

# General Terms and Conditions

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### I. Area of Application

(1) Our following purchase specifications are valid exclusively. We do not accept opposite purchase specifications or supplier conditions which deviate from ours. They will not become an integral part of the contract, not even if the supplier expressly points out to his conditions, unless we would expressly agree within a written approval. Our purchase specifications are valid even if we accept without reservation a delivery of the supplier which has opposite or divergent conditions compared to our purchase specifications.

(2) Our purchase specifications are valid for all future businesses with the supplier, too.

(3) Independent from the items I.1 and I.2 we reserve our right to define other purchase specifications in our functional specifications within our projects, which – in case of receiving the other purchase specifications – are above the general purchase specifications depicted here.

### II. Form

(1) Offer and order require the written form.

(2) Contracts which were made between us and the supplier in case of mutual presence and all other agreements require the written form.

### **III. Enquiry – Documents – Offer**

(1) The supplier, as a specialist, is being requested by means of our enquiry to submit an offer free of charge. He must orientate his offer according to our descriptions and targets and to expressly point out discrepancies. The supplier accepts the duty to provide explanations and to indicate changes. His offer is binding for 90 days, if the supplier does not set terms of acceptance by himself.

(2) We reserve our proprietor right and copyright concerning all illustrations, drawings, calculations and other documents which we cede to the supplier together with our enquiry. They shall be used exclusively at the elaboration of the offer and for the contract settlement. If we do not come to a contractual closing respectively after the order settlement, they shall be returned to us together with all duplications or copies after a correspondent note of demand.

### **IV. Ordering**

If the contractual closing is depending on an order confirmation, we are only bonded if the confirmation does not feature any deviations.

## **V. Completion**

- (1) Before beginning, completion drawings are to be put at our disposal for approval on request. Our approval does not absolve the supplier of his responsibility for the functional suitability and viability. The final completion plans, operating and maintenance instructions, as well as spare part lists, are to be handed out to us free of charge.
- (2) In case of working on our premises, our safety regulations are to be adhered to.

## **VI. Prices – Payment Conditions**

- (1) Appointed prices are binding. In the absence of deviant written agreements, the price includes the delivery „home delivery“ including the package. The restitution of the package requires special agreements.
- (2) The legal value added tax is included in the price.
- (3) We can process invoices only if the order number stipulated in our order is being stated. The supplier is responsible for all consequences which emerge as a result of the non-compliance of this obligation; unless he does not demonstrate that he is not responsible for them.
- (4) If the supplier is obliged to carry out the assembly, too, this is compensated with the delivery price, provided that a

special compensation is being expressly agreed upon in written form.

(5) We settle our invoices, provided that something else has been agreed upon, at the end of the month within 90 days after the following month of the invoice receipt.

(6) For the time period while the warranty claims are being proven, we keep 10 % of the invoice amount as security, which can be retrieved by means of transferring a bank guarantee. The restoring will be paid-out after the warranty has expired by means of written request within 14 days.

(7) In case of payments in advance on our part, the supplier must present on request adequate securities in terms of unlimited bank guarantee.

(8) We are entitled to sett-off and retention rights in the legal amount.

## **VII. Time of Delivery**

(1) The delivery time stated in the order is binding.

(2) Partial and premature deliveries are allowed only in case of an agreement to that effect.

(3) The supplier is obliged to inform us immediately in

written form if circumstances occur or seem recognizable to him, out of which results that the agreed delivery time cannot be adhered to.

(4) The supplier can invoke the absence of necessary preparatory efforts on our side only if he has requested them in a timely manner.

(5) In case of delays in delivery, we are entitled to the legal claims. Especially, we have the right – after an unsuccessful development of an adequate deadline – to demand compensation instead of the performance and withdrawal. If we demand compensation, the supplier has the right to demonstrate us that he is not responsible of the breach of duty.

## **VIII. Transport – Packaging – Passing of the Risk**

(1) The delivery has to be carried out free domicile, unless something else has been agreed upon. The place of performance is the destination point. The transfer of perils is carried out after acceptance of the goods by an authorized person or by a confidant of our company, which is followed by the implementation.

2) The supplier is responsible for the proper packaging. The supplier must draw the attention to keeping of special carefulness in case of removing auxiliary constructions, etc.

(3) The supplier is obliged to state our order number on all

dispatch documents and delivery notes. Delays in the processing time are not our responsibility, if he omits in doing so.

## **IX. Defect Examination – Liability for Defects**

(1) We are obliged to control the goods within an adequate deadline towards possible quality and quantity deviations. The reapproval is on-time provided that it is being received by the supplier after the acceptance within a deadline of 20 working days, calculated from the arrival of the goods or in case of hidden defects, from their discovery.

(2) We are entitled to the legal defect claims on an unabbreviated basis. In any case, we have the right to request defect removal or delivery of a new object – this according to our wish – by the supplier. The compensation right, especially instead of performance, is expressly reserved.

(3) We have the right to carry out the defect removal by ourselves, should an imminent danger or special urgency exist.

(4) The period of limitation is 36 months, calculated beginning with the acceptance of the goods (compare IX.1).

## **X. Product Liability – Release –**

# **Liability Coverage**

(1) Insofar as the supplier is responsible for product damage, he is obliged to release us from claims for damages of third parties on the first request, if the cause is set on his domain and organisation field and if he is liable on external representation.

(2) Within his liability in cases of damage according to item (1), the supplier is also obliged to rebate some expenditures according to §683, 670 Civil Code or according to §§840, 840, 426 Civil Code, which result from a recall action carried out by us. We will inform the supplier about the content and amount of the recall measures which have to be effected – as far as this is possible and reasonable – and we will offer him the possibility of issuing a statement. Other legal claims remain unaffected.

(3) The supplier is obliged to have a product liability coverage with an amount of coverage of 10 million € per personal injury / property damage – on a flat-rate basis. If we are entitled to further claims for damages, they will remain unaffected.

## **XI. Proprietary Rights**

(1) The supplier is responsible for the fact that no rights of third parties will be hurt in conjunction with his delivery and that rights of third parties do not exist.

(2) If we are being absorbed by a third party with this regard, then the supplier is obliged to discharge us of these claims on the first written request. We are not entitled to reach any agreements whatsoever, especially to settle a compromise, without the approval of the supplier.

(3) The release obligation of the supplier relates to all expenditures which essentially accrue to us in conjunction with the demands of a third party.

## **XII. Reservation of Propriety Rights – Provision – Tools – Confidentiality**

(1) We reserve the propriety right concerning parts which are allocated to the supplier. Processing or alteration by the supplier is being carried out for us. If proviso goods are being processed with other items which do not belong to us, we acquire the co-ownership regarding the new item at the rate of the value of our item (purchase price plus VAT) to the other processed items at the time of their processing.

(2) If the item allocated by us is being inseparably mixed with other items which do not belong to us, we acquire the co-ownership regarding the new item at the rate of the value of the proviso item (purchase price plus VAT) to the other mixed items at the time of their mixing. If the mixing process is being carried out in a way that the supplier's item is to be seen as main item, then it is agreed upon that the supplier confers the co-ownership proportionate upon us. The supplier confers the sole ownership or the co-ownership for us.



(3) We reserve our proprietary right regarding pictures, ideas or other items as for example patterns. The supplier is obliged to exclusively insert our pictures, ideas or other items as for example patterns in the manufacturing of the goods ordered by us. The supplier is obliged to ensure on his own costs our pictures, ideas or other items as for example patterns at the reinstatement value against fire, water and burglary defects. At the same time, the supplier surrenders to us all compensation claims from this insurance. Herewith, we accept the surrender. The supplier is obliged to execute necessary maintenance or inspection works, as well as all servicing and reconditioning works at our pictures, ideas or other items as for example patterns on his own costs and in timely manner. He must inform us immediately about possible disturbances. If he culpably omits in doing so, claims for damage remain unaffected.

(4) The supplier is obliged to keep the strict secrecy about all illustrations, drawings, calculations and other documents and information received by him. They can be revealed to third parties only after our explicit approval. The utilization for benchmark-purposes is categorically forbidden. The obligation of secrecy is valid also after the settlement of this contract. It expires 5 years at the earliest after the end of the cooperation, if and as far as the manufacturing knowledge contained in the ceded illustrations, drawings, calculations and other documents has become generally known.

(5) As far as the security interests which we are entitled to according to paragraph (1) and / or paragraph (2) exceed the purchase price of all our proviso goods, which were not paid yet, by more than 10 % , we are obliged – on request of the supplier – to release the security interests at our choice.

### **XIII. General Conditions**

(1) If a contractual partner ceases his payments or the insolvency proceeding or another judicial or extrajudicial procedure is being applied for his capital, then the other one is entitled to recede from the unfilled part of the contract.

(2) If an ascertainment of these conditions and of the further agreements should be or become invalid, then the validity of the contract remains unaffected. In such case, the parties are obliged to reach an agreement which comes near to the economical purpose.

(3) The necessary data for the order processing and the invoice verification can be saved by us electronically.

### **XIV. Applicable Law – Place of Venue**

(1) Applicable law: the sole contract, the present general terms and conditions and the corresponding German law.

(2) As far as the supplier is a businessman, our business location is the place of venue. However, we are entitled to press charges on the supplier also at the court of law at his domicile.