

Terms and Conditions of Purchase

Clause 1 General – Applicability

- (1) These Terms and Conditions of Purchase shall have sole application. They apply only to enterprises, corporate bodies under public law or special funds under public law in the meaning of Section 310(1) of the German Civil Code (BGB).
- (2) We will not recognise any contrary or differing terms and conditions that the Supplier may have, unless we have expressly agreed to them in writing. Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's delivery without reservation in knowledge of the Supplier's contrary or differing terms and conditions.
- (3) Our Terms and Conditions of Purchase shall also govern all future transactions with the Supplier.

Clause 2 Offer and documents accompanying the offer

- (1) The Supplier must accept our order within 2 weeks. If we have not received the acknowledgement of our order within 2 weeks of the date of the order, we shall no longer regard it as binding.
- (2) Call-offs shall become binding within 7 days of receipt at the latest if the Supplier has not objected by then.
- (3) In as far as it is reasonable to do so, we shall have the right to require that the Supplier makes modifications to the construction and design of the delivery item. The effects, particularly in relation to additional costs or lower costs and the delivery dates, shall be determined by reasonable joint agreement.

Clause 3 Prices, terms of payment

- (1) The price stated in the order shall be binding. In the absence of any special agreement prices are quoted with free delivery to our works with customs duties paid (delivery duty paid [DDP] according to the Incoterms 2000), including packaging and transport insurance. The return of the packaging shall require a special agreement.
- (2) The prices do not include value added tax.
- (3) Invoices can only be processed if they state the order number, the parts number or the article code, as indicated in our order. The Supplier is responsible for all consequences resulting from failure to comply with this obligation.
- (4) If nothing else has been agreed in writing, we will pay the purchase price within 14 days with a cash discount of 3%, within 30 days with a cash discount of 2% or after 60 days without deduction, in each case calculated from date of receipt of the consignment and the invoice. The time allowed for payment shall start to run on whichever of these dates is later. If premature deliveries are accepted, the due date of payment shall depend on the agreed delivery date.
- (5) The Supplier must immediately provide any certificates of origin that we request, properly signed with all the necessary details. The Supplier must give us immediate written notice of its own accord if the details on the certificates of origin for the delivered goods are no longer correct. The same applies to VAT certificates in the case of foreign deliveries and deliveries within the EU. The Supplier must notify us immediately if a consignment, or part of a consignment, is subject to export restrictions under German law or any other law.
- (6) If a consignment is defective, we shall have the right to withhold a proportion of the payment equivalent of up to twice the value of the defective consignment until delivery has been properly effected. From this date paragraph (4) shall apply accordingly.
- (7) The Supplier shall not have the right to assign its claims against us or to have these debts collected by third parties, unless we have given our written consent. Such consent shall not be unfairly refused. Consent shall be deemed granted in the case of an extended reservation of title.

Clause 4 Delivery period

- (1) The delivery period specified in the order is binding.
- (2) The Supplier must give us immediate written notice if any circumstances occur or become apparent that indicate that the binding delivery period cannot be adhered to.
- (3) In the case of a purchase agreement/master agreement, the Supplier undertakes to be ready to deliver at any time within a fixed delivery period and to respond to the Customer's call-offs by the agreed date.
- (4) In the case of force majeure, industrial disputes, measures taken by the authorities and other unforeseeable, unavoidable and serious events, the Supplier must immediately take all reasonable steps in order to provide the necessary information and to adjust its obligations to the changed situation. If such circumstances make a delivery or a service impossible, we shall have the right to rescind the contract.
- (5) If the Supplier does not perform its contractual obligations by the due date or does not perform as agreed, we shall be entitled to enforce our statutory rights. If we have set a reasonable extended deadline and this expires to no avail, we shall have the right to rescind the contract and to claim damages.
- (6) The acceptance of late deliveries or services shall not be construed as a waiver of our right to claim damages.

Clause 5 Reservation of title and third-party rights

The supplies and services shall be provided without reservation of title and free of third-party rights. If this should not be possible for the Supplier, any third-party rights to the delivery items must be disclosed immediately of the Supplier's own accord. We reserve the right to rescind the contract without paying damages.

Clause 6 Liability

Claims for damages on whatsoever legal grounds shall only be enforceable against us in the case of intent and gross negligence on the part of our legal representatives or executives and in the case of a culpable breach of fundamental contractual obligations. In the case of a culpable breach of fundamental contractual obligations, we shall only be liable for the typical, reasonably foreseeable damage. This limitation of liability shall not apply in cases in which we are liable for personal injury or damage to property by operation of the law under the Product Liability Act, and in the case of death, physical injury or damage to health.

Clause 7 Intellectual property rights and confidentiality

- (1) The Supplier guarantees that all consignments shall be free of third-party rights and, in particular, that no patents or other industrial property rights of third parties shall be violated by the delivery and use of the goods.
- (2) If a third party brings a claim against us on such grounds, the Supplier must indemnify us against these claims on first written demand; we shall not have the right to make any agreements with the third party without the Supplier's consent, particularly not to arrange an amicable settlement.
- (3) The Supplier's obligation to indemnify us extends to all expenses, including court costs and lawyers' fees, that we inevitably incur as a result of or in connection with a third party bringing a claim against us.
- (4) We reserve title to and copyright of illustrations, drawings, calculations and other documents. They may not be made accessible to third parties without our express written consent. They must be used only for production on the basis of our order; after the order has been completely processed they must be returned of the Supplier's own accord. They must be kept secret from third parties.
- (5) The Contracting Parties undertake to treat all non-evident commercial and technical details that become known to them in the course of the business relationship as business secrets. The same obligation must be imposed on subcontractors.
- (6) The Contracting Parties may only disclose the business relationship for advertising purposes if we have given our prior written consent.

Clause 8 Quality and documentation

- (1) The Supplier's consignments must comply with the acknowledged rules of technology, the safety regulations and the agreed technical data. Our written consent must first be sought before any modifications are made to the consignment.
- (2) When delivering the Supplier complies with the legal regulations as applicable in the European Union and the Federal Republic of Germany. These are e.g. the REACH regulation (regulation EU number 1907/2006), the law about the return and environmentally sound disposal of electrical and electronic equipment (Electrical and Electronic Equipment Act) as national implementation of the directive 2002/95/EC (RoHS) and the directive 2002/96/EG (WEEE) and the End-of-life Vehicles ACT as national implementation of the EU directive 2000/52/EC, Commission Decision of 27 February 2003 (2003/138/EC) establishing component and material coding standards for vehicles pursuant to Directive 2000/53/EC of the European Parliament and of the Council on end-of-life vehicles, as well as the Global Automotive Declarable Substance List (GADSL).
- (3) The Supplier shall immediately inform us about relevant changes in the product due to legal regulations, in particular the REACH regulation, its supply availability, use or quality and shall in individual cases agree with us on suitable measures to be taken. This applies as soon as and to the extent to which the partner realizes that such changes will happen.
- (4) If nothing else is indicated in the order, reference is made to the VDA volume entitled "Sicherung der Qualität von Lieferungen" (Ensuring the Quality of Consignments) in relation to the first sample inspection. Irrespective of this, the Supplier must continuously verify the quality of the delivery items. The Contracting Parties shall inform each other about ways of improving quality.

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(5) If the type and scope of the tests, the testing materials and the testing methods have not been firmly agreed between the Supplier and ourselves, we are willing to discuss the tests with the Supplier on the latter's request within the framework of our knowledge, experience and possibilities in order to determine the necessary state of the art in test engineering. In addition, we shall inform the Supplier of the relevant safety regulations on request.

- (6) Furthermore, the Supplier must comply with the VDA volume entitled "Nachweisführung" (Keeping Evidence), and particularly keep special records to show how, in what way and through whom the delivery items have been inspected and what results the required quality test has delivered. The test documents must be kept for 10 years and submitted to us on request. The Supplier must impose the same obligations on its own suppliers in as far as this is permitted under the statutory provisions. The duty to keep documentation applies to all delivery items unless an exception has been agreed.
- (7) In as far as authorities or public clients wish to examine the production process and the Buyer's production documents in order to subsequently check certain requirements, the Supplier, at our request, shall express its willingness to grant them the same rights at its works and give them all reasonable support.

Clause 9 Function in our enterprise

Any persons being employed in our enterprise in order to fulfil the Supplier's obligations are subject to the provisions and regulations of our guidelines for external companies and our instructions with regard to accident prevention and (on-the-job) safety regulations, environmental or other regulations which have to be applied in our enterprise. Dangerous materials may only be used in our enterprise in co-ordination with our experts and must be duly marked.

Clause 10 Defects as to quality

- (1) We will examine the goods within a reasonable time after they have arrived at their destination in order to determine whether the Supplier has delivered the right goods in the right quantity and whether the goods show any externally identifiable damage. We shall immediately notify the Supplier in writing of any defects in the consignment as soon as they have been found in the proper course of business. The Supplier shall not therefore raise the objection of a delayed complaint.
- (2) We shall have the right to the full statutory claims in respect of defects as to quality. If there is any indication of a defect as to quality within 6 months of the passage of risk, it will be presumed that the item was already defective at the time of the passage of risk, unless such a presumption is inconsistent with the nature of the item or the type of defect.
- (3) If the Supplier has made an unsuccessful attempt to remedy the defect, has unjustifiably refused to remedy the defect or allowed a reasonable extended deadline to expire to no avail, we shall have the right to rectify the defect ourselves or to have it rectified and to claim compensation for the expenses incurred. We shall have the same right in urgent cases, particularly in order to avert acute dangers or to avoid greater damage.
- (4) If the defect is not found until after production has commenced, we can also claim damages for additional expenses.

Clause 11 Product liability, indemnification – Third-party liability insurance

- (1) In as far as the Supplier is responsible for damage to a product, the Supplier must indemnify us against third-party claims for damages on first demand, in as far as the cause lies in the Supplier's sphere of control and organisation and the Supplier is itself liable in relations with the outside world.
- (2) In this context, the Supplier must also reimburse us for expenses resulting from or in connection with a recall that we carry out, in accordance with Sections 683 and 670 of the German Civil Code (BGB), in as far as the claim does not result from Sections 830 and 840 of the Civil Code in conjunction with Sections 426 and 254 of the Civil Code. We will notify the Supplier of the nature and the scope of the recall measures to be carried out – in as far as this is possible and reasonable – and give the Supplier the opportunity to submit its comments.
- (3) The Supplier undertakes to maintain a product liability insurance with sufficient coverage for personal injury/damage to property and to provide us with evidence of such insurance on request. This shall not affect any further claims for damages that we may have.

Clause 12 Production materials

- (1) The ownership of models, moulds, templates, samples, tools, plans and other production materials that the Supplier produces or procures in order to execute the order must be transferred to us as soon as they have been produced, regardless of whether or not we are charged a portion of the costs. It is hereby agreed with the Supplier that instead of handing over the production materials to ourselves the Supplier shall store them on our behalf. Production materials that we provide shall remain our property and may not be used for any other purposes. The Supplier shall bear the costs of repair and renewal and the risk of the destruction and deterioration of the production materials. Production materials may neither be destroyed, sold, pledged, passed on nor otherwise disposed of without our prior written consent.
- (2) The production materials must be handed over to us of the Supplier's own accord as soon as the settlement of the business allows, but immediately after we have made such a request.
- (3) Production materials may only be used for deliveries to third parties if we have first given our written consent. The provisions in clause 7 regarding confidentiality shall also apply.

Clause 13 First sample test

On the first order or in the case of a modification to the execution of orders we must be provided with at least one sample with a first sample test report before final production takes place. In this case the final order will be placed subject to the sample being approved by ourselves.

Clause 14 Force majeure

Force majeure, industrial disputes, interruptions to operations which are not our fault, unforeseen and unavoidable changes in production and other inevitable events that are of more than insignificant duration and result in a considerable reduction in our requirements shall entitle us to rescind the contract in part or in full – without prejudice to our other rights.

Clause 15 Reservation of title

- (1) In the event that we provide the Supplier with parts, we hereby reserve title to such parts. If these parts are processed or reworked by the Supplier, this shall be done on our behalf. If the purchased item is processed with other items that do not belong to us, we shall acquire co-ownership of the new item in the same ratio as that between the value of the purchased item and the other items processed at the time of processing.
- (2) The same shall apply in the case of amalgamation. If the amalgamation is such that the Buyer's item is regarded as the main item, it is deemed agreed that the Buyer shall transfer a co-ownership share to ourselves and shall store the resulting item of which we are the sole owners or the co-owners on our behalf.

Clause 16 Right of retention and setoff

The Supplier shall only have rights of setoff if the Supplier's counterclaims have been recognised by a final court judgment, are undisputed or have been acknowledged by ourselves. Furthermore, the Supplier shall only be entitled to exercise a right of retention if the Supplier's counterclaim is based on the same contractual relationship. The Supplier shall never have the right to exercise rights of retention if we ask for production materials to be handed over.

Clause 17 General provisions

- (1) The place of performance for payments and the place of jurisdiction for both Parties and for all present and future claims under the business relationship is Oberkirch. However, we shall also have the right to bring an action against the Supplier before the court that has jurisdiction for the Supplier or before the court at the place of performance.
- (2) All legal relations between ourselves and the Supplier shall be governed by the law of the Federal Republic of Germany, excluding its conflict of laws provisions. The UN Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- (3) If one or several provisions of these Terms and Conditions should be void, this shall not affect the validity of its remaining provisions. The clause that is void shall be replaced by one that is legally valid.

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