

## General Terms and Conditions of Purchase

### 1. Scope of Application

- 1.1 These Terms and Conditions apply to all present and future offers made by us, as the Customer, and contracts concluded with us.
- 1.2 These Terms and Conditions of Purchase apply exclusively. Any deviating, conflicting or supplementary conditions of business (terms and conditions of sale) of the Supplier shall become an integral part of the Agreement only if and to the extent that we have expressly consented in writing to the application thereof. If we refer to a letter, which contains or refers to terms and conditions of business of the Supplier, this does not imply any consent to said terms and conditions of business applying.
- 1.3 These Terms and Conditions of Purchase apply only in relation to entrepreneurs ("Unternehmer") (Paragraph 14 German Civil Code (BGB)), public-sector legal entities or special bodies or funds under public law.

### 2. Conclusion of Contract

- 2.1 Offers by the Supplier shall be binding for the Supplier for at least ten (10) working days and may be accepted by the Buyer at any time during this period. Orders placed by us are revocable up until receipt of the acknowledgement of the order or - in the absence of any acknowledgement of the order - up until delivery.
- 2.2 Strict adherence to agreed specifications, applicable standards and laws as well as recognised technical practices is one of the essential obligations of the Supplier under this contract.

### 3. Prices and Payment Terms

- 3.1 The agreed prices are stated exclusive of value added tax (*Umsatzsteuer*) and include the cost of packaging, insurance and carriage.
- 3.2 Invoices must be submitted in duplicate immediately following delivery and must state the order number. Payment shall be dependent on the number of pieces, weights and other units ascertained by our incoming-goods department.
- 3.3 We shall pay invoices within 14 days after receipt of the invoice and delivery with a 3 % cash discount, or within 30 days net. The payment shall not be deemed to be any acknowledgement of proper delivery.

### 4. Initial Samples, Changes

- 4.1 The basis for the release of any serial delivery shall be the initial sample test documented in an initial sample test report. Initial samples must be produced under the conditions for mass production. They must be supplied in the agreed quantities, especially marked, together with the initial sample test report with the test results for all agreed quality features. In addition to this, we are entitled to demand proof of the process and machine capability.
- 4.2 If approved, we shall release serial delivery in writing. Any deviations in the workmanship and properties of the product from the initial sample shall be deemed to be a defect in the product.
- 4.3 In following cases the Supplier must automatically submit initial samples without being asked:
- Any product change
  - Any change in the processed material
  - Any change in sub-suppliers
  - Any change in design
  - Any new/changed mould and/or tools (refurbishment, new productions)
  - Any change in the manufacturing process
  - Any change in the production site
  - Following any halt of delivery.

- 4.4 The product, the processed material, sub-suppliers, the design, the manufacturing process or the location of the production may only be changed with our prior consent. We must give consent if the initial sample is free from defects and there is no risk that the measure will have a negative effect on the quality of the products.

## 5. Dispatch, Passing of Risk

- 5.1 Dispatch shall be at the Supplier's risk and cost. If the freight charges are to be borne by us because of a special arrangement, the Supplier must choose the mode of dispatch that is most favourable for us. If he does not do this he shall be liable for the associated additional cost and other disadvantages.
- 5.2 The place of delivery is 79379 Müllheim, Germany. The risk shall not pass to us until the goods are handed over at the place of delivery. If we are unable to accept delivery as a consequence of stoppages due to internal or third-party industrial disputes or as a consequence of force majeure, the risk shall not pass until the grounds for hindrance have been removed and the goods are available to us at the place of delivery. We are obliged to notify the Supplier without undue delay if any grounds for hindrance of this nature have occurred or it is expected that they will occur.
- 5.3 The Supplier undertakes to package the goods in accordance with our instructions.

## 6. Delivery Dates

- 6.1 The delivery date shall be as agreed in the individual case. Delivery dates are always binding. The relevant date for determining whether the delivery date has been complied with is the date the goods are received at the place of delivery. In the absence of any special arrangement the goods ordered must be handed over to us within two weeks of the order date unless delivery is not possible within said period under usual conditions even in the case of careful management.
- 6.2 If the Supplier cannot comply with the agreed delivery date, he must inform us without undue delay. We are under no obligation to accept delivery before the agreed delivery date. We reserve the right to send back goods, which have been delivered early, or to store them until the delivery date at the Supplier's cost and risk.
- 6.3 If delivery is late we shall be entitled to demand 0.3% of the agreed price of the goods delivered late for every complete working day of delay, however a maximum of 5 %. The Supplier retains the right to prove that no damage was caused or only significantly less damage than the lump-sum. This shall be without prejudice to any further statutory rights.

## 7. Part Deliveries and Excess Deliveries

We are under no obligation to accept any part or excess deliveries, which have not been agreed. If only a part-delivery is made without our consent, we are entitled to withdraw from the entire contract if we have no interest in the part-delivery.

## 8. Warranty Claims

- 8.1 The Supplier must take responsibility that the goods delivered by him fulfil the agreed quality criteria, have been manufactured in accordance with the current state of the art and comply with the relevant provisions, standards and regulations. The Supplier must comply with the quality and testing requirements stated in our order. He must prove compliance therewith up until the entire consignment has been handed over at the place of delivery.
- 8.2 Our duty to inspect incoming goods is limited to defects which are apparently evident on external assessment including assessment of the delivery papers (e.g. transportation damage, incorrect and short deliveries). If the Supplier has its place of central administration in Germany, notification of defects is considered to have been made on time when we notify them to Supplier within five (5) working days after receipt of the goods or, insofar as such a defect becomes apparent at a later date, within five (5) working days after we become aware of the defect. If the Supplier has its place of central administration outside of Germany, any defects are in any case

deemed reported in good time if we notify the Supplier within four (4) weeks after we discovered or ought to have discovered said defects.

- 8.3 If the goods are defective, the Supplier must carry out remedial action at our discretion by either eliminating the defect or delivering a defect-free object. If the remedial action chosen by us is not possible, the Supplier is entitled to another form of remedial action to the extent such other form is reasonably acceptable for us. If no remedial action is possible, the Supplier refuses to execute the remedial action, no attempts to carry out remedial action are made despite a reasonable deadline being set, or the remedial action fails, we are entitled to withdraw from the contract at any time within the limitation period stipulated in clause 8.5 hereunder. The period referred to in Article 49 para. 2 of the UN Convention on Contracts for the International Sale of Goods (where applicable) shall not end before the expiration of the limitation period set out in clause 8.5 hereunder.
- 8.4 We manufacture products, which in turn are incorporated into products by our customers. If defective goods of the Supplier are used in the manufacturing of our products and lead to defects in said products, we may be liable towards our customers for damages, such as loss of production, production of defective products, product recalls, property damage and personal injury.
- 8.5 Any warranty claims shall be time-barred within three years calculated as of handover of the goods or - if acceptance has been agreed or stipulated - acceptance of performance. With regard to goods that are in line with their normal use or upon express agreement with the Supplier incorporated into a building and have caused a defect of said building, the period of limitation shall be six years. Any longer statutory limitation periods shall remain unaffected. The period referred to in Article 49 para. 2 of the UN Convention on Contracts for the International Sale of Goods (where applicable) shall not end before the expiration of the limitation period set out in this clause 8.4.

## 9. Product Liability

If the Supplier is responsible for damage to a product he must indemnify us against claims by third parties to the extent that the cause lay within his sphere of control and organization and he is himself liable in relation to third parties. Under his obligation to indemnify, the Supplier must reimburse any expenses pursuant to Paragraphs 683, 670 German Civil Code (*BGB*) that arise out of or in connection with any recourse taken by third parties including for recall campaigns carried out by us. We shall, to the extent possible and reasonable, notify the Supplier of the content and extent of recall measures and give him an opportunity to comment. This shall be without prejudice to any further statutory rights.

## 10. Other Duties of the Supplier

- 10.1 All of the obligations under the contract must be fulfilled by the Supplier himself. A subcontractor may be engaged only with our prior written consent.
- 10.2 The Supplier undertakes to treat all commercial or technical details, which are not in the public domain and of which he becomes aware due to the business relationship, as confidential. He must impose a corresponding obligation on his sub-suppliers.
- 10.3 Title to tools and jigs and fixtures produced to execute the contract for us and for which the Supplier charges us separately shall pass to us. The Supplier must mark them as our property, keep them safe, safeguard them against any kind of damage and use them only for the purposes of the contract. Unless otherwise agreed, the cost of maintaining and repairing said items shall be shared by the contact partners 50:50. If, however, said costs are due to defects in the tools or jigs and fixtures or due to improper use by the Supplier, his employees or other vicarious agents, they shall be borne the Supplier alone. The Supplier shall notify us without undue delay of all damage to said items which is not just negligible. Following request, he shall be obliged to hand over said items to us in an orderly condition if he no longer needs them to fulfil the contracts concluded with us.

**11. Liability**

- 11.1 We shall be liable in accordance with the statutory provisions for any breach by us, for which we are responsible, of material contractual obligations, i.e. for contractual obligations, the performance of which characterize the contract and which are necessary for the proper implementation of the contract. However, unless our conduct has been either grossly negligent or intentional, we shall be liable only for the foreseeable damage, which typically occurs.
- 11.2 We shall be liable for any other breaches of duty only if damage has been caused intentionally or grossly negligently by our statutory representatives or by a senior vicarious agent. We shall be liable for damage arising out of any injury to life, body or health in accordance with the statutory provisions. In all other respects claims against us for damages arising out of breaches of duty are excluded.

**12. Reservation of Title**

Unless expressly agreed otherwise, the Supplier is only permitted to make the transfer of title to the goods supplied dependent on payment of said goods.

**13. The Customer's Documents**

Documents enclosed with the orders (samples, models, drawings, plans, calculations etc.) shall remain our property. They must be kept for later orders or returned upon request by us following execution of the contract. Such documents may not be passed on to third parties nor may they be used for other purposes without our written consent.

**14. Right of Retention**

The Supplier shall be authorized to exercise a right of retention only insofar as his counterclaim is based on the same contractual relationship or on an undisputed claim or a claim which has become final and absolute.

**15. Final Provisions**

- 15.1 The governing law shall be the law of the Federal Republic of Germany and - to the extent applicable - the United Nations Convention on Contracts for the International Sale of Goods ("CISG").
- 15.2 If the Supplier is a merchant ("Kaufmann") or public-sector legal entity, the place of jurisdiction for legal disputes arising out of all supply contracts shall be Müllheim/Baden, Germany. We shall, however, be entitled to also assert our claims at the Supplier's place of general jurisdiction. We shall additionally have the choice to have any and all disputes arising out of the business relationship with the Supplier finally decided in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with said Rules. At the Supplier's request, we shall execute the aforementioned right of choice regarding a certain dispute by declaration to the Supplier within one week from the receipt of the Supplier's request, in the event that the Supplier wants to initiate legal proceedings against us.