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# Terms and Conditions of Purchase

## 1 General Provisions

- 1.1 Our purchase orders are exclusively subject to our Terms and Conditions of Purchase. Any conflicting or deviating terms and conditions of the supplier are not accepted without our express written agreement.
- 1.2 Our Terms and Conditions of Purchase shall also apply to all future purchases without a separate agreement to this effect being required and without us having to refer to them in each individual case and even if we unconditionally accept the delivery although we know that the supplier's terms and conditions are in conflict with or deviate from our Terms and Conditions of Purchase.
- 1.3 All purchase orders and agreements as well as additions or amendments to them shall be made in writing for evidence purposes.

## 2 Quotation by the Supplier, Purchase Order, Documents

- 2.1 Any quotations made by the supplier shall be free of charge to us and not legally binding.
- 2.2 The supplier undertakes to confirm our purchase order in writing without delay. If we do not receive such written confirmation within 5 days from the date of ordering, we shall have the right to withdraw from the order.
- 2.3 We reserve the title and copyright to all information (including in electronic format), illustrations, drawings, calculations and other documents. The documents may only be used for the manufacture specified in our purchase order. They shall be treated confidentially and returned unsolicited upon completion of the order. Apart from that, the secrecy provisions mentioned in section 11.5 of these Terms and Conditions of Purchase shall apply.
- 2.4 Within reasonable limits for the supplier, we are entitled to demand modifications of the delivery item in terms of quantity, execution and quality. In such a case, any consequences, especially with regard to an increase or decrease in costs and/or delivery dates, shall be mutually and reasonably agreed upon.

## 3 Prices, Terms of Payment

- 3.1 The price indicated in the purchase order is binding regardless of any exchange rate fluctuations and, for domestic suppliers, does not include the legal value-added tax. The price includes delivery "free domicile" (for imports "DDP Incoterms 2020") as well as packaging, transport and insurance. The supplier is responsible for taking out adequate transport insurance for the goods to be delivered. A special, individual agreement shall be made concerning the return of the packaging.

- 3.2 Invoices can only be processed if they indicate the purchase order number indicated in our purchase order, the purchase order date and the VAT identification number. The supplier is responsible for any consequences resulting from the non-compliance with this obligation.
- 3.3 We shall pay the purchase price within 60 days from the delivery date and receipt of invoice, net. As an alternative, the invoice amount can be paid within 14 days with a 3 % discount or within 30 days with a 2 % discount. This shall not affect individually agreed terms of payment.
- 3.4 If payment is delayed, we shall - contrary to the legal provisions - pay a default interest rate of 3 percentage points p.a. above the prime rate, but at least of 4 per cent p.a.

#### **4 Delivery, Delivery Time, Late Delivery**

- 4.1 Delivery is made according to the above section 3.1, sentence 2. If customs clearance is required, selection of the shipping company shall be agreed with us in good time.
- 4.2 The delivery times, dates and deadlines indicated in the purchase order are binding. The supplier shall be in default without any reminder being required.
- 4.3 Partial deliveries are only permitted with our express prior agreement.
- 4.4 If delivery is delayed, we are entitled, after an appropriate period of grace has expired fruitlessly - even without period of grace, if the legal exceptions are observed -, at our option, to withdraw from the contract, procure replacement from a third party, and/or claim damages for non-performance. If delivery is delayed, we are also entitled to claim a contractual penalty of 0.5 % of the delivery value for each full week of delay, however not exceeding a total of 5 % of the delivery value. This shall not affect our right to claim further damages; however the contractual penalty will be set off against a possible claim for damages. We undertake to inform the supplier about our reservation of the contractual penalty within 10 working days at the latest, calculated from the date of receipt of the late delivery. We are entitled to claim the contractual penalty in addition to contract performance.
- 4.5 If the supplier becomes aware of circumstances that may prevent him from delivering the delivery items on time and in the agreed quality, the supplier shall immediately inform our Purchasing department.
- 4.6 With regard to quantities, weights and dimensions as well as completeness of the delivery, the data determined during our incoming goods inspection shall be decisive, unless other proof is provided.

#### **5 Passage of Risk, Documents, Shipment**

- 5.1 The supplier undertakes to exactly indicate our purchase order number and article number on all shipment documents and delivery notes; if he fails to do so, we shall not be liable for delays in processing. Any damages resulting therefrom shall be borne by the supplier. Our shipment addresses are indicated on the purchase order. Goods are only accepted Monday through Friday between 7 a.m. and 3 p.m. Delivery shall be coordinated with us at least one (1) working day in advance.

- 5.2 The supplier shall bear the risk of fortuitous loss or deterioration of the goods until they have been accepted at the receiving location designated by us.
- 5.3 We are entitled to refuse acceptance of goods that are delivered prior to the delivery date indicated in the purchase order and to send them back or have them stored by a third party on the supplier's account and risk.

## **6 Inspection for Defects, Warranty, Quality Requirements**

- 6.1 The supplier warrants that the delivered goods are free from defects affecting their value or usability and that they have the contractually agreed characteristics. In the absence of other agreements, the supplier shall observe the generally accepted technical rules, the provisions on environmental protection and accident prevention and other occupational safety and health regulations as well as the generally accepted safety and industrial medicine regulations applicable in Germany.
- 6.2 If the delivered item is defective or if it lacks any of the agreed characteristics, we shall be entitled to the full statutory warranty claims; in particular we shall be entitled, at our option, to claim supplementary performance or to withdraw from the contract within the legal provisions. This shall not affect further claims due to incorrect delivery or performance in line with statutory and contractual provisions, especially claims for damages.
- 6.3 The supplier acknowledges that we carry out the incoming goods inspection properly by taking a reasonable number of samples in order to verify the identity, weight, dimensions and appearance of the delivery item, directly after delivery, but not later than 14 days afterwards. We shall only be obliged to carry out technical function checks and other examinations if this is customary for the delivered goods.
- 6.4 We undertake to immediately report any defects detected during the aforementioned inspections, but not later than 14 days after delivery. Latent defects of the delivery shall be reported within 14 days after such defects are detected.
- 6.5 By way of derogation from § 422 section 1 sentence 2 BGB we are also entitled to unrestricted warranty claims if we have not become aware of the defect upon conclusion of the contract due to gross negligence.
- 6.6 If the supplier's supplementary performance is delayed or if immediate supplementary performance is required to protect our interests, we shall be entitled to effect the supplementary performance ourselves or to have it effected by a third party, at the expense of the supplier.
- 6.7 The warranty period is 36 months from the date of receipt of the goods in our company or at the specified shipment address.
- 6.8 At our request, quality assurance agreements / framework agreements for quality-relevant products shall be concluded. For quality-critical parts and subassemblies, a test certificate or functions certificate shall be provided. The certificates are part of the documentation and are therefore a prerequisite for completeness of the delivery.
- 6.9 For each case of complaint caused by the supplier we shall be entitled to charge an additional lump-sum compensation for administrative work in the amount of € 150.00 without providing specific evidence.

## **7 Recourse against Suppliers**

- 7.1 Besides the warranty claims, we shall be entitled to the legal claims for recourse within a supply chain (recourse against suppliers according to §§ 478, 479 BGB). In particular, we shall be entitled to demand exactly the type of supplementary performance (rectification or replacement delivery) from the supplier that we owe our own customer in the individual case. This shall not affect our statutory right of free choice (§ 439 section 1 BGB).
- 7.2 Our recourse claims against suppliers shall also apply if the goods, before being sold to a consumer, were further processed by us or by one of our customers, e.g. by being integrated into another product.

## **8 Product Liability, Indemnity, Liability Insurance Protection**

- 8.1 If the supplier is responsible for a product damage, he shall be obliged to release us from third-party claims for damages upon first demand.
- 8.2 Within this context, the supplier shall also be obliged to reimburse any expenses incurred by us as a result of recalls, warnings or other measures required to prevent risks and ensure safety. Upon request and as far as is possible and reasonable, we shall inform the supplier about the content and scope of the measures to be performed and give him the opportunity to comment.
- 8.3 The supplier shall cover his liability risks by taking out and maintaining adequate product liability insurance. The amounts covered shall be appropriate taking into account the scope of the business relationship and the concrete liability risk. Upon our request, the supplier shall furnish proof of the essential data of the insurance cover (scope and amount of cover). The supplier shall inform us about any changes of the insurance cover without prompting.

## **9 Force Majeure, Insolvency**

- 9.1 In the case of force majeure, labor disputes, interruptions of operations for which we are not responsible, riots, governmental actions and other circumstances beyond our control we shall be entitled to withdraw from the contract in whole or in part if these circumstances result in a substantial reduction of our demand.
- 9.2 If a party to the contract suspends his payments or if insolvency proceedings are instituted regarding his assets or if judicial or extrajudicial composition proceedings are initiated, the other party to the contract shall be entitled to withdraw from the part of the contract that has not been fulfilled.
- 9.3 If the supplier becomes insolvent, we shall be entitled to withhold an adequate amount - but at least 10 % of the purchase price - as security until the limitation period has expired.
- 9.4 The supplier shall assign to us his warranty claims against his pre-suppliers. We shall be entitled to disclose this assignment if the supplier becomes insolvent.

## **10 Property Rights**

- 10.1 The supplier warrants that the contractual products do not violate any trademark rights, copyrights or other industrial property rights (including trade secrets) of third parties. If a third party brings a claim against us in connection with our use or possession of the delivered goods, the supplier shall be obliged to indemnify us from these claims upon first written demand.
- 10.2 The duty of indemnification of the supplier shall cover all expenses incurred by us in connection with the claims made by third parties.
- 10.3 The period of limitation for the claims mentioned in this section is ten years from the conclusion of the respective delivery contract.

## **11 Retention of Title, Free-Issue Supplies, Tools, Secrecy, Spare Parts**

- 11.1 We do not object to a simple retention of title expressly requested by the supplier. The supplier is entitled to the requested retention of title if this title will expire upon payment of the delivered goods (goods subject to the retention of title) and if we have the right to resell and process the goods in the normal course of business. We do object to an expanded retention of title or group clauses.
- 11.2 In these Terms and Conditions of Purchase, tools shall mean all types of tools, in particular stamping and cutting tools, injection molds, press molds, die-casting molds, models, dies, measuring instruments, etc.
- 11.3 If we make tools available to the supplier, these tools shall remain our property and shall be marked accordingly by the supplier. The same shall apply if the supplier, for current or future orders, uses tools whose manufacturing costs are borne by us as per agreement. The tools shall become our property after the supplier has purchased or manufactured them. All manufacturing drawings required to manufacture the tools are part of the scope of supply. Instead of delivering them, the supplier shall store the tools for us free of charge and/or shall continue to use them. The supplier shall be responsible for maintaining the tools at his own cost and to replace them during their technical service life, if required. Along with the right of ownership, the right to withdraw the tools at our discretion shall pass to us.
- 11.4 The supplier undertakes to use the tools only for manufacturing the goods ordered by us and to insure them at their replacement value against fire, water and theft at his own expense. The supplier shall perform all required maintenance work on time and at his own expense.
- 11.5 The supplier undertakes to keep strictly secret all illustrations, drawings, calculations and other documents and information that he receives from us. They may only be disclosed to third parties with our prior written agreement. The obligation of secrecy applies especially to engineering results obtained in this context and to manufacturing processes. If required, the supplier shall impose this obligation of secrecy upon his sub-suppliers. The obligation of secrecy shall continue to apply beyond the execution of this order and shall only expire when these documents and information have become general knowledge.
- 11.6 Products that have been manufactured using our documents, models, equipment or other data, or any such items contracted by us, may not be used by the supplier himself nor be made available to third parties.

- 11.7 The supplier undertakes to supply spare parts for the period of the expected technical service life, but at least for a period of 15 years from delivery. If the supplier stops manufacturing the spare parts, he shall inform us in writing to give us a last opportunity of ordering spare parts and/or he shall submit to us, upon our request, all equipment and documents required to manufacture the spare parts and allow us to use them free of charge.

## **12 Place of Fulfilment, Legal Venue, Applicable Law**

- 12.1 The place of fulfilment is the headquarters of the group's company that has issued the individual purchase order.
- 12.2 All disputes arising from or in connection with contracts subject to these Terms and Conditions shall be settled by the state courts having jurisdiction at the location of the respective headquarters of the group's company.
- 12.3 However, we shall also be entitled to appeal to the state courts having jurisdiction at the supplier's headquarters.
- 12.4 All contracts concluded in agreement with these Terms and Conditions shall be subject to German Law.

## **13 Offset, Right of Retention, Validity and Modification of these Terms and Conditions of Purchase and of the Corresponding Contracts, Data Processing**

- 13.1 The supplier shall only have the right to offset or the right of retention when the claims are undisputed or legally established.
- 13.2 These Terms and Conditions of Purchase fully replace any previous versions. Should individual provisions be legally void, this shall not affect the validity of the other provisions. This shall also apply to the validity of the contracts concluded on the basis of these Terms and Conditions. This shall not apply if adhering to the contract would lead to unreasonable hardship for one of the parties.
- 13.3 We and our affiliated companies are entitled to store and process data related to business transactions, in compliance with the German legal provisions.

As of: January 2020