

# Purchase Terms and Conditions

## § 1 General Scope

(1) Our Purchasing Terms and Conditions shall apply exclusively. We shall not recognise any terms and conditions of the Supplier which oppose or deviate from our Purchasing Terms and Conditions unless we have expressly approved their validity in writing. Our Purchasing Terms and Conditions shall also apply if we, while being aware of terms and conditions of the Supplier which oppose or deviate from our Purchasing Terms and Conditions, unconditionally accept the delivery from the Supplier.

(2) All agreements concluded between the Supplier and us for the purpose of the execution of this agreement must be fixed in writing in this Agreement.

(3) Our Purchasing Terms and Conditions shall be valid only for entrepreneurs as specified in § 310 Para. 1 of the German Civil Code (BGB).

(4) Our Purchasing Terms and Conditions shall also be valid for all future business transactions with the Supplier.

## § 2 Offer. Offer documents

(1) The Supplier shall be obliged to accept our order within a two-week time frame.

(2) We reserve the rights of ownership and copyrights to illustrations, drawings, calculations and other documents; they may not be made available to third parties without our express written approval. They must be used exclusively for the production related to our order; after the order is filled, they must be returned to us without our having to request this. They must not be disclosed to third parties; in this regard, the provision of § 9 Para. (4) shall apply upon a supplemental basis.

## § 3 Prices. Payment terms and conditions

(1) The price indicated upon the order shall be binding. In the absence of a written agreement to the contrary, the price shall include franco domicile delivery including packaging. The return of the packaging shall require a special agreement.

(2) The statutory VAT is included in the price and must be separately indicated.

(3) Invoices can only be processed if they indicate based upon the conditions specified upon our order form the order and item numbers listed on the order form; the Supplier shall be responsible for all consequences arising from non-adherence to this obligation unless it can document that it is not responsible in this regard.

(4) Unless otherwise agreed in writing, we shall pay the purchase price within 14 days after delivery is made and the invoice is received against a 3% discount or within 30 days after receipt of the invoice with no deductions.

(5) We shall be entitled to set-off and retention rights to the extent that the law allows.

#### **§ 4 Delivery time frame**

(1) The delivery time frame stated on the order form shall be binding.

(2) The Supplier shall be obliged to promptly notify us in writing if circumstances arise or become recognisable to it from which it is conclusive that the agreed delivery time frame cannot be met.

(3) In the event of a delivery delay, we shall be entitled to legal claims. In particular, after the unsuccessful lapsing of a reasonable grace period we have set, we shall be entitled to demand damage compensation instead of contractual performance and to cancel the order. If we demand damage compensation, the Supplier shall have the right to document that it is not responsible for the contractual violation.

#### **§ 5 Passage of risk. Documents**

(1) Unless otherwise agreed in writing, the delivery shall be made franco domicile.

(2) The Supplier shall be obliged to precisely list our order and item numbers upon our shipping documents and delivery notes; if it fails to do so, then we shall not be responsible for delays in the processing of the order.

#### **§ 6 Inspecting for defects. Liability for defects**

(1) We shall be obliged to inspect the goods within a reasonable time frame for any deviations in quality and quantity. The notification of defects shall be considered to have been made promptly if the Supplier receives it within five working days after the goods were received or, in the case of hidden defects, after the defects were discovered.

(2) We shall be entitled to legal claims for defects in their full scope. In each case, we shall be entitled, at our choice, to either demand that the Supplier rectify the defects or make a replacement delivery. We expressly reserve the right to demand damage compensation instead of contractual performance.

(3) We shall be entitled to rectify the defects ourselves at the Supplier's expense in case of imminent danger or if a special urgency exists.

(4) The respective statute of limitations periods shall apply.

#### **§ 7 Product liability and indemnification**

(1) If the Supplier is responsible for product damages, then it shall be obliged to indemnify us from third-party claims at our initial request to do so if the cause of the product damages lies in its sphere of

control and dominion and it itself is liable in the external relationship.

(2) Within the parameters of its liability for cases of damages in accordance with Para. (1), the Supplier shall also be obliged to make reimbursement of any expenditures in accordance with §§ 683, 670 BGB as well as in accordance with §§ 830, 840, 426 of the German Civil Code (BGB) which are incurred from or in conjunction with a recall campaign we undertake. Insofar as it is possible and reasonable, we shall notify the Supplier of the scope and content of the recall measures to be undertaken and provide it with the opportunity to make a position statement. All other legal claims shall remain unaffected.

## **§ 8 Proprietary rights**

(1) The Supplier shall ensure that no third-party rights are violated within the Federal Republic of Germany through its delivery.

(2) If a third party asserts claims against us owing to proprietary rights, then the Supplier shall be obliged to indemnify us from these claims upon our initial written request to do so; we shall not be entitled to conclude any agreements with the third party without the Supplier's approval particularly any settlements.

(3) The indemnification obligation upon the part of the Supplier shall apply to all required expenditures which we incur from or in conjunction with the assertion of claims by a third party.

(4) The statute of limitations period shall be ten years and shall begin to run upon the conclusion of the agreement.

## **§ 9 Retention of ownership. Provision of materials/documents. Tools. Confidentiality**

(1) If we provide parts to the Supplier, then we reserve ownership to them. Processing or reworking of them shall be undertaken by the Supplier for us. If our reserved goods are processed with other goods not belonging to us, then we shall acquire co-ownership of the new goods in the proportional value of our goods (purchase price plus VAT) to the other processed goods at the time of their processing.

(2) If the goods we have provided are inseparably mixed with other goods not belonging to us, then we shall acquire co-ownership of the new goods in the proportional value of the reserved goods (purchase price plus VAT) to the other mixed goods at the point in time that mixing is undertaken. If the mixing is undertaken in such a manner that the Supplier's goods must be regarded as the main goods, then it shall be considered to be agreed that the Supplier assigns to us proportional co-ownership; the Supplier shall safeguard the sole ownership or co-ownership for us.

(3) We reserve ownership to any tools we provide; the Supplier shall be obliged to use the tools exclusively for the production of the goods we order. The Supplier shall be obliged to insure our tools at replacement value against fire, water and theft at its own expense. At the same time, the Supplier shall already now assign to us all claims to benefits from this insurance; we hereby accept the assignment. The Supplier shall be obliged to promptly undertake all required maintenance and inspection work as well as all servicing and repair work upon our tools at its own expense. It must immediately notify us of any incidents involving the tools; if it culpably fails to do so, then any damage compensation claims shall

remain unaffected.

(4) The Supplier shall be obliged to maintain strict confidentiality with regards to all illustrations, drawings, calculations and other documents and information that have been provided to it. They may be made available to third parties only with our express approval. The confidentiality obligation shall also continue to apply beyond the end of this agreement; it shall lapse if and to the extent that production knowledge contained in the illustrations, drawings, calculations and other documents that were provided have become public knowledge.

(5) If the security provided to us in accordance with Para. (1) and/or Para. (2) exceeds the purchase price of all reserved goods not yet paid for by more than 10 %, we shall be obliged to release a portion of the security of our choosing upon the request of the Supplier to do so.

#### **§ 10 Place of jurisdiction. Place of performance**

(1) If the Supplier is an entrepreneur, our commercial residence shall be the place of jurisdiction. However, we shall be entitled to also take legal action against the Supplier in the court which is competent for its commercial residence.

(2) If nothing to the contrary is stated on the order form, our commercial residence shall be considered to be the place of performance.