

## **Section 1**

### **General information/scope of application/form**

(1) The purchase conditions apply to any and all present and future deliveries and services ordered by Principal. The purchase conditions shall only apply if Contractor is a businessman in terms of section 14 *BGB* [*Bürgerliches Gesetzbuch*, German Commercial Code], a legal person under public law or a separate estate under public law.

(2) Deviating, contrary or supplementary general terms and conditions of Contractor shall, even if known to Principal, not become part of the contract unless their application was expressly agreed in writing.

(3) Any individual agreement concluded with Contractor in individual cases (including ancillary agreements, supplements, and amendments) shall take precedence over these purchase conditions. Subject to proof to the contrary, their content shall be dependent on a written contract or the written confirmation of Principal.

(4) Legally relevant declarations and notifications of Contractor in regard to the contract (e.g. setting time limits, warnings, withdrawal) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Formal legal provisions and further proof, especially in regard to doubts concerning authority of the party making the declaration, shall remain unaffected.

(5) Information regarding applicability of legal provisions shall only be of clarifying character. These legal provisions therefore also apply without such clarification unless they are directly changed or expressly excluded in these purchase conditions.

## **Section 2**

### **Offer, offer documents, orders, and order confirmation**

(1) Contractor shall submit binding offers free of charge. When making the offer, Contractor shall comply with the enquiry or call for bids in regard to quantity, quality and execution and in the event of any deviations must indicate these expressly.

(2) Ordering and call-off must take place in writing. This also includes remote data transmission (RDT) or e-mail. New advances in electronic communication technology shall be actively used following coordination with Principal and are agreed to be legally binding.

(3) Orders and call-off must be confirmed in writing by Contractor within two days; otherwise, Principal shall be entitled to withdraw these.

## **Section 3**

### **Prices, invoice, and payment**

(1) The agreed prices are fixed prices excluding the value added tax payable at the time of contract conclusion and are given as free domicile including packaging. If the price is not absolutely certain when the order is placed, Contractor shall indicate it no later than in the order confirmation. If Principal does not object within eight working days, the price shall be deemed accepted. If the price is not settled when the order is placed and if it is only communicated by Contractor in the order confirmation, Principal shall have the right to cancel the contract within five working days without Contractor having a right to assert payment claims or other damage claims.

(2) Invoices shall be prepared including the order numbers, part numbers and part designations of Principal. VAT must be indicated separately. Invoices not prepared in due form cannot be processed and will be returned to Contractor. Any delay in payment thus caused is the responsibility of Contractor and does not give rise to the payment of default interest or to any other damage claims by Principal. Contractor shall submit all proofs (e.g. certificates of origin) Principal requires to obtain customs fees and other benefits.

(3) The agreed price shall be payable within 30 calendar days following completed delivery and services (including any acceptance that may have been agreed) as well as receipt of an invoice in proper form. If Principal effects payments within 14 calendar days, Contractor shall grant a discount of 3 % of the net invoice amount.

(4) At the choice of Principal, the payment shall be effected by cheque, bank transfer or electronic payment. Time limits shall commence upon receipt of the goods and invoices in due form by Principal. In the event of bank transfers, a payment is deemed made in time when our transfer order was received by our bank before expiry of the payment term; Principal shall accept no responsibility for delays caused by the banks

involved in the payment process.

(5) Payments effected by Principal without complaints shall not limit notices of defects or damage claims in any form. If advance payments were agreed in individual cases, Contractor shall submit to Principal a directly enforceable guarantee that Contractor waives the benefit of discussion before receipt of the advance payment.

(6) Principal shall be entitled to set-off and retention rights as well as defence of uncompleted contract in accordance with legal provisions. In particular, Principal has the right to withhold payments that are due for as long as Principal is still entitled to claims arising from uncompleted or defective services against Contractor.

(7) Contractor shall only have a right to set-off or retention in regard to bindingly determined or undisputed counterclaims.

## **Section 4**

### **Delivery dates, delayed delivery, force majeure**

(1) Within Germany, delivery shall take place "free domicile" to the address indicated in the order. If the destination is not indicated in the order and if nothing else was agreed, the delivery address shall be our headquarters in Seelbach.

(2) The risk of accidental loss and accidental deterioration of the item shall be transferred to Principal upon handover at the destination. If acceptance was agreed, acceptance shall be decisive for the transfer of risk. Also apart from the above, the legal provisions under the law concerning contracts for work and services shall apply *mutatis mutandis* in the event of acceptance. Delayed acceptance by Principal shall be equivalent to handover or acceptance.

(3) The delivery period set out in the order of Principal shall be binding. Decisive for compliance with the delivery date or the delivery period shall be receipt of the goods by Principal. If a modality other than delivery "free domicile" was agreed in deviation from section 4 clause 1, Contractor shall make the goods available in time, taking into consideration the usual times required for loading and shipping.

(4) If Contractor, after conclusion of the contract, finds it impossible or also only most likely impossible to comply with the exact delivery time that was indicated as a result of breakdowns, lack of raw products or semi-finished goods or due to the consequences of force majeure, he shall communicate this to Principal immediately and within such good time that Principal can obtain the goods from another source by the indicated delivery time. If no such notification is made or if it is made too late, Contractor shall be liable towards Principal for any delays and their consequences.

(5) Contractor is obliged to reimburse Principal for damage caused by delay. Acceptance of the delayed delivery by Principal does not constitute a simultaneous waiver of any damage claims resulting from delay.

(6) Force majeure, labour disputes, unrests, official measures or other unforeseeable, unavoidable and serious events shall exempt Contractor from his performance obligations for their duration and to their extent. This shall also apply if these circumstances occur at a time at which the Contractor in question is in delay. Within the reasonably acceptable, the parties to the contract shall immediately provide the necessary information and shall adjust their obligations to the changed circumstances in accordance with good faith.

## **Section 5**

### **Damages**

(1) If the agreed delivery date is postponed, Principal shall have the right to withhold from Contractor 0.5 % of the total order amount per commenced day, but no more than 5 % of the total order amount. Contractor is expressly granted the right to prove that Principal incurred no damage or a significantly lower damage.

(2) The claims of Principal to performance and further damages shall remain unaffected by the above provision.

## **Section 6**

### **Contract amendment**

Principal shall have the right to demand subsequent changes in regard to characteristics, delivery or service within the technical capabilities of Contractor. Principal shall be obliged to inform Contractor immediately of

any amendment requests.

## Section 7 Transfer of risk, shipping, and customs

(1) Regarding deliveries that include installation or assembly and services, the risk is transferred upon acceptance, in regard to deliveries without installation or assembly upon receipt at the destination specified by the purchaser.

(2) Unless agreed otherwise, shipping and packaging costs shall be paid by Contractor. In the event of pricing ex works or ex sales depot of Contractor, shipping shall take place at the respective lowest costs unless the purchaser has specified a certain shipping method. Additional costs incurred as a result of non-compliance with shipping instructions shall be borne by Contractor.

In the event of pricing free domicile, the purchaser may also specify a shipping method. Additional costs incurred for a faster shipping method necessary in order to comply with a delivery date shall be borne by Contractor.

(3) Packing lists or delivery notes setting out the content as well as the complete purchase order information must be enclosed to each delivery.

(4) Shipping shall always take place using the methods, packaging as well as information and delivery documents specified by Principal. Where requested, the packaging shall be returned to Contractor by Principal carriage forward. Goods are generally shipped on account and at the risk of Contractor. In the event of deliveries from abroad that are subject to customs duties as well as of transport of machines and mechanical systems of all kinds, Contractor shall contact Principal in time regarding customs import and handling of transport.

## Section 8 Warranty

(1) The rights of Principal in the event of material defects and defects of title of the goods (including incorrect or short delivery as well as improper assembly, incorrect assembly or operating instructions or manuals) are subject to legal provisions unless agreed otherwise in the following paragraphs; these provisions shall also apply in the event of other breaches of duty on the part of Contractor, unless agreed otherwise in the following paragraphs.

(2) In accordance with the legal provisions, Contractor shall especially be liable for the goods having the agreed characteristics upon transfer of risk to Principal. Always considered agreements regarding characteristics are those product descriptions that have become a part of the contract in question – especially by being listed or referred to in our order – or which have been included in the contract in the same manner as these purchase conditions. In this regard, it makes no difference whether the product description is that of Principal, Contractor or the manufacturer.

(3) In deviation from section 442 clause 1 second sentence *BGB*, Principal shall also be entitled to unlimited claims for defects if Principal remained unaware of the defect at the time of contract conclusion due to gross negligence.

(4) The commercial duty to inspection and objection is subject to the legal provisions (sections 377, 381 *HGB* [*Handelsgesetzbuch*, German Commercial Code], subject to the following modification: the duty to inspection of Principal shall be limited to defects that are discernible during the incoming goods control by Principal in the course of an external inspection that includes the delivery documents (e.g. transport damage, incorrect or short delivery) or which are discernible in the random testing as part of quality controls of Principal. Where acceptance is agreed, there shall be no duty to inspection. Apart from the above, it shall be crucial to what extent an inspection is possible in the normal course of business, under consideration of the circumstances of the individual case. The duty to objection of Principal regarding any defects detected at a later point shall remain unaffected. Without prejudice to the duty to inspection of Principal, his objection (notice of defects) shall always be deemed to have been made immediately and in time if it is sent within five working days of discovery or, in the event of obvious defects, of delivery.

(5) Supplementary performance shall also include removal of defective goods and re-installation, if the goods were installed in another item in accordance with their intended use. The costs Contractor incurred for inspection and supplementary performance (including any costs for

removal and installation) shall also be borne by Contractor if it turns out that there actually was no defect. Our liability for defects in the event of unjustified requests for removal of defects shall remain unaffected; in this regard, Principal shall, however, only be liable if Principal recognised or failed to recognise as a result of gross negligence that there were no defects.

(6) If Contractor does not comply with his obligation to supplementary performance – at the choice of Principal by removal of the defect (subsequent improvement) or delivery of a defect-free item (replacement delivery) – within an appropriate time limit set by Principal, Principal shall have the right to remove the defect himself and to demand from Contractor reimbursement for the corresponding expenses incurred or a corresponding advance payment. If supplementary performance by Contractor was unsuccessful or is unacceptable for Principal (e.g. due to special urgency, threat to operational safety or imminent occurrence of disproportionate damage), no time limit has to be set; Principal shall notify Contractor immediately of such circumstances; where possible, already in advance.

(7) Apart from the above, Principal shall have the right to reduce the purchase price or to withdraw from the contract in accordance with legal provisions in the event of a material defect or a defect of title. Moreover, Principal shall be entitled to damages and reimbursement for expenses in accordance with legal provisions.

(8) The warranty period shall be 36 months after receipt of the goods. In the event of delivery of machinery, this period shall commence after the machinery was put into operation by Principal; in the event of delivery of systems, after acceptance by Principal.

## Section 9 Manufacturer liability

(1) If Contractor is responsible for a product defect, he shall indemnify Principal and hold Principal harmless against any claims of third parties to the extent that the cause is rooted in Contractor's sphere of influence and organisation and to the extent that Contractor himself is liable in external relationships.

(2) Under his indemnification obligations, Contractor must reimburse expenses in accordance with sections 683, 670 *BGB* that are incurred under or in connection with liability claims of third parties, including any recalls initiated by Principal. Principal shall notify Contractor – where possible and reasonable – as soon as possible of content and scope of recalls and shall give Contractor the opportunity to issue a statement. Further statutory claims shall remain unaffected.

(3) Contractor must take out and maintain product liability insurance with a sum insured of EUR 5,000,000.00 (to be used up to twice per year) for personal injury and material damage. Additionally, a vehicle recall cost insurance for products supplied to the automotive industry with a sum insured of EUR 3,000,000.00 as well as a product recall costs insurance for decorated plastic components and plastic films with a sum insured of EUR 2,500,000.00 must be taken out and maintained.

## Section 10 Property rights

Contractor guarantees towards Principal that no third-party property rights are violated in the execution of the contract nor by either delivery or use of the delivered item or service. He indemnifies Principal and holds him harmless against any and all third-party claims arising from potential property right violations. This means that Contractor shall also bear the costs incurred in the necessary documentation of compliance with third-party property rights.

## Section 11 Right of retention regarding orders

(1) If goods are delivered by Principal to Contractor and combined into a single item by Contractor or if the other item has to be considered the main item, Contractor shall be obliged to grant Principal proportional co-ownership to the extent that the main item is his property.

(2) Editing and processing of the goods by Contractor always takes place on behalf and on the orders of Principal. If they are processed together with items not belonging to Principal, Principal acquires co-ownership of the newly created item in proportion to the value of the goods supplied by Principal compared to the value of the remaining supplied goods that were processed. The same shall apply if the goods

were mixed with other items or goods that do not belong to Principal.

## **Section 12 Tools, models, templates**

Principal is the owner of any and all tools, models, templates, moulds, data, drafts, images, and calculations, to the extent they are intended to be used for manufacturing parts for Principal, also if they were produced or procured by Contractor. In this context, Contractor is acting on behalf of Principal and the means of production are only lent to Contractor. The costs of the means of production shall be borne by Principal in accordance with the agreement. Contractor already now assigns all claims for the surrender of any and all means of production located on his premises or in his sphere of influence to Principal. This shall also apply to all means of production brought onto his premises or into his sphere of influence in the future, starting at the time they are made available to him. The above provision shall also apply if Contractor replaces the means of production of Principal at own costs. Contractor is obliged to clearly mark the means of production of Principal as property of Principal and to prove such labelling on request. Contractor must not surrender the means of production of Principal or any items manufactured with them to third parties or utilise them for the benefit of third parties without the written approval of Principal. Even if Contractor has, for whatever reason, become the owner of the means of production of Principal, Principal shall at all times have the right to demand their surrender. Contractor shall have no right of retention regarding these means of production.

## **Section 13 Assignment of claims**

Contractor may only assign claims against Principal with legal effect subject to Principal's permission, which may not be unreasonably withheld.

## **Section 14 Secrecy**

Contractor shall treat the means of production of Principal as well as his production methods, orders, and any and all associated details of the contractual relationship as business secrets. Drafts, samples, models, templates or similar items may not be surrendered or made otherwise accessible to unauthorised third parties. The duplication of such items shall only be permissible within operational requirements and in accordance with copyright provisions.

## **Section 15 Special conditions**

We request disclosure of the country of origin in accordance with EEC regulation 3351/83 in your order confirmation (unless we have received a general declaration from you in this respect). It is absolutely necessary that you include our complete order information in any and all letters, shipping notices, consignment notes, packet addresses, and invoices. Deliveries and services will only be accepted if they were made or provided based on an order form completed by us. Without express permission, our orders must not be used for reference or advertisement purposes or in any similar manner.

## **Section 18 Supplementary provisions**

Where the order conditions do not set out provisions, legal provisions shall apply.

## **Section 19 Final provisions**

(1) The law of the Federal Republic of Germany applies. The provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply.

(2) If Contractor is a businessman, a person under public law or a separate estate under public law, the exclusive place of jurisdiction for all disputes under this contract shall be the place of business of Principal. The same shall apply if Contractor has no general place of jurisdiction in the Federal Republic of Germany or if the place of residence or habitual residence are not known at the time the action is brought.

(3) If individual provisions of this contract concluded with Contractor, including these purchase conditions, are or become void or unenforceable, either in whole or in part, this shall not affect the validity

of the remaining provisions. In the event of fully or partially void provisions, the parties agree to enter into negotiations with the goal of replacing the fully or partially void provision with a provision that is legally permissible and comes closest to the economic success of the void provision.