

**Scope of Application**

- 1.1 Exclusively the following Purchase Terms will apply to orders and contracts on goods and services of the supplier-even to future orders and contracts.
- 1.2 We will not acknowledge any terms that are contrary to or deviate from our Purchase Terms. Our Purchase Terms will also apply where we accept without reservations and/or pay for goods and services of the supplier despite awareness of terms contrary to or deviating from our terms of purchase.

**2. Offer- Offer Documents- Conclusion of Contract**

- 2.1 The elaboration and submission of an offer by the supplier is free of charge and non-binding for us. Prior to the elaboration of his offer, the supplier must inform himself regarding all services and other circumstances in connection with the implementation of it and settle any questions prior to submission of the offer. Claims based on inadequate information are excluded. The extra charge period will be 3 months starting from the stipulated submission date unless otherwise stipulated in writing in the individual case.

Orders will be placed by way of a written acceptance declaration or, respectively, conclusion of a written contract in which addenda, restrictions or changes to the offer or scope of services are stipulated. Changes and additions to the order will only be binding if confirmed by us in writing.

- 2.2 We reserve the right to ownership of all samples, illustrations, drawings, calculations and other documents provided to the supplier. They may only be made accessible to third parties with our consent and subject to the condition that our rights are safeguarded. The supplier will be liable for ensuring that third parties do not infringe our rights. They are only to be used for manufacture on the basis of our order. After settlement of the order or where no order was placed, the items are to be returned to us unsolicited.

**3. Prices- Terms of Payment**

- 3.1 The stipulated prices are fixed prices and apply to the entire delivery period including possible assembly. They are to be understood as applying to the complete, functioning performance ex delivery address or ex place of assembly or place of use and cover all costs for any ancillary services and auxiliary devices such as packaging, transport, insurance policies, fees for any necessary inspections, permits and operations.
- 3.2 Packing is free of charge and we shall decide at our own volition whether such shall be consigned, disposed of or returned to Supplier. Packages shall be clearly identified by reference to the Purchase Order.
- 3.3 Where the supplier has assumed assembly, the supplier will bear all requisite ancillary costs such as travel expenses, provision of tools and daily allowances unless otherwise agreed.
- 3.4 Invoices can only be handled and paid by us if they specify the order code quoted by us and the numbers of every individual item. The supplier will be liable for all consequences of the non-observance of these requirements.
- 3.5 Unless otherwise agreed, payments will be within 14 days with 3% discount or within 30 days net.
- 3.6 The payment deadline will commence as soon as the delivery is completed and the invoice has been properly drawn up and received by us. Where the supplier has to provide material tests, inspection records, quality documents and other documents, the prerequisite for completeness of the good or service will also be receipt of these documents. A discount is also permissible where we set off claims or payments to an adequate amount due to defects. In the case of defective goods or services the payment deadline will not commence before complete rectification of the defects.
- 3.7 Payments will not be equivalent to acknowledgement of the goods and services as being in line with the contract and unless otherwise agreed will be effected by credit transfer or check.
- 3.8 The supplier can only assign or pledge his claims where he has obtained our written consent first.

**4. Spare parts**

- 4.1 The Supplier shall supply spare parts for a period equivalent to the anticipated life of the Supply on reasonable conditions which shall not be less than ten years.
- 4.2 Irrespective of 4.1, in the event that Supplier intends to discontinue the production of the Supplies, specifically of spare parts, semi-manufactured products or base material for the production of us, Supplier shall inform us twelve months prior to such discontinuation.

**5. Subcontracting**

The Supplier may not sub-contract the work to be performed under the Purchase Order and/or these Purchase terms without our prior written consent. Failure to obtain such consent shall permit us to rescind the Purchase Order in whole or in part and to claim damages.

**6. Delivery Date**

- 6.1 The delivery date specified in the order is binding and must be adhered to. Receipt of the goods by the place of receipt specified by us will be authoritative for observance of the delivery date, for timeliness of goods with assembly and of services, the inspection will be decisive.

The supplier will be obligated to inform us immediately in writing where circumstances arise or become known to him on the basis of which the delivery date cannot be observed.

- 6.2 Any delivery may be refused if delivered without a delivery note with the Supplier's heading for each Purchase Order, stating the Purchase Order number and, if necessary, the detailed contents of each single packing and the net and gross weights. We shall not be held liable for any delay in payment in case a delivery note has not been provided, has been incompletely filled in or is illegible. Quantities shall be those defined in the Specific Conditions. Irrespective of its other rights, we reserve the right to return to the Supplier, at Supplier's risk and expense, all anticipated and surplus deliveries, and to claim for any missing quantity as per the Specific Conditions.

- 6.3 Where the date is exceeded, we will give the supplier an adequate period of grace. If he fails to supply the goods or service within the stipulated period of grace we will have the right to either rescind the contract or to demand damages on the basis of non-performance. This will not affect our claim to payment of a contractual penalty. For each day of delayed performance of the contract, 1% of the value of the part affected by the delay and a maximum of 10% will be charged. The contractual penalty may be charged even upon acceptance of the goods.

- 6.4 Acceptance of the delayed goods or services will not imply a waiver of damage compensation claims we are entitled to on grounds of a delayed good or service; this will apply until the complete payment of the remuneration owed by us for the respective good or service.

- 6.5 Partial deliveries and premature deliveries will only be admissible with our prior consent and will not entail any obligation to partial or premature payment.

**7. Passing of Risk- Shipping-Documents**

- 7.1 Delivery is to be door delivery free of charge, freight prepaid, duty paid to the domicile of our company or the stipulated delivery address.

The values determined by us upon inspection of the goods will apply to number of units, weights and measures subject to the proviso of other records. Acceptance of the goods will be subject to inspection for defects in particular with regard to accuracy, completeness and functioning. We have the right to inspect the contractual item insofar as and as soon as this is expedient according to the due course of business.

We are entitled to reject any Supply which does not comply with the Purchase Order; we reserve the right to return the rejected Supply to the Supplier, at risks and expenses of the latter, and to request for the replacement or reimbursement of any so rejected Supply.

- 7.2 In the case of goods with assembly or of services, the risk will pass to us upon inspection and in the case of goods without assembly, upon receipt by the place of receipt quoted by us.

- 7.3 Unless otherwise agreed, shipping and packaging costs will be borne by the supplier. In the case of pricing ex works or ex supplier's sales warehouse, deliveries are to be shipped at the lowest possible costs unless another mode of transport was prescribed by us. Any additional costs incurred by non-observance of a shipping regulation will be borne by the supplier. In the case of pricing ex recipient we can likewise determine the mode of transport. Additional costs for accelerated transport in order to meet the delivery deadline will be borne by the supplier.

- 7.4 The supplier will be obligated to quote our order number on all delivery notes, shipping papers and invoices; where he fails to do so, delays in processing will be inevitable and we will not be liable for them.

**8. Guarantee- Report of Defects- Product Liability**

8.1 The supplier guarantees that his products are free of any defects which impede, restrict or reduce their value, functioning and use for the intended purpose and that they perform on a permanent basis in accordance with the contract. Complaints may already be made upon inspection and must be made to the supplier within 4 weeks after the inspection of the goods and services. In the case of hidden defects the complaint deadline of four weeks will not commence before detection of the defect. In the case of delivery to sites in which we execute orders outside of our works or workshops it will commence upon inspection of the goods by us.

8.2 Where the goods have material or legal defects or lack guaranteed features, we will have the right to demand rectification or delivery of a replacement within an adequate period. The supplier will be obligated to rectify the defect or provide replacement within the stipulated period and to bear all requisite costs. After lapse of the period we will have the right to opt to rescind the contract, demand damages due to non-performance, reduce remuneration or have the defects rectified ourselves at the expense of the supplier. In urgent cases or where rectification of the defect is refused by supplier or fails, we will have the right to rectify the defects ourselves even without stipulation of a deadline.

8.3 Where costs are incurred to us as a consequence of defective delivery of the contractual item, in particular transport, toll, work- and materials costs or costs for the inspection exceeding the usual scope, these costs will be borne by the supplier.

Where we take back manufactured and/or sold products due to a defect of the contractual item delivered by the supplier or where the purchase price was reduced for us because of this or where claims were made against us in any other way, we reserve the right to recourse against the supplier without requirement of the usual deadline in this case.

We have the right to demand reimbursement by the supplier of the expenses which we had to bear in relation to our customer because he has a claim against us for reimbursement of the expenses of make-up performance, in particular material costs, toll, work- and transport costs.

8.4 The guarantee period will be 2 years starting from acceptance of the goods. In the case of rectification or replacement by the supplier, the guarantee period will re-commence as from the time at which the supplier delivered the replacement or completed rectification.

8.5 In case claims are made against us on the basis of product liability, the supplier will be obligated to indemnify us from such claims insofar as the damage was caused by a defect of the goods and services of the supplier. In cases of fault-free liability this will only apply where fault lies with the supplier. Insofar as the cause of damage is within the scope of responsibility of the supplier, he will bear the burden of proof.

In the above cases, the supplier will bear all costs including the costs of any litigation or re-call campaigns. In other respects, the statutory regulations will apply.

**9. Retention of Title- Provision of Materials- Tools- Confidentiality**

9.1 Supplier's retention of title will only become part of the contract where the retention of title expires upon payment of the price agreed for the goods subject to retention of title and we have the right to resale and reprocessing within the scope of due course of business. Retention of title by the supplier going beyond these terms will not be accepted

9.2 Where we provide the supplier with parts or other materials we reserve the ownership of them. They must be separately stored by the supplier free of charge, labelled and managed. Their use is only admissible for performance of the orders placed to us. In the case of depreciation of value or loss of the items, the supplier must provide a replacement. This will also apply to the case of leasing of material in connection with the order. Processing or reshaping of our parts and materials by the supplier will be carried out on our behalf. Where our goods are processed with other items not belonging to us we will acquire a share in the ownership of the new item on the basis of the proportion of its value of our parts to the other items being processed at the time of the processing. The supplier will store these items for us carefully and free of charge.

9.3 All tools, forms, samples, models, profiles, drawings, norm sheets, setting copy and measuring tools provided to the supplier and produced by him on our behalf as well as the items

produced with them will remain our property and may not be passed on to third parties or used for a purpose other than that stipulated in the contract without our written consent. They must be secured against unauthorized access or use. Subject to the proviso of additional rights, we can demand their return where the supplier breaches these duties. The supplier will be obligated to use the items and documents provided exclusively for the manufacture of the goods ordered by us and to insure the tools at replacement value at his own expense against damage by fire, water and theft and to perform any necessary repair and inspection work at his own expense in due time and to report any trouble immediately.

9.4 The supplier will also be obligated to treat all samples, drawings, calculations and other documents and information with strict confidentiality and to submit his subcontractors to the same duty. The duty of confidentiality will apply even after the contract has terminated. It will only cease to apply where the knowledge in the samples, drawings, calculations and other documents provided has become public.

**10. Intellectual Property Rights- Rights of Use**

10.1 The supplier guarantees that no third party rights are being infringed in connection with his delivery and indemnifies us from any claims by third parties. Indemnification of the supplier refers to all expenses and damage incurred to us in connection with a lawsuit by a third party.

10.2 The exclusive rights of use to samples, drawings, product specifications, data sheets and other documents of the supplier as well as the intellectual property rights are already being assigned to us upon conclusion of the contract insofar as they arose or were produced as part of the performance of the contract. We are exclusively authorized to use these results.

10.3 The Supplier undertakes not to reproduce, communicate to any person whatsoever, or exploit, for its own benefit or the benefit of a third party, or otherwise make use of, for itself or for a third party, without our prior written consent, any file, document, program or tooling which has been communicated by us to the Supplier or has been created by the Supplier for us.

10.4 If this Purchase Order involves in whole or in part designs works and/or development of software, all the results of said works will be our exclusive property as and when the work is performed by the Supplier. In this respect, if the results involve copyrights, the Supplier assigns to us, on a non-exclusive basis all transferable patrimonial copyrights related to the said results. These rights include reproduction, representation, modification, adaptation, translation, and commercialization rights under any forms and on any media existing or to come, for the legal duration of the copyrights and on a world-wide basis. Any fees for these rights license are included in the price of the Purchase Order.

10.5 We have the right to publish the work results which were elaborated for us. Publication of the results by the supplier will require our prior written consent.

**11. Insurances**

The Supplier shall take out an adequate liability insurance to cover damages caused by it for the performance of the Supplies at its own cost. To cover product liability risks, the Supplier shall maintain a business liability insurance which shall include financial loss caused by damage to products (extended liability insurance covering persons and property damage, damages abroad and the costs of product recall). Proof of the amount of the insurance covered shall be disclosed to us at our request. The scope of legal liability shall not be restricted by the conclusion of a liability insurance policy.

**12. Certificates of origin and export regulations**

12.1 The Supplier shall submit all necessary proof (e. g. certificates of origin) which are necessary for obtainment of customs or other benefits and customs clearance as well as associated procedures, operations etc. which are necessary.

12.2 The Supplier shall inform us in writing which components, categories of components, appliances, equipment etc. are subject to export or re-export restrictions according to the Foreign Trade and Payments Regulations of the Federal Republic of Germany or, if applicable, the "US Export Regulations".

12.3 If any of the named obligations is violated for whatever reason, the Supplier shall bear all damages and consequences resulting there from for us and/or our customers.

**13. Force Majeure**

13.1 Deadlines or dates which cannot be observed due to force

majeure will be extended by the period equivalent to the period in which the circumstance of force majeure persisted plus an adequate run-up period, except in the case of transactions for delivery by a fixed date.

The supplier must inform us within 7 days after becoming aware of the circumstance of force majeure. Where it becomes unreasonable for us to be bound to the contract because of force majeure, we will have the right to rescission.

- 13.2 Force majeure is an exceptional, unpredictable and inevitable event (such as natural catastrophes, terrorism, war, revolution, kidnapping, fire, etc.), the consequences of which cannot be averted by economically reasonable precautions. This includes official measures and government acts insofar as they were not predictable or are not caused in part by an act or omission attributable to the supplier. Natural catastrophes which happen periodically and illegal lock-outs are not included under cases of force majeure.

#### **14. Final Provisions**

- 14.1 Should a term of the present Purchase Terms and the respective additional agreements be or become invalid, this will not affect the validity of the remaining terms. The invalid term is to be replaced by a term which comes as close as possible to the economic purpose of the invalid term.
- 14.2 The place of performance is our business domicile unless otherwise stipulated in the order.
- 14.3 Insofar as the supplier is a registered businessman as defined by the Commercial Code, our business domicile will be the exclusive place of jurisdiction unless a different place of jurisdiction is prescribed. However, we have the right to bring a lawsuit against the supplier before the competent court at his business domicile or location of his branch office or before the court at the place of jurisdiction.
- 14.4 Exclusively the laws of the Federal Republic of Germany, excluding international purchase law will apply to the present Purchase Terms and to the entire legal relations between us and the supplier.