

General Terms and Conditions of Purchasing

§ 1 General – Scope

- (1) Our Terms and Conditions of Purchasing shall be applicable on an exclusive basis; we shall not recognize any Supplier terms and conditions of purchasing conflicting with or diverging from our terms and conditions unless we have expressly agreed in writing to the validity of any such terms and conditions. Our Terms and Conditions of Purchasing shall also be applicable when we accept delivery from Supplier without reservation and upon the knowledge of Supplier terms and conditions conflicting with or diverging from our Terms and Conditions of Purchasing.
- (2) All agreements made between us and the Supplier for the purpose of performing this agreement shall be defined in writing in this agreement.
- (3) Our Terms and Conditions of Purchasing shall also be applicable to any future transactions with the suppliers.

§ 2 Offers, quotations and tender documents

- (1) Supplier shall be obligated to accept our purchase order within a time limit of 2 weeks.
- (2) We shall reserve the title of ownership and copyright to any illustrated matter, drawings, calculations and other documents; no such illustrated matter, drawings, calculations or other documents may be made available to any third party without our express written consent. They shall not be used unless exclusively for manufacture based on our purchase order; they shall be returned to us without requiring any request from our side after having processed such purchase order. They shall be kept secret from any third party, and, in such respect, shall be subject to the supplementary provisions set forth in § 9, paragraph (4).

§ 3 Prices – terms of payment

- (1) The price indicated in the purchase order shall be binding. Unless expressly agreed otherwise in writing, the content of the DDP provision according to Incoterms 2000 shall be agreed herewith.
- (2) No invoice shall be processed by us unless such invoice shows the purchase order number as specified in our corresponding purchase order; Supplier shall assume responsibility for any consequence resulting from any failure to comply with such obligation unless Supplier can prove that he is not responsible for such consequence.
- (3) Unless otherwise agreed in writing, we shall pay the purchase price either applying a 3% cash discount within a period of 30 days after delivery and invoice receipt, or net within a period of 60 days after invoice receipt.
- (4) We shall be entitled to setoff and to a retaining lien to the extent as defined by statutory provisions. No assignment of any claim against us shall be possible unless with our prior approval.

§ 4 Delivery periods

- (1) The delivery period as indicated in the purchase order shall be binding.
- (2) Supplier shall agree to inform us in writing with no delay whenever circumstances occur or become apparent to Supplier indicating that the requested delivery time cannot be met.
- (3) In the event of any delay in delivery, we shall be entitled to claim lump sum damages caused by late performance amounting to 1 % of the value of the goods to be delivered for every complete week but not exceeding 10 %; further statutory claims (rescission and damages in lieu of performance) shall remain reserved. Supplier shall be entitled to provide evidence to us to show that no or considerably less damage has been caused by any such delay.

§ 5**Transfer of risk – documents**

- (1) Unless expressly agreed otherwise in writing, the content of the DDP provision according to Incoterms 1 shall be agreed herewith.
- (2) Supplier shall be obligated to indicate our purchase order number exactly on any shipping documents or delivery notes; in the event of any failure to do so, we shall not assume liability for any delay in processing.

§ 6**Inspection for defects – liability for defects**

- (1) We shall agree to inspect the goods for any defect in quality or quantity within a reasonable period of time; a defect notification shall be deemed timely when received by Supplier within a period of 5 working days starting upon the receipt of the goods or, for hidden defects, after their detection.
- (2) We shall be entitled to statutory claims based on defects without any reduction; in any case, we shall be entitled to claim, at our option, either fault correction or the delivery of a new good by Supplier. The right to claim damage compensation, and especially to damage compensation in lieu of performance shall be reserved expressly.
- (3) We shall be entitled to perform defect correction by ourselves at the Supplier's cost whenever there is imminent danger or special urgency.
- (4) The period of prescription shall be 36 months, starting upon the transfer of risk.

§ 7**Product warranty – indemnity**

- (1) Where Supplier is responsible for any product damage, Supplier shall be obligated to indemnify us against any third party damage claim upon first demand to the extent such claim is caused within the Supplier's scope of control and organisation, and Supplier is liable himself in relation to third parties.
- (2) Within the scope of Supplier's liability for damages as defined by Clause (1), Supplier shall also be obligated to reimburse any expenditure pursuant to Sections 683, 670 or Sections 830, 840, 426 of the German Civil Code (BGB) resulting from or in relation with any recall action conducted either by ourselves or by our customers. As far as possible and reasonable, we shall notify the Supplier of the contents and extent of any recall action to be conducted, and provide Supplier with an opportunity for making a statement. Other statutory claims shall remain unaffected.

§ 8**Industrial property rights**

- (1) Supplier shall be responsible for ensuring that no third-party rights will be infringed within the Federal Republic of Germany in connection with the Supplier's delivery.
- (2) If a third party lodges any claim against us in this respect, Supplier shall be obligated to indemnify us against any such claim upon the first written request; we shall not be entitled to enter into agreements with such third party – unless with the Supplier's consent – especially to conclude a settlement.
- (3) Supplier's indemnification duty shall relate to any expenditure which we incur necessarily due to or in connection with any claim made by a third party.
- (4) The period of prescription shall be ten years, beginning with the conclusion of the respective contract.

§ 9

Reservation of title – provision of materials – tools – secrecy

- (1) As far as we provide parts to the Supplier, we shall reserve ownership thereof. Processing or modifications by Supplier shall be carried out on our behalf. If our goods subject to retention of title are processed with other items which are not our property, we shall acquire co-ownership in the new item at the ratio of the value of our item (purchase price plus value-added tax) to the other processed items at the time of such processing.
- (2) If any item provided by us is inseparably mixed with other items which do not belong to us, we shall acquire co-ownership in the new item at the ratio of the value of the goods subject to retention of title (purchase price plus value-added tax) to the other mixed items at the time of mixing. If mixing is done in such a manner that the Supplier's item is to be considered the main item, it shall be agreed that Supplier assigns proportional co-ownership to us; Supplier shall safeguard the sole ownership or co-ownership on our behalf.
- (3) We shall reserve title of ownership to all tools; Supplier shall be obligated to use the tools exclusively for the manufacture of the goods ordered by us. Supplier shall agree to insure the tools belonging to us at Supplier's own expense at their replacement value against damage due to fire, water and theft. At the same time, Supplier shall hereby assign any damage claims under such insurance to us; we shall accept such assignment herewith. Supplier shall agree to perform any required maintenance and inspection work on our tools, as well as any preventive maintenance work and repair work in due time and at his own expense. Supplier shall notify any incident to us with no delay; if Supplier fails culpably to do so, any damage claims shall remain unaffected.
- (4) Supplier shall agree to strictly maintain the secrecy of any illustrations, drawings, calculations, or any other documents and information received. No disclosure of such to any third party shall be allowed unless with our express consent. Such obligation of secrecy shall survive the termination of this agreement; it shall expire when and where the manufacturing know-how included in any such illustration, drawing, calculation or other document transferred for use has become known to the general public.
- (5) Where our security rights which we are entitled to under Clause (1) and/or Clause (2) exceed the purchase price of all our as yet unpaid goods subject to retention of title by more than 10%, we shall agree to release the security rights at our discretion upon the Suppliers' request.

§ 10

Quality requirements

- (1) Supplier shall agree to comply with the technical data required for the Supplier's goods in accordance with the documents on which the purchase order is based (e.g., drawings, technical terms of delivery, specifications, descriptions or samples).
- (2) If the technical data as specified in the purchase order and in its underlying documents do not completely define the quality of the goods as desired by us, Supplier shall indicate and continuously apply a mandatory quality designation to ensure continuous quality. The requirement for ensuring continuous quality as a minimum shall also be applicable to any future purchase orders. Supplier shall notify us in good time of any forthcoming change in quality, by sending samples if required. Any change in quality unfavourable to us and made without prior notification shall entitle us to reject the acceptance of such delivery, and to claim any damages related thereto.

§ 11
Tools

- (1) We shall be exempted from our duty to take delivery, unless tools of any kind bear the Supplier's brand.
- (2) Any tool or mould manufactured by our supplier under our purchase order shall pass into our ownership, and shall only be held in custody free of charge on our behalf by the Supplier. Such tools shall be delivered to us upon simple request and for compensation.

§ 12**Place of jurisdiction – place of performance - choice of court**

- (1) Unless otherwise indicated in our purchase order, the place of performance shall be our registered office located in Saalfeld.
- (2) The place of jurisdiction shall be Saalfeld; but we shall be entitled to sue the Supplier also at the Supplier's registered office.
- (3) The law of the Federal Republic of Germany shall be applicable on an exclusive basis and to the exclusion of the UN Convention on the International Sale of Goods.