

Terms and Conditions of Purchase (as of: April 2009)

§ 1 General – Scope

- (1) Our terms and conditions of purchase apply exclusively; we do not recognise terms from the supplier conflicting with or deviating from our terms and conditions of purchase unless we have specifically agreed to their validity in writing. Our terms and conditions of purchase also apply if we, being aware of conflicting or differing terms from the supplier, accept delivery without reservation.
- (2) All agreements that are reached between the supplier and us relating to the implementation of the contract are put in writing in this contract. Telephonic or oral agreements must be confirmed by us in writing to be valid. Any changes or amendments to this contract must be done in writing. This also applies to the written form unless it has been annulled by an unmistakable oral agreement at a later stage.
- (3) Our terms and conditions of purchase only apply to companies in terms of BGB [German Civil Code].
- (4) These terms and conditions of purchase shall also apply to future contracts between the contractual parties until a new version applies exclusively.

§ 2 Offer – Placing of order

- (1) The supplier is obligated to accept our order within a period of 2 weeks.
- (2) We retain title and copyright to all illustrations, drawings, calculations and other documents. They may not be made accessible to third parties without our express written consent and may only be used for production based on our order. After processing of the order they must be returned to us immediately and without prompting. The non-disclosure obligation applies for a period of 10 years after processing this order. It expires if and to the extent to which the production know-how contained in the said illustrations, drawings, calculations and other documents becomes generally known.
- (3) A commitment with regard to quantities and delivery times only comes into effect when we have provided a delivery plan schedule or call-off orders.
- (4) An assignment of the order to third parties is not permitted without our consent.
- (5) Changes to products or the production process by the supplier that will lead to changes in specification, drawings or quality standards or have any other effect on the operations reliability and functioning of our products are only permissible with our prior consent.

§ 3 Prices – Conditions of payment

- (1) The prices shown in the order are fixed prices. Unless otherwise agreed in writing they include delivery and packaging. The return of the packaging requires a separate agreement.
- (2) Changes in price after conclusion of the contract cannot be considered. This also applies if the cause for price increases was unforeseen and/or serious for the supplier.
- (3) Quoted prices are excluding VAT.
- (4) Unless agreed otherwise in writing, we shall pay the purchase price after receipt of invoice within 21 days with a 3% discount or within 60 days without deduction. This is calculated from the time of delivery and receipt of a correct invoice in terms of paragraph 6. To calculate the discount period, the day of payment in case of account transfer is the day the transferring bank receives the transfer order.
- (5) In the case of faulty delivery we are entitled to withhold pro rata payment until the delivery has been correctly fulfilled.
- (6) We must receive the invoice at least 14 days before it is due. It must show the order number and date, VAT identification number for cross-border deliveries within the EU, place of unloading, number and date of the delivery note and quantity of invoiced goods. The invoice may only relate to one delivery note. The supplier is responsible for any consequences arising from non-adherence to this obligation unless he can prove that he is not responsible.
- (7) Should a price not have been specifically agreed, a possibly existing framework contract is decisive. If there is no framework agreement the price of the last delivery of the same goods applies.
- (8) We are entitled to offset supplier's claims with amounts due by us.
- (9) A right to withhold payment according to § 369 HGB [German Commercial Code] is excluded.
- (10) Supplier's receivables from third parties may only be assigned or pledged with our written consent. We will not withhold consent without good cause.
- (11) Payments do not constitute a renouncement of possible damage claims and are not an acknowledgement of contractually correct fulfilment.

§ 4 Delivery / Performance

- (1) Delivery is made at the time recorded in the order.
- (2) Unless otherwise agreed the Incoterms 2000, CIP apply to the delivery.
- (3) In principle, cash on delivery is excluded and the acceptance of the dispatch at the expense of the supplier is refused.
- (4) The supplier is obligated to state the order date and number on all dispatch documents, delivery notes and other correspondence. Should he omit this we cannot be held responsible for any subsequent delays in processing.

§ 5 Delivery delays

- (1) The delivery time stated in the order is binding; its adherence is an essential contractual obligation.
- (2) Should the supplier be responsible for not adhering to the agreed delivery time, the supplier is obligated to compensate us for the damage caused by delay. Accepting the late delivery or performance does not constitute a renouncement of further claims from the delay. We must be informed immediately of any foreseeable delivery delays. The supplier must compensate us for the damages ensuing from a violation of this obligation.
- (3) Should the delivery be delayed due to force majeure or industrial action at the supplier's or our operation – and taking economic factors into consideration –, we are wholly or partially released from the obligation to accept the ordered goods if the goods are no longer usable or the delay of delivery is unacceptable.
- (4) If the delivery is earlier than agreed we retain the right to return the goods at the supplier's expense and risk or alternatively to store the goods at the supplier's expense and risk until the agreed delivery time. We charged a daily flat rate of 0.2% of the total order value for storage. We retain the right to further claims and rights. On accepting early deliveries, payment date is dependent on the agreed delivery time.
- (5) In the event of delayed delivery we are entitled – allowing for possible compensation for damages beyond this – to charge a penalty for each calendar week or part thereof in the amount of 1.5% of the value of the outstanding goods or services, however, up to a maximum of 6%.

§ 6 Inspection / Quality control / Parts requiring mandatory documents

- (1) The data we obtain during the receiving inspection with regard to quantity, mass, weight and quality is decisive. Acceptance is subject to examining the correctness and suitability and to our quality control conditions – as far as appropriate – that were handed to the supplier before conclusion of contract. Our control personnel and those from domestic and foreign authorities are entitled, after prior announcement and during working hours, to check the quality of the

materials and/or the production process of the delivery goods and to be given insight into the quality records.

- (2) The supplier is obligated to maintain the best available technology. He is further obligated to establish and conduct appropriate production control to ensure that the goods produced exhibit the agreed and specified quality characteristics.

§ 7 Liability for defects

- (1) The supplier is liable for material defects and defects of title of the delivered items according to legal provisions unless otherwise agreed in the following.
- (2) We are obligated to inspect the goods within an appropriate time period for possible quality and quantity deviations. Claims are on time as long as they reach the supplier within 4 working days after receipt of goods or in the case of hidden defects after discovery. If an extensive inspection (e.g. by experts) of the delivered items is required, the deadline is extended accordingly.
- (3) The conditions in § 6 apply to the inspection of the delivered goods as well as the relevant legal provisions.
- (4) We are entitled to unabridged legal damage claims. In all cases we are entitled at our discretion to request the supplier to either remove the defects or deliver a defect-free item (supplementary performance). If the supplementary performance fails we are entitled to withdraw from the contract.
- (5) Supplementary performance is considered failed after an unsuccessful attempt.
- (6) We expressly retain the right to compensation for damages instead of performance.
- (7) We are entitled to remove the defect ourselves at the expense of the supplier if there is a risk of delay or a specific need for speed.
- (8) The warranty period is 36 months calculated from the time of passing of risk. This does not affect the period according to § 438 paragraph 1 no. 2 b BGB [German Civil Code].
- (9) In the event of removal of defect or replacement parts the warranty period begins anew – beyond the statutory suspension.

§ 8 Product liability / Indemnity / Insurance cover

- (1) If the supplier is responsible for a product defect he is obligated to release us from damage claims from third parties on the first demand insofar as the cause falls within his sphere of control or organisation and he is liable in external relations.
- (2) In line with his liability for damages in terms of paragraph (1) the supplier is further obligated to refund possible expenses according to §§ 683, 670 BGB or according to §§ 830, 840, 426 BGB incurred by us from or in connection with product recall. We shall inform the supplier – as far as possible and reasonable – on the content and extent of the necessary recall measures and give him an opportunity to comment. Other legal claims remain unaffected.
- (3) The supplier commits himself to maintain product liability insurance with a cover amounting to a flat rate of € 5m for each personal damage/property damage and provide proof of this on request. In individual cases a different amount may be agreed upon. Any additional damage claims that we may be entitled to remain unaffected.

§ 9 Property rights

- (1) The supplier will ensure that no third party rights are violated in connection with his delivery.
- (2) Should a third party lay a claim against us in this regard, the supplier is obligated to release us from these claims on first written demand. We are then no longer entitled to enter into any legal agreements with the third party in this regard, especially reach a compromise, without the supplier's consent.
- (3) The supplier's obligation to release us from liability extends to all expenses that we necessarily incur from or in connection with the claim from a third party.

§ 10 Retention of title / Tools

- (1) Any parts that we consign to the supplier remain our property. The supplier always effects processing and transformation for us. If our retention goods are processed with items that are not our property we acquire co-ownership in the new item in proportion of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
- (2) Should the item consigned by us be inseparably combined with goods not belonging to us we shall acquire co-ownership in the new item in proportion of the value of the retention item (purchase price plus VAT) to the other combined items at the time of combination. Should the combination result in the supplier's goods constituting the main part of the new item then it is agreed that the supplier assigns proportional ownership to us. The supplier stores the thus created solely or jointly owned item for us.
- (3) We retain title to all tools; the supplier is obligated to use the tools exclusively for the production of goods ordered by us. The supplier is obligated to insure our tools at replacement value against fire and water damage and theft at his expense. At the same time the supplier assigns all compensation claims from this insurance policy to us; we accept the assignment. The supplier is obligated to perform any necessary service and inspection work on our tools as well as do all maintenance and repairs on time and at his expense. He must inform us immediately of any cases of disruption. If he fails to do so culpably, any damage claims remain unaffected.
- (4) If the security rights that we are entitled to according to paragraph (1) and/or paragraph (2) exceed the purchase price of all our unpaid retention goods by more than 10%, we are obligated to release the security rights accordingly at our choice.
- (5) We may acquire the supplier's share of production materials partially paid by us at the end of the supply at current market value. The supplier may sell items that were developed by us and/or carry our trademark and/or our part number to us exclusively. The supplier further commits himself not to offer these parts in catalogues or other advertising or sales documents.

§ 11 Non-disclosure and data protection

- (1) The contractual parties commit themselves to treat all non-public commercial and technical details that have become known through the business relationship as business secrets.
- (2) The supplier may not use the fact of the business relationship for purposes of advertising or public relations without consent. Sub-suppliers must also be committed to this condition.

§ 12 Spare parts

The supplier is obligated to continue filling orders for spare parts and consumables for at least 5 years after the last delivery and ensure sufficient availability of such spare parts.

§ 13 Legal venue – Place of fulfilment

- (1) Our registered seat is the legal venue if the customer is a merchant. We are, however, entitled to bring an action against the customer in the court of his place of residence.
- (2) The laws of the Federal Republic of Germany apply. The application of the UN Convention on the Sale of Goods is excluded.
- (3) Unless otherwise stated in the order confirmation, the place of fulfilment is our registered seat.