4.3 Payment shall be effected upon complete delivery of the goods or services (depending on quantity and absence of defects) or permissible (agreed upon with Wiha) partial delivery and when a proper invoice has been received.
- 4.4 The payment of an invoice shall not constitute a waiver in respect of lodging complaints of defects, particularly if the damage to the delivered goods is not apparent or is concealed.
- 4.5 If the fulfilment of a contract is endangered due to the Supplier's inability to deliver or credit unworthiness, Wiha is entitled to withdraw immediately from the contract or order.
- 4.6 The Supplier is not authorised to assign its claims against Wiha to a third party or have them collected by a third party without the prior written consent of Wiha.

## **5. Delivery dates and delivery delays**

- 5.1 Agreed delivery dates and delivery periods in orders and calls for delivery are binding. Unless agreed otherwise, they refer to receipt at the delivery address specified in the order. If an exception is made and "ex works" delivery is agreed, the Supplier shall make the goods available in time for pick up by Wiha's contract carrier, taking into account the usual time required for loading and dispatching. If the Supplier is not familiar with the contract carrier, this carrier must obtain the information from Wiha. Other carriers may only be used for delivery with the express written consent of Wiha. Without this consent, the Supplier shall bear the freight costs.
- 5.2 Wiha must be notified of apparent delivery delays without delay, and further steps should be coordinated with Wiha. Neither this notification nor Wiha's acceptance of the delayed delivery or delayed provision of services releases the Supplier from its responsibility in case of delay.
- 5.3 Regardless of existing statutory claims for damages, if the Supplier defaults, Wiha is authorised to withdraw from the contract or place replacement purchases after an appropriate grace period has expired. A delivery delay penalty of at least € 500 for each commenced week can be claimed. However, this penalty must not exceed 300% of the net value of the order affected by the delay. Furthermore, Wiha reserves the right to add this contractual penalty to any additional claims for damages.
- 5.4 Partial deliveries are only permissible in exceptional cases and require the prior consent of Wiha. The Supplier shall bear any additional transport costs incurred. In such cases, payment does not become due until the entire delivery has been made.
- 5.5 Excess or short deliveries must be agreed upon in writing in advance. Without Wiha's consent to this delivery, Wiha can reject short deliveries as defective and store excess deliveries at the Supplier's expense.

## **6. Delivery dispatch, transport, packaging, and transfer of risk**

- 6.1 Delivery will be made according to the shipping method specified in the order.
- 6.2 If free delivery is made, the Supplier shall bear all costs which arise until the goods arrive at the delivery address specified in the order. Risk is transferred following collection at the place of performance.

- 6.3 If delivery is made with different Incoterms, a written agreement must be reached with Wiha. If an agreement is not made, Wiha reserves the right to charge the freight costs to the Supplier or offset these costs against the invoice.
- 6.4 All deliveries must be provided with the order number, Wiha article number, quantity or weight, customs tariff number and information regarding the country of origin in the delivery notes and packaging. If these requirements are not met, Wiha is authorised to refuse to accept the delivery at the Supplier's expense and risk.

## **7. Complaints, liability for defects**

- 7.1 Where the commercial obligation to inspect and report defects applies, Wiha will inspect the delivery and report any defects it detects in the process to the Supplier within a period of 14 days from the receipt of goods, while concealed defects must be reported within 14 days of their discovery.
- 7.2 The Supplier shall ensure that its deliveries and services are free of defects and that any warranties it has undertaken are provided and observed. In particular, warranties must comply with public law provisions, guidelines and requirements from authorities, professional associations, and the generally accepted engineering practices valid at the time of performance and fulfil all safety requirements.
- 7.3 In accordance with legal provisions for claiming defects, Wiha is authorised to require its choice of free supplementary performance (either elimination of the defect, delivery of an object free of defects, or new production).
- 7.4 If this subsequent performance remains unsuccessful, after the Supplier has been granted an appropriate grace period or if a grace period is not required by law, Wiha is authorised to demand a reduction in the purchase price or withdraw from the contract in whole or in part without compensation, as well as to claim damages rather than the performance, particularly due to a covering purchase made or the reimbursement of the expenses incurred.
- 7.5 If Wiha has attempted to reach the Supplier without success or if the Supplier is delayed in fulfilling its subsequent performance, Wiha reserves the right to eliminate the defects itself or have the defects eliminated by a third party at the Supplier's expense in urgent cases, in particular to prevent disproportionately high damages.
- 7.6 If a defect is not discovered until the deliveries have been processed and/or resold, Wiha is entitled to exercise its full rights of recourse pursuant to Section 478 of the German Civil Code because of defects claimed by the consumer.
- 7.7 The limitation period for material defect claims is 36 months unless a longer period is prescribed by law. This period commences when risk is transferred or upon acceptance, if

acceptance is prescribed by law or agreed upon. The limitation period for defective titles is 48 months from the delivery or acceptance, if acceptance is prescribed by law or agreed upon.

## **8. Third-party property rights**

- 8.1 The Supplier shall ensure that its deliveries and services are free of third-party property rights, in particular patents, trademarks, copyrights, and utility models, and that Wiha can use the deliveries for the purposes specified in the contract. The Supplier shall release Wiha from third-party claims due to domestic or international property right infringements without being prompted to do so. Furthermore, the Supplier shall reimburse any expenses Wiha incurred as a result of a third-party claim if it was due to a culpable breach of duty by the Supplier or its agent. If possible, the Supplier shall acquire at its own expense from the property rights holder those rights which allow Wiha the use according to the contract. Wiha will not make any commitments, reach any settlements, or make any other agreements with claimants without consulting the Supplier. Apart from that, Wiha is entitled to exercise all other statutory claims from the Supplier in case of defects in title.

## **9. Product liability, insurance**

- 9.1 If a claim in line with product liability provisions is made against Wiha due to a defective product, Wiha is entitled to pass any costs for compensation paid onto the Supplier. The Supplier shall release Wiha from third-party claims for damages if the Supplier is responsible for the error and would be liable in relation to third parties.
- 9.2 In cases of product liability and within the scope of its liability, the Supplier is also obligated to reimburse Wiha for activities which are implemented to prevent product liability damages to a reasonable and appropriate extent. If possible and reasonable, Wiha shall inform the Supplier regarding the contents and scope of these measures, in particular when a recall is required, and offer the Supplier the opportunity to comment. Other statutory claims shall remain unaffected.
- 9.3 The Supplier commits to maintain product liability insurance and recall insurance with coverage totalling € 5,000,000.00 per personal injury/property damage – as a lump sum –and including North America. If Wiha is entitled to additional claims for damages, they shall remain unaffected.

## 10. Tools, moulds, retention of title

- 10.1 Without the written consent of Wiha, the Supplier must not disclose to third parties any tools, moulds, models, samples, drawings, standard sheets, or other documents provided by Wiha, including any components manufactured using these. Furthermore, the Supplier may not use them for any purposes not specified in the contract.
- 10.2 The Supplier's processing or transforming of materials provided by Wiha is performed on Wiha's behalf. If materials provided by Wiha are processed with other parts, Wiha shall acquire joint ownership of the new object in the ratio of the value of the materials provided by Wiha to the other processed materials at the time of processing. When materials provided by Wiha are inseparably mixed with other objects not belonging to Wiha, Wiha shall acquire joint ownership of the new object in the ratio of the materials provided by Wiha to the other objects at the time of the combination. If this combination results in the Supplier's property being considered the main object compared to the materials provided by Wiha, the Supplier shall transfer partial joint ownership of the new object to Wiha and store it for Wiha.
- 10.3 Wiha objects to all regulations and declarations on the retention of title by the Supplier which go beyond the simple legal retention of title.

## 11. Non-disclosure

- 11.1 The Supplier agrees to use technical and commercial information, particularly development and manufacturing expertise, experience, constructions, programs, and knowledge of business relationships at Wiha, only within the scope of its cooperation with Wiha. Moreover, the Supplier agrees to handle this information confidentially beyond the duration of the contract and not make the information accessible to third parties.
- Drawings, CAD data, models, stencils, samples, and the like may not be conceded to unauthorised third parties, nor may they be made accessible to third parties. Duplicating information or items of this type is only permissible if required by the present contract and allowed by copyright provisions.
- The Supplier agrees to impose an appropriate confidentiality obligation on all its employees and third parties who must be involved in order to provide the contractual services, as well as to use professional diligence to prevent employees and third parties who are not involved in providing the contractual services from accessing information in accordance with sections 1. and 2. The Supplier shall ensure that the non-disclosure agreements of employees and third parties responsible for contractual services are also observed if an employee leaves the company during the duration of this agreement or the contractual relationship with the third party ends.

## 12. Laws and regulations

- 12.1 The Supplier assures Wiha that it will observe the requirements of the European Chemicals Regulation No. 1907/2006 dated 30 December 2006 in the currently applicable version.  
Should the delivered goods contain materials which are listed in the "Candidate List of Substances of Very High Concern" (SVHC list) pursuant to REACH, the Supplier is obligated to notify Wiha accordingly without delay. This also applies to materials which are added to this list on an ongoing basis. The current list can be viewed online on the Echa homepage at any time <http://www.echa.europa.eu/>.
- 12.2 The Supplier assures Wiha it will not process any products with substances in compliance with the
- RoHS Directive pursuant to provision 2011/95/EU or according to its latest updates
  - PAH Directive pursuant to DIN EN 1186 ff and Section 64LFGB 80.30 – 1 or according to its latest updates. Moreover, the Supplier shall safeguard the compliance of banned substances pursuant to the latest version of California Proposition 65 and China RoHS.
- 12.3 The Supplier commits to release Wiha from any liability in connection with the non-observance of the above provisions by the Supplier and to compensate Wiha for damages which Wiha incurs due to the non-observance of the regulations by the supplier or in this context.
- 12.4 The Supplier must identify to Wiha all products including materials which are listed in the American Dodd-Frank Wall Street Reform and Consumer Protection Act ("Conflict Minerals"). Furthermore, the Supplier shall provide complete and transparent documentation with regard to the supply chain up to the smelting plant.

## 13. Place of performance

- 13.1 The place of performance for deliveries is the delivery address specified in the order.

## 14. Jurisdiction, applicable law

- 14.1 The court responsible for Wiha's registered office shall have jurisdiction. However, Wiha is also entitled to bring suit against the Supplier at its place of general jurisdiction.
- 14.2 The laws of the Federal Republic of Germany shall apply under the exclusion of the United Nations Convention on the International Sale of Goods dated 11 April 1980 (CISG; UN Sales Convention).