

## General Terms and Conditions of Purchases

Status: March 31<sup>st</sup> 2015

### 1. General – scope

- (1) Our General Terms and Conditions of Purchase and Procurement (herein also referred to as “our General Terms and Conditions on Purchases”) are exclusively valid; we do not acknowledge any contradictory conditions or deviating conditions of the supplier, unless we would have given our express consent to the validity of such conditions in text form. Our General Terms and Conditions on Purchases are also effective if we accept a supplier’s delivery without reservation with knowledge of contradictory conditions or deviating conditions of the supplier.
- (2) All agreements between us and the supplier for the purpose of performance of this contract must be put into text form in this contract.
- (3) Our General Terms and Conditions on Purchases are solely applicable with respect to entrepreneurs in accordance with § 310, section 1, BGB (German Civil Code).
- (4) If and insofar we use individual Incoterms®, we refer to the Incoterms® 2010.

### 2. Quotation – offer documents

- (1) The supplier is committed to accept our purchase order within a period of 4 working days.
- (2) We reserve any and all proprietary and intellectual property rights in illustrations, drawings, calculations and any other records; such documentation must not be disclosed to any third parties without our prior text form permission. Such documentation shall exclusively be used for production based on our order; after completion of the order they must be returned to us unrequested. They must be kept secret in respect of any third parties, insofar the regulation under section 9, subsection (5) is supplementary applicable.

### 3. Prices – payment terms

- (1) The price designated on the purchase order is binding. In the absence of any text form agreement to the contrary, the price includes “free delivery to the door” including packing. The return of packing requires specific agreement.
- (2) All prices are to be indicated as net prices plus applicable value added tax and other applicable taxes, duties and charges.
- (3) We can process invoices only if they comply with any and all current tax code requirements and indicate – in accordance with the specification in our purchase order – the order number specified there; the supplier shall be liable for any consequences arising of noncompliance with this obligation unless he provides evidence that he cannot be held responsible for the same.
- (4) We pay, unless expressly agreed otherwise in text form, the purchase price within 14 days, counting from the date of receipt of invoice minus 2 % cash discount, or within 30 days from the date of invoice receipt.
- (5) We are entitled to offsetting rights and rights of retention within the limits of statutory regulations.

## § 4 Delivery period

- (1) The delivery date specified in the purchase order is binding.
- (2) The supplier is obligated to notify us forthwith in text form about circumstances that may result in the supplier being unable to meet the stipulated delivery date.
- (3) In the event of delayed delivery we are entitled to legal claims. In particular we are entitled after the fruitless lapse of reasonably granted respite to claim damages instead of delivery and the rescission of the order. If we claim damages, the supplier shall have the right to provide evidence to us that he is not responsible for such violation of duty.

## 5. Passage of risk – documents, Force Majeure

- (1) Delivery shall be made free delivery to the door unless anything to the contrary is agreed in writing.
- (2) The supplier is obliged to exactly indicate our order number on all shipping documents and delivery notes; if he fails to do so, any delays in processing arising thereof will not be attributable to us.
- (3) Force Majeure, interferences / disruptions within our enterprise, (political) uprisings, measures by authorities and other events outside our control suspend our duty to accept delivery for their duration. During such periods and within two weeks afterwards, we are entitled to withdraw from the contract partly or entirely if such events are of relevant duration and our demands in supply have been satisfied through other necessary procurements. Our further rights remain unaffected.

## 6. Inspection for defects – liability for defects

- (1) We are obliged to inspect the goods within a reasonable period of time for potential deviations in quality and/or quantity; the complaint is made in due time when it is received by the supplier within a period of 5 working days, counting from the date of receipt of goods, or in case of latent defects from the date of discovery.
- (2) We are entitled to legal claims for defects without restrictions; in any case we are entitled either to demand of the supplier elimination of defects or delivery of a new object at our free discretion. Our right to compensation for damages, in particular compensation for damages instead of performance, remains expressly reserved.
- (3) We shall have the right to carry out elimination of defects ourselves when the supplier is in default.
- (4) Limitation period is 36 months, counting from the date of passage of risk unless the mandatory regulations of §§ 478, 479 BGB intervene.

## 7. Product liability – indemnification – liability insurance protection

- (1) As far as the supplier is responsible for a product liability damage, the supplier is insofar obliged to indemnify and keep us indemnified from and against any third parties’ claims upon first request insofar as the cause of said claims is set within the supplier’s

domain and organizational area and the supplier himself is also liable in relation to third parties.

- (2) Within the scope of the supplier's liability for damage events in terms of aforementioned section (1), the supplier is also committed to reimburse any possible expenditures, according to §§ 683, 670 BGB, or according to §§ 830, 840, 426 BGB that are arising from or in connection with a product recall undertaken by us. We shall notify the supplier of scope and extent of such recall action to be undertaken – as far as possible and reasonable – and give him the opportunity to comment. Thereof unaffected remain any other legal claims.
- (3) The supplier commits to maintain a product liability insurance with coverage – lump sum – of Euro 10 million per each event of damage to persons / to property; if we are entitled to further claims for damages, such claims remain unaffected.

## **8. Industrial property rights**

- (1) The supplier warrants that any third parties' rights are not infringed within the Federal Republic of Germany and such other countries that are known to the supplier as the countries of destination in connection with his delivery or performance.
- (2) If we are called upon on such grounds by any third party, the supplier is obliged to indemnify and keep us indemnified from and against any such claims for damages upon first request; we are – without the suppliers consent - not entitled to enter into any agreements with such third party, particularly not to enter into a compromise.
- (3) The supplier's duty to indemnify relates to any and all expenditures necessarily arising to us from or in connection with being called upon by any third party.
- (4) Limitation period is 36 months, counting from the date of passage of risk.

## **9. Retention of title – provision – tools – confidentiality**

- (1) As far as we provide parts to the supplier we reserve the title to the same. Processing or reworking by the supplier is deemed to be performed for us. When such goods under retention of title are reprocessed together with other objects not belonging to us, we acquire co-ownership in the new object pro rata of the value of our object (purchase price plus VAT) in relation to the other processed objects at the time of processing.
- (2) If any object provided by us is inseparably intermixed with other objects not belonging to us, we acquire co-ownership in the new object pro rata of the value of the item under retention of title (purchase price plus VAT) in relation to the other intermixed objects at the time of intermixing. When intermixing takes place in a way that the supplier's object is to be deemed the principal object, it is agreed that the supplier conveys pro rata co-ownership to us; the supplier shall keep safe the sole ownership or co-ownership for us.
- (3) We reserve the title to tooling; the supplier is furthermore obliged to utilize such tooling exclusively for the production of goods ordered by us. The supplier is committed to insure any tools belonging to us at the replacement value against damages by fire, water, and theft at the supplier's expense. The supplier simultaneously assigns already now any and all claims

for compensation to be granted by such insurance to us; we herewith accept such assignment. The supplier is committed to undertake possibly required maintenance and inspection work as well as any servicing and repair work to be done in due time at the suppliers expense. The supplier shall notify us of any possible incident; if the supplier culpably fails to do so, our claims for damages remain unaffected.

- (4) With respect to our security interests according to section (1) and/or section (2), we are entitled to securitization of up to 110 % of the purchase price of all our goods under retention of title not yet paid for. We will release security interests at our free discretion at the supplier's request insofar this limit should have been exceeded.
- (5) The supplier is committed to keep strictly secret all illustrations, drawings, calculations and any other records and information received. They may only be disclosed to any third parties with our prior express consent. This obligation to confidentiality also applies after completion of performance of this contract; it expires when and as far as the production knowledge contained in the illustrations, drawings, calculations and any other records provided has become generally known.
- (6) If and insofar as we provide the supplier with templates or other proprietary content to enable his performance, such templates or other proprietary content are part of our protected industrial and intellectual property rights and protected Know How. The title to any and all templates or other content etc. remains with us and/or with those entities that have licensed us. Any unauthorized use of our templates or other content that could enable or result in any kind of unauthorized disclosure, reconstruction, acquiescence of knowledge or any other kind of reconstruction of our templates, proprietary content or other proprietary internal technical specifications („Reverse Engineering“), is strictly prohibited. Any and all chemical or other disassembly or deconstruction of our proprietary templates and other content apart from the limits of proper contractual performance are strictly prohibited unless expressly otherwise authorized by specific written agreement or statute. Any attempt of unauthorized re-engineering is a severe breach of contract with all legal consequences and rights for our side. We are for example entitled to summary termination, claims of damages and injunctive relief.

## **10. Minimum wage laws and performance for us**

- (1) During the contractual performance, the supplier complies with any and all minimum wage laws applicable to his employees in the Federal Republic of Germany and/or entities or persons performing successive services for him and/or involved hiring companies.
- (2) Upon request, the supplier will disclose to us name and corporate seat of any entities or persons performing successive services and/or of involved hiring companies. The supplier warrants diligent selection and regular supervision of any and all entities or persons performing successive services and/or involved hiring companies by suitable means. The supplier further warrants that he will demand for

and agree about respective commitments with the aforesaid parties to comply with any and all minimum wage laws at all times.

- (3) Violations of minimum wage laws and/or this section 10 in connection with supplier's contractual performance entitle us to summary termination and damages.
- (4) The supplier indemnifies and holds us harmless upon first request against any and all claims, public dues, fines and any other financial burdens demanded from us in connection with any violation of minimum wage laws attributable to the supplier including but not limited to our legal fees and expenditures.
- (5) The supplier notifies us immediately in any case where he is considered to be in possible violation of minimum wage laws in connection with his performance of services for us. This applies mutatis mutandis in case of any initiated or impending investigation or prosecution against the supplier for minimum wage laws violations.
- (6) Should we have doubts about supplier's compliance of applicable minimum wage laws in connection with his contractual performance, the supplier will, upon first request and without any delay, furnish us with requested documentation demonstrating his full and unconditional compliance with said minimum wage laws (e.g. by furnishing a current certificate of compliance by the tax authority or a certificate of compliance by his tax adviser, according to which all minimum wage laws have been properly observed).
- (7) This section 10 applies mutatis mutandis to the minimum wage laws of all other countries relevant for the contract.

#### **11. Place of jurisdiction, place of performance, language**

- (1) As far as the supplier is a commercial business, place of jurisdiction is Munich – City (Federal Republic of Germany); however we are also entitled to take legal action against the supplier at the venue of the supplier's place of residence.
- (2) Unless anything to the contrary results from our purchase order, place of performance is D-85737 Ismaning.
- (3) For the purposes of possible interpretation, any other language versions of these General Terms and Conditions of Purchase and Procurement that are not included into the contract, are irrelevant. Only if another language version becomes by chance also included and only if there should remain more than one possible interpretations of a clause, the then current German language version shall be decisive.