

## **General terms and conditions of purchase**

### **§ 1 General validity**

1. Our terms and conditions of purchase shall have exclusive validity; any of the supplier's terms of purchase deviating from or opposing our terms of purchase will not be recognised by us unless expressly agreed to by us in writing. Our terms of purchase shall have validity even if, having knowledge of the fact that the supplier's terms deviate from or oppose our terms of purchase, we unreservedly accept the supplier's delivery.
2. All arrangements entered into between us and the supplier with regard to the execution of this order are laid down in writing in this agreement.
3. Our terms and conditions of purchase shall apply only vis-à-vis entrepreneurs as defined by § 310 para. 4 of the German Civil Code. They shall apply also to all future business transactions with the supplier.

### **§ 2 Offer / Documents relating to the offer**

1. The supplier shall be obliged to accept our order within a period of two weeks after receipt of our order. Only such orders as have been placed in writing and signed by us shall be legally binding for the orderer. Any arrangements entered into by word of mouth shall require written confirmation.

Any deviations from the orderer's terms of purchase that may be contained in the supplier's letter of confirmation will be recognised as binding only if they are confirmed in writing. Tacit non-objection shall not be deemed to be consent. In all other respects, the orderer's terms of purchase shall have exclusive validity for this order.

Upon expiration of the period for acceptance, we shall be entitled to cancel the order without any adverse consequences for us.

2. We reserve the right of ownership, copyright and the rights arising from the law on patents and registered designs with regard to all illustrations, drawings, calculations, formulations and other documents. Without our consent, such documents shall neither be used nor reproduced nor made available to third parties. They shall be used exclusively for the manufacture according to our order; upon execution of the order, they shall be returned to us spontaneously. They shall be kept secret from third parties. If the supplier violates any of the foregoing obligations, it shall be liable to pay damages unless it cannot be held responsible for such violation.

### **§ 3 Prices / Terms of payment**

1. The price indicated in the order shall be binding. In the absence of a deviating written arrangement, the price shall include delivery “free buyer’s premises”, inclusive of packaging. The return of the packaging requires a special arrangement.
2. The value-added tax provided for by law shall be indicated separately and is not included in the price.
3. We can process invoices only if – according to the information given in our order – these indicate the order number indicated therein; the supplier shall be responsible for all consequences arising from non-compliance with this obligation unless it furnishes proof that it cannot be held responsible for such non-compliance.
4. Unless otherwise agreed upon in writing, we shall make payment of the sales price within fourteen (14) days upon arrival of the delivery with a cash discount of three (3) per cent, or net within thirty (30) days upon receipt of the invoice.
5. We shall have offset rights and rights of retention to the extent provided for by law. We shall be entitled to assign all contractual claims without the supplier’s consent. Without our prior written consent, the supplier shall not be entitled to assign or pledge rights from our contractual relationship to third parties. This shall not apply to monetary claims. We can, however, make payment with releasing effect to the supplier.

### **§ 4 Time of delivery / Contractual penalty**

1. The time of delivery indicated in the order shall be binding. Arrival of the consignment at the place of destination shall be decisive for compliance with the date of delivery. If acceptance was agreed upon or is provided for by law, successful acceptance by a person authorised by us for the purpose shall be decisive.
2. The supplier shall inform us in writing without any delay if circumstances arise or become recognisable to him suggesting that the stipulated period of delivery cannot be complied with.
3. In case of a delay in delivery, we shall have the claims provided for by law. After expiration of a reasonable respite, we shall in particular be entitled to claim damages instead of performance and withdrawal. If we claim damages, the supplier shall be entitled to furnish proof that the obligation was violated through no fault of its.

Furthermore, we shall be entitled to claim a contractual penalty amounting to 0.1 % of the net value of the delivery per working day, however in total not more than 5 % of the net value of the delivery. The supplier shall be advised of the reservation of the contractual penalty not later than within ten (10) days after receipt of the delayed delivery. Working

days shall be from Mondays to Fridays. We shall be entitled to claim a contractual penalty in addition to performance. Further claims and rights due to us remain reserved. The contractual penalty paid shall be offset against a claim for damages.

4. The supplier shall himself make the deliveries and render the services (collectively referred to as "deliveries"). The supplier shall be entitled to enter into subcontracts only if it has previously obtained our written consent. The supplier shall be liable for any fault of its agents in the same manner as it is liable for any fault of its own.
5. Inasmuch as orders have not yet been fully carried out, we shall be entitled to demand changes regarding the design, the delivery and the period of delivery if we have a comprehensible interest in such change, if the supplier is technically able to make the change and if it can reasonably be expected to make the change.
6. Any costs, expenditure, damage, etc. resulting from a delay in delivery, in particular extra freight costs for fast or express consignments shall be for the supplier's account.

## **§ 5 Transfer of risk / Documents / Packaging**

1. Unless otherwise agreed upon in writing, delivery shall be made free buyer's premises.
2. The supplier shall accurately indicate our order number in all shipping documents and delivery notes, failing which we cannot be held responsible for any delay in processing such papers.
3. The supplier shall take back any and all packing materials for its own account. If this is not done within four (4) weeks following our written request, we shall be entitled to have the packing materials disposed of for the supplier's account.

## **§ 6 Complaint / Warranty**

1. We shall be obliged to examine the goods for any quantitative deviations within a reasonable period. The complaint shall be deemed to have been made in time if it is received by the supplier within a period of one week after receipt of the goods or, in case of hidden defects, within one week after discovery of such defects. In case of obvious defects calculated as of the date of delivery to us, in case of hidden defects as of the day of first recognisability.

Inasmuch as we have agreed with the supplier upon a special quality assurance, this shall have priority.

2. We shall be entitled to the warranty claims provided for by law without any restriction; in any case we shall be entitled at our discretion to stipulate from the supplier either removal of the defect or delivery of a new product. In such a case, the supplier shall bear any

expenses incurred for the purpose of removing the defect or making the replacement. We expressly reserve the right to claim damages, in particular the right to claim damages instead of performance.

If the supplier is at default or if the matter is particularly urgent, we shall be entitled to remove the defect or, if this is impossible or especially uneconomical because of the nature of the matter, to make a covering purchase. Claims for damages that did not arise from the object delivered itself shall be due to us to the extent provided for by law if the supplier is to be held responsible for a culpable violation of an essential contractual obligation because of deliberate action or gross negligence. Claims for damages shall not even be excluded if and inasmuch as cover in favour of the supplier exists within the framework of a third-party liability insurance or a product liability insurance entered into by the supplier. In addition, we will charge for each complaint an administrative and handling fee of € 120.

3. The period of limitation is thirty-six (36) months calculated from the day of the transfer of risk.

## **§ 7 Product liability / Indemnification**

1. Where the supplier is responsible for a product damage it shall indemnify us at first request from third party claims for damages inclusive of the costs necessary to ward off such claims, insofar as the cause of the product damage lies within its sphere of authority and organisation and it is liable itself in its dealings with external parties.
2. If, on account of a case of damage as defined in No. 7 para. 1, we have to conduct a product recall, the supplier shall reimburse us for any expenditure pursuant to §§ 683, 670 of the German Civil Code resulting from or in connection with the product recall conducted by us. Further claims we may have under the law shall remain unimpaired.
3. Inasmuch as possible for us and reasonable, we will inform the supplier about the nature and scope of the product recall and offer him the opportunity to comment.
4. The supplier shall be obliged to take out and maintain product liability insurance providing reasonable cover for personal and property damage. Upon our request, the supplier shall disclose to us the scope and amount of the insurance cover. If we are entitled to claims exceeding the sum insured by the supplier, such claims shall remain unimpaired.

## **§ 8 Proprietary rights**

1. The supplier guarantees that no third-party rights, in particular patents or other intellectual and industrial property rights are infringed in connection with its delivery.

2. If, in this connection, a third party should claim compensation from us, the supplier shall indemnify us from and against such claims upon our first written request; we shall not be entitled – without the supplier’s consent – to enter with the third party into any arrangement, in particular to agree upon a settlement.
3. The supplier’s duty of indemnification relates to any expenses that will necessarily result for us from and in connection with such a third-party claim.
4. The period of limitation for the claim for indemnification amounts to three (3) years calculated from the day on which we gain knowledge of the third-party claim.

## **§ 9 Reservation of ownership / Provision / Tool**

1. If we provide parts to the supplier, we reserve the ownership in such parts. The supplier processes or transforms such parts for us. If the goods supplied by us subject to retention of title are processed with other objects that are not owned by us, we shall acquire co-ownership in the new object in proportion of the value of our object (purchase price plus VAT) to the value of the other objects processed at the time of processing.
2. If the object supplied by us is inseparably mixed with other objects that are not owned by us, we shall acquire co-ownership in the new object in proportion of the value of the object provided subject to retention of title (purchase price plus VAT) to the value of the other mixed objects at the time of mixing. If the mixing occurs in such a manner that the supplier’s object is to be regarded as the main object, it shall be deemed agreed that the supplier will assign to us proportionate co-ownership; the supplier keeps for the solely owned or co-owned objects free of charge.
3. We reserve the right of ownership in tools; the supplier shall use the tools exclusively for the manufacture of the goods ordered by us. The supplier shall insure at replacement value the tools owned by us against damage by fire, water and theft. At the same time, the supplier hereby already now assigns to us any claims for compensation arising from such insurance; we hereby accept such assignment. Regarding our tools, the supplier shall carry out in time and for its own account any necessary service and inspection work as well as any maintenance and repair work. The supplier shall advise us at once of any breakdown; if he culpably fails to do so, claims for damages shall remain unimpaired.
4. Inasmuch as the security rights to which we are entitled pursuant to para. (1) and/or para. (2) exceed the purchase price of all our as yet unpaid for goods supplied subject to retention of title by more than ten (10) per cent, we shall – upon the supplier’s request – release the security rights at our discretion.

## **§ 10 Secrecy**

1. The supplier shall keep strictly secret all details of our business relationship, e.g. all illustrations, drawings, calculations and other documents as well as information (hereinafter referred to as “confidential information”) received from us either consciously or accidentally. The supplier shall neither use such information for its own purposes nor make such information available to third parties. As soon as such confidential information is no longer required for the execution of the order, the supplier shall return to us such confidential information free of charge without having been requested to do so by us.
2. Objects to be delivered that were manufactured in accordance with documents designed by us (such as drawings, models and the like) or according to confidential information or with production equipment provided by us or with replicated production equipment shall also constitute confidential information as defined in the foregoing paragraph.
3. The secrecy obligation shall continue after the end of this agreement; it shall not expire until and inasmuch as the confidential information has become generally known.
4. In case of a violation of this secrecy obligation, the supplier shall pay a contractual penalty amounting to twenty (20) per cent of the value of the goods ordered unless it can furnish proof that it cannot be held responsible for such violation. In case of particularly serious violations, we shall moreover be entitled to terminate the entire contractual relationship forthwith and without compensation and, if applicable, to demand repayment of any amounts already paid. An especially serious violation occurs in particular if the supplier passes on the knowledge that it has gained or obtained to third parties competing with us. We reserve the right to claim this contractual penalty until we make our final payment.

## **§ 11 Place of jurisdiction / Place of performance**

1. This agreement shall be subject exclusively to the laws of the Federal Republic of Germany; the UN Convention on Contracts for the International Sale of Goods shall not be applicable.
2. Inasmuch as the supplier is a merchant, the place of jurisdiction for all disputes arising from the contractual relationship shall be our place of business; we shall however be entitled to sue the supplier at any other law court where there is a justified place of jurisdiction, in particular at his place of residence or place of business.
3. Unless otherwise agreed upon, the place of performance shall be our place of business.