

# Terms and Conditions of Purchase

for use with traders, legal entities under public law or special funds under public law

## I. Prevailing terms and conditions

These terms and conditions of purchase apply to all business transactions with the supplier or other contractors (hereafter referred to collectively as "supplier"). They shall also still apply if the supplier references its own terms and conditions upon order acceptance or in the order confirmation, unless these have been expressly agreed.

## II. Order

1. Order acceptances must be confirmed to us within two weeks from the order, otherwise we shall no longer be bound by our offer.
2. Deviations in quantity and quality as compared with the contractual content shall require our consent in order to be effective.
3. Designs including tolerance information specified by us in an individual case shall be binding. We shall not be liable for obvious mistakes or typographical or calculation errors in the documentation, designs and plans submitted by us. The supplier is obliged to notify us of any such errors so that our order can be corrected and replaced. This shall also apply in the event of missing documentation or designs.
4. We shall retain or obtain title to designs, tools, samples, models as well as finished products and semi-finished products that are provided by us or produced on our behalf, and these may only be provided to third parties with our express written approval. Subject to agreements to the contrary in an individual case these must be returned to us without delay once the order has been completed without a special request being made. Products manufactured with this type of equipment or labelled with our brands or designs may only be provided to third parties with our express written approval.

## III. Delivery deadlines

1. The agreed delivery periods and deadlines shall be binding. They shall start from the order date. The goods must have been received at the receipt point stated by us within the delivery period or by the delivery deadline. If delays are to be expected the supplier must notify us of this without delay and obtain our decision regarding adherence to the order.
2. If the supplier is in default of delivery then in addition to any further statutory claims we shall be entitled to claim flat-rate compensation for the damage suffered by us for this delay of 0.5% of the net order value for each full or partial week of the default of delivery, up to a maximum of 5% of the net order value of the goods that are delivered late. We reserve the right to prove that we suffered greater damage than this. The supplier reserves the right to prove that we suffered no damage at all or significantly less damage.
3. If we accept a delayed delivery we shall assert an agreed contractual penalty with the final payment at the latest by way of derogation from section 341 sub-section 3 of the German Civil Code (BGB).
4. We shall be under no obligation to accept deliveries before the delivery deadline expires.

## IV. Delivery/packaging

1. The delivery shall be made at the supplier's expense free of charge to us to the receipt point stated by us. If we are responsible for the freight in an exceptional case, the supplier must select the method of transportation specified by us, or otherwise the most favourable method of transportation and delivery for us.
2. Risk shall only pass to us following acceptance at our receipt point.
3. Packaging shall be included in the price. In the event of a contrary agreement in an exceptional case the packaging shall be charged at cost price. The supplier must select the packaging specified by us and ensure that the goods are protected from damage through the packaging. At least two-thirds of the value charged shall be credited in the event of a return consignment.

## **V. Documentation**

1. Two copies of invoices, delivery notes and packing slips must be enclosed with each shipment. These documents must include:
  - order number
  - quantity and unit of quantity
  - gross, net and if applicable calculated weight
  - item name with our item number
  - residual quantity in the case of partial deliveries.
2. A shipment notification must be sent to us separately on the day that freight is shipped.

## **VI. Prices**

Unless otherwise expressly determined, the agreed prices shall be fixed prices, unless the supplier generally reduces its relevant prices.

## **VII. Invoice/payment**

1. Invoices must be issued separately for each order. Payment will only be made following receipt in full of faultless goods or perfect complete performance and invoice receipt. This shall apply accordingly to partial deliveries. Time delays which occur as a result of incorrect or incomplete invoices will not have a negative effect on any applicable discount periods. If a discount is provided the payment will be made:
  - within 14 days minus a 3% discount
  - within 30 days net.
2. The supplier's claims against us may only be assigned to third parties with our consent subject to the regulations of section 354a of the German Commercial Code (HGB). Payments will only be made to the supplier.
3. We shall be entitled to rights of offset and retention as well as to the defence of non-performance of the contract within the statutory scope.
4. We shall not be liable for maturity interest. The interest on default shall be 5 percentage points above the base interest rate annually.

## **VIII. Defective deliveries and quality requirements**

If required our order must be inspected for viability of the planned usage purpose or benefit once received by the supplier. The supplier must notify us of any obstacles or restrictions to or additional requirements for the planned usage purpose. The supplier must provide us with all details, including product descriptions, that we need for proper order execution in relation to our customers; this also includes complete and timely transmission of all information pertaining to the goods.

1. Unless otherwise determined below, the statutory provisions apply in relation to our rights in the event of material defects or defects of title in the goods (including incorrect or short deliveries along with improper assembly or defective assembly, operating or usage instructions) and other breaches of obligation by the supplier.
2. Timely notification of quality and quantity deviations shall have been provided in any case provided that we communicate these to the supplier within three working days following receipt of the goods by us or at the receipt point. Timely notification of hidden material defects shall have been provided in any case provided that the communication is provided to the supplier within three working days following discovery.
3. By way of derogation from section 438 sub-section 1 no. 3 BGB the limitation period for claims for defects shall be three years and by way of derogation from section 438 sub-section 1 no. 2 BGB it shall be five years and six months.
4. The supplier shall be under an obligation to notify us separately if the goods delivered by the supplier are subject to stipulated care and usage conditions or environmental influences which e.g. may deviate from the manufacturer's standard atmospheric conditions.
5. Approved returns must be made at the supplier's expense. The supplier shall be liable for all damage in accordance with the statutory regulations irrespective of the legal grounds.

## **IX. Producer liability**

1. If the supplier is responsible for product damage, it must indemnify us against claims from third parties to the extent that the cause is within its area of control and organisation and it is itself liable in relation to third parties.

2. Within the scope of its indemnity obligations the Supplier must reimburse expenditure in accordance with sections 683 and 670 BGB which is incurred as a result of or in connection with a third-party claim, including any product recalls implemented by us. We will notify the supplier of the content and scope of product recalls and give it the opportunity to state an opinion. This is without prejudice to any further statutory claims.
3. The supplier must take out and maintain mandatory product liability insurance with a limit of liability for personal injury and material damage which is appropriate to the risk of injury and damage; unless otherwise agreed in an individual case this insurance does not need to cover the risk of a recall or criminal or similar damage.
4. In cases involving joint production the supplier shall be under an obligation to inspect the semi-finished goods delivered for the presence of defects prior to production execution. The supplier must notify us of any defects detected, describing these as precisely as possible. If this does not happen then the goods shall be deemed to have been approved in relation to these defects.

The VDE/VDS guidelines applicable at the point of acceptance shall apply to all electrical work and the provision of information (in particular VDE 0100 Electrical equipment in furniture and similar fitments). The supplier may submit corresponding test certificates at any time.

## **X.**

### **XI. Retention of title**

1. The goods must be transferred to us unconditionally and irrespective of payment of the price.
2. However, if we accept an offer from the supplier for assignment conditional upon payment of the purchase price in an individual case, the supplier's retention of title shall be extinguished with payment of the purchase price for the goods delivered at the latest. We shall remain entitled to resell the goods in the ordinary course of business including before payment of the purchase price subject to prior assignment of the claim arising from this (alternatively application of simple retention of title extended to the resale).  
All other forms of retention of title are excluded with this, in particular retention of title that is expanded, transferred or extended to further processing.

### **XII. Force majeure**

War, civil war, export restrictions or trade restrictions based on a change to the political conditions along with strikes, lockout, business disruptions, operating restrictions and similar events which make fulfilment of the contract impossible or unreasonable shall be considered to constitute force majeure and shall release us from our obligation of timely acceptance for their duration. The contracting partners are under an obligation to give notification of these and to adapt their obligations to the changes in conditions in good faith.

### **XIII. Storage/title**

We shall retain title to any material provided. It must be stored separately as such and may only be used for our orders. The supplier shall be liable for a reduction in their value or their loss, including without culpability on its part. We shall retain title to the items that are produced with the material provided by us in their relevant state of production. The supplier will store these items for us; the purchase price includes the costs for storing these items and materials.

### **XIV. Trade secrets**

The supplier shall be under an obligation to treat our orders and all commercial and technical details associated with these as trade secrets.

### **XV. General provisions**

1. In the event that a provision is or becomes void the remaining provisions shall remain valid.
2. German law shall apply to all legal relations between the supplier and us, including if the latter has its registered office abroad, with inclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
3. The place of fulfilment is Rosendahl. A contrary agreement may be made for the delivery.
4. The place of jurisdiction is Rosendahl.