

## Purchasing Terms and Conditions

### I.

#### Applicability

1. Our Terms and Conditions apply with respect to any natural person or legal entity and to any partnership authorized by law which, at the time the agreement is concluded, is exercising its commercial or independent professional activity (entrepreneur), as well as to any legal entity or special-purpose entity organized under public law (public sector).
2. Unless otherwise agreed in individual cases, all our orders, including future orders of the same type, are subject exclusively to the following terms and conditions. Differing and additional terms and conditions of the supplier shall not be binding on us, even if we do not reject them explicitly. Differing and additional agreements must be made in writing and shall only apply to the respective individual contract.

### II.

#### Agreement

1. Offers submitted to us by the supplier shall be non-binding and free of charge.
2. Orders placed by us in person or by telephone, as well as changes and amendments to an order, must be confirmed by us in writing.
3. We shall consider our orders as binding beginning one week following the order date. Our right to cancel an order within the period up to receipt of a written order confirmation, coinciding with the content of our order, from the supplier shall remain unaffected.
4. Significant changes and amendments to an agreement require our written confirmation.
5. The written-form requirement is satisfied by messages via EDI, WebEDI, e-mail and fax.

III.

**Item Supplied / Quality Requirements**

1. The content, type and scope of the items supplied shall be defined exclusively by our written order and, where applicable, by any specifications and production documents provided by us (drawing, sample, etc.) or specifications and production documents provided to us by the supplier and confirmed by us in writing. This shall not affect the duty of the supplier to check all order documents as well as other contract documents for completeness, correctness and suitability for purpose, and to notify us immediately in writing of any irregularities/errors, nor shall it affect in any way the sole responsibility of the supplier as regards performance.

The items supplied must be accompanied by complete documentation (e.g., operating instructions, maintenance manual).

If items supplied are manufactured according to our specifications (especially machinery), they shall be subject to our inspection and approval, even if this has not been agreed explicitly. Approval shall ensue once testing of an item's functionality shows that it is either without any defects or, failing that, that any defects are insignificant.

To the extent that services are performed on our premises, the supplier shall comply with our applicable regulations (e.g., house rules, safety regulations), which we will provide on request. Storage of materials for performance of services shall be subject to our prior consent; workplaces must at all times be kept in a condition that prevents accidents and must be left tidy and clean at the end of the working day.

If the item supplied consists entirely or partially of software, the supplier shall grant us a non-exclusive, transferable and irrevocable right to use the software, unlimited with regard to time and place. We shall generally have the right to copy software insofar as this is necessary for our using it under the agreement. The supplier shall provide German-language documentation that can be printed out. We shall have the right to demand that the supplier enter into a customary support agreement with us, and that the supplier deposit any source code with an external storage provider (e.g., TÜV Süd) at our expense.

At our request, the supplier shall name its own suppliers. We shall have the right to reject a supplier's own supplier for substantial cause; if this is likely to cause delivery delays or higher costs, we shall agree on these with the supplier.

For a period of at least five years, the supplier shall supply us with replacement and spare parts.

2. All items supplied must be manufactured in faultless condition using the material and tools that are best suited; they must conform to the technical specifications provided by us, as well as to the respective current applicable ISO standards, European and German standards, U.S. standards, statutory requirements (especially equipment and product-safety legislation), industry association guidelines, and other similar regulations. These constitute the quality standard for the item supplied, without having to be explicitly agreed.
3. Acceptance of packaged goods does not constitute contract performance. We reserve the right in all cases to inspect goods after delivery.
4. We shall have the right to request, within reason, changes to the item supplied in terms of its construction and finishing. Any potential effects on costs and delivery dates resulting from such changes shall be jointly agreed by both parties.
5. The supplier is obligated to continuously control and improve the quality of the item supplied. At the supplier's request, we are prepared to discuss the type and extent, as well as the means and methods of control, and to agree thereon in writing, taking into consideration know-how, past experience and the state of the art. Specimens shall be provided in advance of mass-production deliveries.
6. The quality-control obligation applies equally to material provisions and direct sales pursuant to Section IX as long as they are in the supplier's possession.

**IV.**

**Delivery Times**

1. Delivery times shall be binding. They shall commence with our written order. The relevant criterion for compliance with the delivery time shall be the receipt of the item supplied at our premises or at the agreed delivery address. The supplier must deliver by the delivery date agreed; if delivery times are agreed, delivery must take place within that period; in the case of on-demand orders, delivery must take place within one week following the respective order. Compliance with delivery times is contractually of such importance to us that it determines our interest in taking delivery at all.
2. Partial deliveries by the supplier require our prior consent.
3. In the case of supplier delays, we have the claims and rights provided for by law. In addition, we shall have the right to demand, at our discretion, a contractual penalty of 0.5% of the total order price for each started week of the delay, such penalty, however, not to exceed 5% of the total order price. The same shall apply accordingly to delays in partial deliveries, in which case we shall have the right to demand a penalty of 0.5% of the price of the partial delivery, such penalty, however, not to exceed 5% of the price of the partial delivery. Our right to claim damages remains unaffected. Payment of a contractual penalty shall be taken into account in a claim for damages.
4. Once the supplier realizes that it is unable to deliver on time all or part of the item supplied, it must notify us immediately thereof, stating the reasons for and approximate duration of the delay.
5. In cases of force majeure and other unpredictable circumstances for which neither we nor our legal representatives, executives and execution/fulfillment agents are responsible, especially operational disruptions, strikes, lock-outs, interventions by authorities, etc., and which prevent us from accepting the item supplied, our acceptance obligation shall be suspended. We shall immediately inform the supplier of such circumstances. In this case, we shall have the right to terminate the agreement or to demand its execution at a later date. This shall not form the basis for any claims on the part of the supplier.

**V.**

**Shipment/Acceptance**

1. Shipment shall be at the expense and risk of the supplier. This shall apply also to any potential returns. The supplier shall be liable for compliance with the shipping instructions provided.
2. Wherever possible, the supplier shall use environment-friendly packaging. At our request, the supplier shall collect packaging at our factory at no cost to us.
3. When the item supplied is handed over at our premises or at the agreed delivery address, the risk is transferred to us. In the case of machinery and technical equipment and if a function test / inspection has been agreed, the risk is only transferred to us following our written confirmation that the function test / inspection did not reveal any defects.
4. The supplier must include a packing slip with each shipment; this slip must contain our order number and the item number, quantity and delivery location, as well as a description of the goods, insofar as these are stated in our order. We shall have the right to refuse delivery in the absence of such a packing slip, which shall not form the basis for any claims on the part of the supplier. Any costs that result shall be borne by the supplier.

**VI.**

**Prices/Invoicing/Payment**

1. The prices stated in our order are fixed prices, free to the factory, plus statutory sales tax and including all ancillary costs.
2. If the market situation should change in a manner significant for us, or if it becomes apparent that the market prices of our products are falling significantly, the supplier agrees to negotiate an adjustment of prices with us. If the negotiations fail, we shall have the right to terminate existing agreements (especially framework agreements) with a period of notice that takes into account the interests of both parties. In such a case, the supplier may charge us only for the costs it actually incurred for materials that cannot be otherwise employed. We shall have a similar right of termination if the supplier's prices are above the market level, or at least 3% higher than the prices of a comparable competitor, and if the supplier is unable to offer us competitive prices within one month following our written request.
3. Invoices are to be submitted to us following receipt of the item supplied without duplicate and according to statutory provisions; they must specify the packaging

number, number of packages and the quantity of the delivery. Each invoice line must include our item number and the order number, if such are stated in our order. If the invoice relates to goods from different orders, it must state which order has been filled with the respective delivery.

4. We pay invoices, at our discretion, as follows: invoices that we receive by the 1st of any month by the 15th of that month and invoices that we receive by the 15th of any month by the 1st of the following month, deducting a 3% discount, otherwise after a further 30 days without discount.
5. We shall have the right to pay either by check or by bank transfer.
6. In all cases, we shall be in default only following a written payment demand.

## **VII.**

### **Inspection, Defects in the Item Supplied**

1. The supplier is obligated to deliver the item supplied free of any material defects or defects of title. In the case of defects, we have the claims and rights provided for by law.
2. We shall carry out random inspections of items supplied within two weeks following receipt, those requiring more time-intensive testing shall be inspected within 4 weeks, and this shall constitute fulfillment of our commercial inspection obligation. If defects discovered during the random inspections require further testing, the supplier shall reimburse us for the resulting costs.
3. If the supplier, in violation of its obligation, refuses to correct the defect or if there is a delay in the correction of the defect, and this refusal and/or delay threatens to cause significant damage to us or our customers, we shall have the right to correct the defect ourselves or to have it corrected by a third party at the expense of the supplier.
4. Our claims for material defects expire 24 months and those for title defects expire 48 months following delivery to or acceptance by us. Longer statutes of limitations for claims other than those based on a defect of the item supplied itself shall remain unaffected.
5. Defective parts of the item supplied shall remain at our disposal until they are substituted; upon substitution they become the property of the supplier.

**IX.**

**Security Interests / Material Provisions / Property Rights**

1. The supplier undertakes to release any security pledged by us to the extent that its value exceeds the value of the receivable to be secured by more than 10%.
2. Materials provided by us ("material provisions") or delivered directly to the supplier on our account ("direct sales") remain our property. Without our consent, they may not be sold, used to create a security interest, pledged or transferred to third parties nor used for third parties or made accessible to third parties. Such materials (material provisions and/or direct sales) must be insured by the supplier against all the usual risks at its own expense and must be stored as our property and apart from the same or similar items that are the property of third parties or the supplier. The supplier may use such materials only for the manufacture of our order and, on request, must relinquish them to us immediately. The supplier shall also impose this obligation on its fulfillment agents.
3. The supplier must notify us immediately of the imminent attachment of such materials, of any other impairment of our rights as well as of any loss or damage to material provisions. The supplier must separate any such materials.
4. When such materials are processed, combined or mixed with other items, the supplier confers to us joint ownership of the newly-created item in proportion to the value of our materials relative to the value of the other items; the above obligations shall apply appropriately to the newly-created item.
5. If in connection with the execution of the order improvements of such materials are created by the supplier, we shall have a non-exclusive right, free of charge, to also use this improvement as well as any intellectual property rights involved.
6. The supplier shall not copy models, samples or other documents that we have provided to it or that it has created on the basis of our specifications unless such copying is necessary to prepare the offer / execute the order. If the supplier intends to provide one of its suppliers with such documents, it must impose the above undertaking on its supplier beforehand in writing and present it to us on request.
7. The items manufactured according to our specifications may not be offered or delivered to third parties without our consent; this obligation shall survive the termination of our business relationship. If improvements are created by the supplier that are based on our production documents, we shall have a non-exclusive right, free of charge, to use this improvement for our purposes as well as any intellectual property rights involved.

**X.**

**Confidentiality**

1. The supplier is obligated to treat as industrial secrets all commercial and technical details of which it becomes aware due to its business relationship with us, unless they become public knowledge. The fulfillment agents of the supplier (including its employees) must be obligated accordingly in writing; these undertakings must be presented to us on request.
2. Absent our prior written consent, the supplier shall not have the right to mention its business relationship with us for advertising purposes.
3. Publication for the supplier's own advertising purposes of products manufactured for us and according to our specifications requires our prior written consent.

**XI.**

**Retention/Set-Off/Assignment**

1. In order for the exercise by the supplier of a retention right to be permissible, the offsetting claim must either be uncontested or declared binding by a court, and it must be based on the same contractual relationship as our receivable.
2. Set-off by the supplier is subject to its offsetting claim being either uncontested or declared binding by a court.
3. The supplier may assign claims against us to third parties only with our consent; we in turn may only refuse consent for substantial cause. Such consent is already granted at this time for assignments due to extended reservation of title, provided that our rights with respect to the supplier remain unchanged with respect to the assignee.
4. We have the right to offset the amount of our claim against the supplier against all amounts to which the supplier is entitled from us on the basis of deliveries or other legal grounds.

**XII.**

**Product Liability**

1. If the supplier is responsible for a product defect, it shall be obligated to indemnify us against third party damages insofar as the cause of the defect lies within its control and organizational sphere and the supplier is itself liable to third parties.
2. In this context, the supplier is also obligated to reimburse us for any costs pursuant to sections 683 and 670 of the German Civil Code (BGB) that result from or in connection with a recall campaign conducted by us or our customer if we or our customer were required, or if it was appropriate, to conduct a recall campaign. Insofar as this is possible and reasonable, we shall inform the supplier of the subject and extent of the recall measures to be carried out and afford it the opportunity to respond.
3. If we are held responsible by third parties within or outside of Germany for producer liability, irrespective of fault, on the grounds of defective goods from the supplier, the supplier shall be liable to us accordingly. The same burdens of proof that apply to the relationship between us and the third party shall apply to the relationship between us and the supplier.
4. The supplier undertakes to purchase product liability insurance with a flat coverage amount of EUR 5 million for each event of personal injury or property damage. Upon request, the supplier must present the policies to us. Our compensation claims shall remain unaffected.

**XIII.  
Limitation of Liability**

In cases of negligence, the liability of the supplier shall be limited to predictable, typical damages. We assume unlimited liability for willful misconduct and gross negligence, as well as for damages caused by us to the supplier in terms of bodily harm, life and health for which we are responsible. We assume no liability for other damages caused by negligent breach of not significant contractual obligations. In cases of negligent breach of significant contractual obligations, our liability shall be limited to predictable, typical damages. Claims on the part of the supplier shall expire after one year from the emergence of the claim, unless we are liable for bodily harm or damages to health, or because of willful misconduct or gross negligence.

**XIV.  
General Provisions / Final Provisions**

1. The place of performance shall be our registered headquarters.
2. The venue of jurisdiction for our commercial business transactions shall be our registered headquarters. We shall also have the right to initiate legal proceedings at the registered headquarters of the supplier.
3. The agreement is subject to the laws of the Federal Republic of Germany (including the United Nations Convention on Contracts for the International Sale of Goods (CISG)).
4. If one or more of these provisions should be or become invalid, this shall not affect the validity of the remaining provisions. In the case of such invalidity of one or more individual provisions, the parties undertake to replace such invalid provisions with legally valid provisions that correspond as closely as possible to the legal and economic intent of the invalid provisions.
5. The supplier is hereby notified pursuant to the German Data Protection Act (BDSG) that personal information may be stored, transferred, processed and deleted in the context of business transactions in accordance with the relevant statutory provisions.