

## General Conditions of Purchase

### § 1 General Terms – Scope

1. Our conditions of purchase apply to all deliveries and services of the supplier, not only to purchase contracts, but also to contracts for work, assembly work, services etc. They apply exclusively; we do not recognize the supplier's conditions which contradict or deviate from our conditions of purchase, unless we have expressly agreed in advance to their validity in text form. Our conditions of purchase apply even in the event that we accept the supplier's delivery without reservation, in awareness of conditions of the supplier which contradict or deviate from our conditions of purchase.
2. All agreements made between us and the supplier for the purpose of implementing the contract must be recorded in text form.
3. Our conditions of purchase apply only to entrepreneurs in terms of § 14 section 1 BGB [German Civil Code].
4. Unless agreed otherwise, the contractual language is German.

### § 2 Acceptance of the proposal – proposal documentation

1. The supplier is obliged to accept our order within a period of one week. Orders must be placed in text form. Orders placed by telephone or verbally become valid only upon our confirmation in text form.
2. We reserve property and copyright rights in images, drawings, calculations, and other documentation; they must not be made accessible to third parties without our express written agreement. They must be used exclusively for manufacturing on the basis of our order; after completion of the order, they must be returned to us without being requested. They must be kept confidential with respect to third parties. In this regard, § 12 applies additionally.

### § 3 Prices – conditions of payment

1. The price stated in the order is binding and is always stated in euros. We do not accept a contractual relationship on the basis of other currencies. In the absence of an agreement in text form to the contrary, the price includes delivery “free

domicile”, including packaging. Return of the packaging requires a separate agreement in text form. If, despite an agreement to the contrary, the supplier uses disposable pallets, then our disposal of them will be at the supplier's expense.

2. Costs, taxes, customs duties, and other charges which come into force after placing an order are borne by the supplier.

3. We are able to process invoices only if - as per the details in our order - they specify the order numbers shown in the order; the supplier is responsible for all consequences due to failure to comply with this duty, unless he can show that he is not responsible for this. Invoices are to be submitted immediately after dispatch of the goods and should therefore not be sent with the delivery. Packing lists are to be provided with the invoices, as are agreed information and documentation, particularly initial samples, test reports, tool lists, etc.

4. Unless agreed otherwise in text form, we pay the purchase price, calculated from the receipt of the service in return, receipt of the invoice after provision of the service in return, or from a later timepoint determined by the supplier, within 14 days at 3 % discount, or within 30 days net.

5. To the extent legally permitted, we have the rights of offsetting and retention.

### § 4 Delivery time – Delayed delivery – Transfer of risk

1. The delivery time specified in the order is binding. The receipt of goods by us is decisive in terms of compliance with the delivery time.

2. The supplier is obliged to immediately inform us in text form if circumstances arise or become known to him from which it results that the agreed delivery time cannot be complied with. The supplier is aware that delays in delivery can result in production stoppages for our customers. In addition, the supplier is aware that in some cases we supply our customers on a “just in time” basis. Delays in delivery can therefore result in significant contractual penalties and claims for damages

by our customers, which are to be reimbursed by the supplier within the scope of his liability for damages.

3. In the event of delayed delivery we have the unlimited right to legal claims. In particular, after a reasonable period has expired fruitlessly, we have the right to demand withdrawal from the contract and compensation for damages. If we demand

compensation for damages, then the supplier has the right to prove to us that he is not responsible for the neglect of duty.

4. We may reject, at the supplier's expense, deliveries made before the agreed delivery date. If we do not reject them, the goods are stored by us at the supplier's expense and risk until the agreed delivery date. In the event of an early delivery, we have the right to pay for the goods on the basis of the agreed delivery date and taking into account the agreed payment terms.

5. We accept partial deliveries only after express agreement. Outstanding quantities must be reported to us at the time of the partial delivery.

6. If the supplier is behind with a delivery, then we have the right to demand a contractual penalty of 0.3% of the net order value for each calendar day that the delivery is delayed, but to a maximum of 5% of the net order value. We also have the right to claim a contractual penalty even after performance. In this case, in deviation from § 341 section 3 BGB, it is sufficient that we claim the proviso of the contractual penalty within 14 days after receipt of the delayed delivery, or even later through corresponding invoice deduction with respect to the supplier. We have the right to claim damages resulting from the delay which exceed the value of the forfeited contractual penalty.

7. Risk transfers to us only when delivery and unloading of the goods are complete on our premises or at the agreed delivery or shipment location.

8. We have the right to refuse to accept the goods in cases of force majeure, strikes and lockouts, breakdowns, unrest, and in the event of official regulations, provided that we are not responsible for these events.

#### **§ 5 Shipment of Hazardous Goods**

1. We presume that the supplier, as a distributor of goods, has comprehensive knowledge as to any risks associated with his goods in terms of shipment, packing, storage etc. Prior to the acceptance of our order he shall check as to whether the goods ordered or their components can be categorised as hazardous (e.g. paints, glues, chemicals or flammable, oxidising, explosive, combustible, poisonous, radioactive, acidic or self-heating goods). The supplier shall inform us of any such circumstances without delay.

2. The supplier shall provide us with all necessary mandatory declarations properly completed and signed latest with his order acknowledgement.

3. All packing, labelling and declarations shall be in compliance with the most recent national and international provisions:

- Sea Freight: Hazardous Goods Ordinance - See IMDG-Code

- Air Freight: UN/ICAD; IATA

- Rail Freight: Hazardous Goods Ordinance for Road and Rail (GGVSE) and RID

- Road Freight: Hazardous Goods Ordinance for Road and Rail (GGVSE) and ADR

as well as with additional provisions in force in the country of delivery, in so far as the supplier was informed of such provisions.

5. The supplier shall be liable for all damage incurred due to incorrect information in mandatory declarations or due to a failure to observe existing regulations when handling (packing, shipment, storage etc.) of hazardous goods.

#### **§ 6 Origin of Goods, Preferences, Regulations in International Trade**

1. The supplier is obliged to submit proof of non-preferential or preferential origin and the correct customs tariff numbers for all items supplied by him at the latest at the time of order confirmation.

2. The supplier undertakes to provide us with a current, valid long-term supplier's declaration every year without being requested to do so. The supplier shall notify us immediately of any changes to the information provided therein.

3. The supplier undertakes to check its products to see whether they are subject to prohibitions, restrictions and/or authorisation requirements in international trade (e.g. with regard to the export list, Dual-Use Regulation, US re-export regulations, etc.) and to indicate this in the long-term supplier's declaration. The supplier must inform us immediately in text form of any changes to the information given there before dispatching the goods.

4. If there are prohibitions for goods already delivered in accordance with the Foreign Trade and Payments Ordinance (AWV), the current export regulation, the EU-Dual-Use Regulation or other national or international laws and regulations, the supplier is obliged to inform us of these immediately in text form.

5. If the long-term supplier's declaration proves to be insufficiently informative or incorrect, the supplier shall be obliged to provide us with complete, error-free information sheets on the origin of the goods, confirmed by the customs authorities, upon request.

6. If we or our customers are subsequently charged by a customs authority due to incorrect declarations of origin or if we or our customers suffer any other financial disadvantage as a result and the error is based on an incorrect declaration of origin by the supplier, the supplier shall be fully responsible for this and liable for all resulting damages.

### **§ 7 REACH Regulation**

1. The supplier undertakes to comply with REACH (Regulation EC No. 1907/2006). He shall be obliged to (pre-)register all substances supplied to us himself or have them registered by upstream suppliers if he is subject to registration obligations under REACH. If he is not himself subject to registration under REACH, he shall oblige its upstream suppliers to comply with their obligations under REACH. He undertakes to provide us with all information and documentation required under REACH within the deadlines stipulated in REACH or to forward the information from upstream suppliers to us without delay. In addition, he undertakes to check and ensure that his information and documents are always complete and up to date.

2. If claims are asserted against us by customers, competitors or authorities due to a violation of REACH regulations which is attributable to goods of the supplier, we shall be entitled to demand indemnification from the supplier against these claims or compensation for the damage caused by the non-existent REACH conformity.

### **§ 8 Quality assurance – fulfilment of the order**

1. The supplier is obliged to perform appropriate quality assurance to the latest state of the art, and to demonstrate this to us upon request. We reserve the right to specify the type and scope of the quality assurance by concluding an appropriate quality assurance agreement. We set the prerequisite that the supplier has implemented a quality management system as per the requirements of ISO 9001 ff., QS 9000, or ISO TS 16949.

2. Already when submitting his proposal to us, the supplier is obliged to refer to possible deficiencies,

especially in terms of compliance with the current state of knowledge and technology, or with provisions relating to environmental protection, or deficiencies in terms of technical practicality and implementability.

3. Even after conclusion of a contract, we may require modifications to the delivery items, as long as this is reasonable for the supplier. For such a contract modification, the effects on both sides, especially in terms of reduced or additional costs, as well as the delivery date, must be taken into account accordingly.

4. Deviations in terms of the order and modifications apply only if the supplier specifically makes reference to them and we have confirmed them in text form.

### **§ 9 Investigation of defects – Liability for deficiencies**

1. Obligations and duties to investigate and notify defects do not exist until the delivery is complete.

2. The supplier recognizes that, through performing random sampling to an acceptable extent immediately after delivery and within 14 days at the latest, we perform our incoming goods inspection correctly in terms of identity of the goods, weight, dimensions, and appearance.

3. We are not obliged to perform technical functional testing or other investigations.

4. Defects in the delivery which display themselves during the abovementioned investigations must be reported by us immediately, and within 14 days at the latest; hidden defects in the delivery must be reported no later than 14 days after discovery.

5. We have an unlimited right to legal claims for defects; in all cases we have the right to require the supplier, at our choice, to correct the defects or to deliver new goods. The supplier shall carry out the supplementary performance within a reasonable period of time from the time we have informed him of the defect.

6. If there are concrete indications of defective deliveries, then we have the right to test the goods ourselves or to have them tested for suitability by an independent test institute, at the supplier's expense. The right to compensation for damages, especially compensation instead of performance, remains expressly reserved.

7. For a withdrawal due to a defect, it is not necessary to set a deadline for supplementary performance, if the supplier has not carried out the supplementary

performance despite the expiry of a reasonable deadline from a point in time at which the customer informed him of the defect, if a defect becomes apparent despite the supplementary performance attempted by the supplier, if a defect is so serious that the immediate withdrawal is justified, if the supplier has refused the proper supplementary performance or if it is obvious from the circumstances that the supplier will not properly supplementary perform. In all of the aforementioned cases, no deadline need be set for a claim for damages due to a defect.

8. The statutory provisions for recourse along the supplier chain remain unaffected.

9. We have the right to correct defects ourselves at the supplier's expense, if the supplier falls behind in his obligation to supplementary performance or if there is a particular urgency.

10. The limitation period is 36 months, calculated from the transfer of risk. This period is extended by the period for measures of supplementary performance by the supplier, from the receipt of our defect report until the supplier states in text form the completion of the measure or in text form refuses further supplementary performance. If we perform the supplementary

performance ourselves as per § 9.9, then this period is extended by the time taken to complete the supplementary performance.

11. If a defect has become apparent within the limitation period, the limitation period shall not commence before the expiry of 4 months from the time when the defect first became apparent.

12. If we have handed over the goods to the supplier for supplementary performance, the limitation period for claims based on the asserted defect shall not commence before the expiry of 2 months after the date on which the repaired or replaced goods were handed over to us.

#### **§ 10 Liability – Indemnification – Insurance**

1. If we are sued by our customers or by third parties for damages, regardless of the domestic or foreign legal reason, then the supplier indemnifies us from such claims – including the related costs of legal defense – if he has caused the damage and – if no-fault liability law is applied – if he is responsible for the circumstances creating the liability.

2. As part of his liability for damage events as per § 10.1, the supplier is also obliged to reimburse

necessary and appropriate expenses which result from the fact that the delivered goods are not secure, especially in the event of a recall; possible contributory negligence on our part is to be taken into account. As far as is possible and reasonable, we will inform the supplier of the content and scope of the measures to be implemented and give him the opportunity to respond. Other legal claims remain unaffected.

3. In addition, if we or our customers are exposed to measures from market surveillance authorities, the supplier is obliged to provide all necessary information and any help which we or our customer require in order to avert or implement the measures by the authorities. Any potential costs or expenses arising to the supplier in this regard are not recompensed.

4. The supplier is obliged to maintain a product liability insurance policy with a cover of 10 million euros for each personal injury/case of material damage – as a lump sum; if we have the right to further claims, then these remain unaffected. Upon request, the supplier is obliged to demonstrate to us in a suitable form the scope and existence of the insurance.

#### **§ 11 Property rights**

1. The supplier is responsible that no third party rights are infringed in relation to the goods which he supplies.

2. If a third party claims against us because of a property right infringement, the supplier is obliged to indemnify us for these claims at first request; without the supplier's agreement, we do not have the right to make any agreements whatsoever with the third party, and in particular we cannot conclude a settlement.

3. The supplier's obligation to indemnify relates to all expenses which necessarily arise to us arising from or in connection with the action by a third party, including the related costs of legal defense.

4. The limitation period is 10 years, calculated from the conclusion of the contract.

#### **§ 12 Confidentiality**

1. The supplier is obliged to keep all received images, drawings, calculations, and other documentation and information strictly confidential. Only with our express agreement may they be made known to third parties.

2. The confidentiality agreement applies even after completion of the contract; it expires when and if the manufacturing knowledge in the images, drawings, calculations, and other documentation which were handed over has become generally known.

### **§ 13 Materials, tools**

Tools, gauges, or devices made available to the supplier remain our property. They are to be clearly marked by the supplier as the property of SUMTEQ. Tools, gauges, or devices are also the property of SUMTEQ and are to be marked as such even if they have been made by the supplier himself or in his name for the manufacture of our products.

### **§ 14 Provision**

1. If we provide parts to the supplier, we reserve the ownership in them to ourselves. Machining or remodelling by suppliers is performed on our behalf. If our goods under retention of title are processed together with objects not belonging to us, then at the time of processing we obtain joint ownership in the new goods in proportion to the value of our goods (purchase price plus VAT) compared with the other processed objects.

2. If goods provided by us are mixed inseparably with objects not belonging to us, then we obtain joint ownership in the new goods in proportion to the goods under retention of title (purchase price plus VAT) compared with the other mixed objects at the time of mixing. If the mixing happens in such a way that the supplier's goods are deemed to be the main goods, then it is considered agreed that the supplier proportionally transfers joint ownership to us. The supplier keeps the solely or jointly owned goods safe on our behalf.

3. If the our security interest as per §§ 14.1 and/or 14.2 exceeds the purchase price of all so far unpaid goods under retention of title by more than 10%, then at the supplier's request we are obliged to release the security rights at our choice.

### **§ 15. Retention of ownership**

1. The supplier has the right to retention of ownership requested by him, as long as this expires with the payment of the agreed remuneration for the delivered goods (goods under retention of title), and we are authorized to resell them in the normal way of business.

2. As security in the event of further processing and resale instead of retention of ownership, in the event that retention of ownership as per § 15.1 is effectively agreed, we hereby assign to the supplier our receivables with respect to our customer which arise from a resale of the objects newly manufactured with the use of the goods under retention of title, to the amount of the invoiced value of the respective goods delivered by the supplier. If the receivables with respect to our customer are included in a current invoice, then the assignment relates to the corresponding portion of the balance, including the closing balance from the current account.

3. Already at this point, the supplier hereby assigns back to us the receivables assigned as per § 15.2, and this is subject to the condition precedent that we pay the remuneration invoiced for the respective goods under retention of title.

4. We have the right to collect receivables assigned to the supplier. Revocation of this right is effective only if we breach payment obligations arising from the transaction which forms the basis of the delivery of the respective goods under retention of title. With this proviso, the supplier may also require that we make known to him the assigned receivables and the debtor, and that we announce the assignment to the debtor, or that we make the announcement ourselves.

### **§ 16 Minimum wage law, social responsibility**

1. The supplier undertakes to fulfil all obligations placed upon him in terms of the minimum wage law. The supplier further undertakes only to engage such subcontractors who have themselves undertaken to comply with the obligations placed upon them in terms of minimum wage law. At our request, the supplier is obliged to provide appropriate evidence of compliance with the minimum wage law. The supplier undertakes to indemnify us against all claims and costs arising from legal action under § 13 Mindestlohngesetz (German minimum wage law) caused by failure to pay the minimum wage to the supplier's own employees or to employees of subcontractors. If the supplier breaches obligations under the minimum wage law, then we additionally have the right to extraordinary and immediate termination of the contract for good cause.

2. The supplier shall assume social and economic responsibility for sustainable business practices and

the security of the supply chain. It is committed to ensuring that human rights are respected in the manufacture and supply of products and in the provision of services, that relevant labour standards are observed and that discrimination and forced and child labour are not tolerated. Furthermore, the supplier undertakes not to tolerate any form of corruption and bribery or to engage in this in any way.

## § 17 Force Majeure

### 1. Definition:

“Force Majeure” means the occurrence of an event or circumstance (“Force Majeure Event”) that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that the party affected by the impediment (“the Affected Party”) proves:

- a) that such impediment is beyond its reasonable control; and
- b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
- c) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party.

### 2. Non-performance by third parties

Where a party fails to perform one or more of its contractual obligations because of default by a third party whom it has engaged to perform the whole or part of the contract, the party may invoke Force Majeure only to the extent that the requirements under paragraph 1 of this Clause are established both for the party and for the third party.

### 3. Presumed Force Majeure Events

In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (a) and (b) under paragraph 1 of this Clause, and the Affected Party only needs to prove that condition (c) of paragraph 1 is satisfied:

- a) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation;
- b) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;
- c) currency and trade restriction, embargo, sanction;
- d) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;

e) plague, epidemic, pandemic, natural disaster or extreme natural event;

f) explosion, fire, destruction of equipment, prolonged breakdown of transport, telecommunication, information system or energy;

g) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

### 4. Notification

The Affected Party shall give notice of the event without delay to the other party.

### 5. Consequences of Force Majeure

A party successfully invoking this Clause is relieved from its duty to perform its obligations under the Contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. The other party may suspend the performance of its obligations, if applicable, from the date of the notice.

### 6. Temporary impediment

Where the effect of the impediment or event invoked is temporary, the consequences set out under paragraph 5 above shall apply only as long as the impediment invoked prevents performance by the Affected Party of its contractual obligations. The Affected Party must notify the other party as soon as the impediment ceases to impede performance of its contractual obligations.

### 7. Duty to mitigate

The Affected Party is under an obligation to take all reasonable measures to limit the effect of the event invoked upon performance of the contract.

### 8. Contract termination

Where the duration of the impediment invoked has the effect of substantially depriving the parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days.

### 9. Unjust enrichment

Where paragraph 8 above applies and where either party has, by reason of anything done by another party in the performance of the contract, derived a

benefit before the termination of the contract, the party deriving such a benefit shall pay to the other party a sum of money equivalent to the value of such benefit.

### **§ 18 Place of jurisdiction – place of execution – applicable law**

1. If the supplier is a merchant, then the place of jurisdiction is Cologne, Germany; however, we also have the right to sue the supplier at his general place of jurisdiction.

2. If nothing to the contrary results from the order, the place of execution is our registered office.

3. The law of the Federal Republic of Germany applies exclusively.

4. If the supplier's registered office is outside of Germany, then the CISG ("UN Sales Convention") applies, with the following special provisions:

- Contractual modifications or cancellations must be made in text form. This also applies to understandings about renunciation of this agreement to the written form.

- In the event of a culpable breach of contract, the supplier is liable also for damages which are unforeseeable when the contract is concluded.

- In the event of delivery of contractually non-conforming goods by the supplier, we have the right to demand substitute delivery if the contractual non-conformance represents a fundamental breach of contract. A breach of contract is fundamental when, amongst other things, the goods are manufactured or sold only by the supplier, or if for another reason it is unacceptable to us to obtain the goods from a third party.

- In the event of delivery of contractually non-conforming goods, we may announce the cancellation of the contract if the contractual non-conformance represents a fundamental breach of contract. A breach of contract is fundamental when, amongst other things:

- the damage is difficult or completely impossible to estimate;

- non-pecuniary damage has occurred;

- a claim for compensation is excluded because of article 79 V CISG;

- confidence in the supplier's reliability is permanently damaged in the event of continuing financial obligations; or

- the contractual non-conformance of the goods reaches a level such that the sale of the goods in the normal course of business is no longer possible.

### **§ 19 Partial ineffectiveness**

If individual provisions of the contract are ineffective, then the remaining provisions remain fully effective.

In place of ineffective provisions, a provision applies without further ado which, within what is legally permitted, comes as close as possible to what had been financially intended by the sense and purpose of the ineffective clause.

### **§ 20 Precedence of German version**

These general conditions of purchase are to be interpreted according to German legal understanding. If the legal meaning of a translation deviates from the German legal meaning, then the German meaning shall take precedence.

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