

## General Purchasing Terms

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### § 1 Scope of validity

1. These Purchasing Terms apply to businesses, legal persons under public law and special entities under public law.
2. Our orders are placed exclusively on the basis of the following terms. Any different or additional business terms, conditions and contractual terms by the partner that are not specifically approved by us shall not apply even if we don't specifically object them. Our remaining silent cannot be constructed as consent.
3. These Purchasing Terms also apply to future orders and contractual relationships between the partner and us.

### § 2 General Terms and Conditions

4. The contracting parties shall immediately confirm all oral covenants in writing in detail for the purposes of clarity and documentation.
5. Should any part of these Purchasing Terms be or become invalid, that shall be without prejudice to the validity of the rest of the provisions hereof.
6. If it turns out after the conclusion of the contract that our claim for delivery is threatened through the lacking capacity of the partner to deliver, then we shall have the option to deny payment and set a reasonable deadline for the partner, within which the partner shall gradually deliver against payment, and provide a security. In case of refusal by the partner, or if the deadline lapses without delivery, we are entitled to rescind from the contract and claim indemnification for our damages.

### § 3 Order

7. Delivery requests and orders will become binding if the partner does not refuse delivery within 5 working days from receipt of the request the latest.
8. We are allowed, to the extent reasonable, to request modifications of the goods to be delivered from the partner. In such case the effects of the modification, particularly additional or reduced costs, and delivery deadlines shall be regulated by mutual agreement as appropriate.

### § 4 Long-term and drawdown contracts, price adjustment

9. Indefinite term contracts and those running for more than 1 year can be terminated to the end of the month with a notice period of 3 months.
10. In case of any material changes in a long-term contract (contracts with a term of more than 6 months, and indefinite term contracts) with regard to batch sizes, work costs (salaries), energy, raw materials, preliminary products and/or taxes and duties each contracting party is entitled to claim reasonable adjustment of the prices in consideration of these factors.

### § 5 Confidentiality

11. Each contracting party is held to use all documents (including samples, models and data) and information that they have received from this business relation exclusively for the purposes of the mutually pursued objectives, and shall keep them confidential to third parties with the same care and diligence as its own documents and information if the other contracting party identifies such documents and information as confidential, or if the other contracting party is obviously interested in such treatment.  
This obligation commences with the first receipt of the documents or information, and ends 36 months after the end of this business relation.
12. This obligation shall not apply to documents and information that are available in the public domain, or were already available to the contracting party at the time of receipt but without any obligation of confidentiality, or were subsequently disclosed by a third party authorized to disclose, or documents and information that were developed by the recipient partner without the use of any confidential documents or information of the other contracting party.

### § 6 Drawings and specifications

13. Drawings and specifications handed over by us to the partner remain our property that shall be returned to us without any further notice upon delivery of the contract.  
The partner shall hand over the title in the drawings and specifications produced on the basis of our data upon full payment of these.

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## § 7 Samples and manufacturing tools

14. The following regulations apply to samples and manufacturing tools (tools, forms, templates etc.) that are funded by us directly or through the purchase price of the item.
15. Except if agreed otherwise, production costs of samples and manufacturing tools shall be invoiced to us separately from the goods to be delivered. The manufacturing tool shall become our full property upon payment of 80% of the costs of it. We obtain partial ownership title prior to that. The partner shall bear the costs of maintenance, consignment into operation and proper upkeep, and the risks of damages or destruction of the manufacturing tool.
16. The partner shall store the manufacturing tool free of charge for three years after the last event of manufacturing done for us. Thereafter the partner shall warn us in writing to make a statement to any further use within 6 weeks. The obligation to store ends if we make no statement within said 6 weeks, or if no new orders are placed. In this case the manufacturing tool shall be returned to us freight forward upon agreement with us.
17. The partner shall not use manufacturing tools for deliveries to third parties unless with our prior written consent. We can demand at any time that manufacturing tools be handed over to us. Manufacturing tools shall not be scrapped or made available to third parties or used for a purpose other than those agreed in the contract unless with our written consent. The partner shall carefully keep manufacturing tools, these shall be clearly labeled, through stickers or otherwise, as our property, and shall be insured, at replacement costs, by the partner to its cost against fire, flood and theft. We can withhold payments until obtaining proof that such insurance exists.
18. The processing, reconstruction or integration of manufacturing tools provided by us to the partner happen to our benefit. If this leads to an inseparable combination of our things with those of the partner or a third party, then we become co-proprietors of the newly produced thing in proportion to the value our things used in the new thing. If the processing, reconstruction or integration happens in such way that our things can be regarded as main components of a thing of the partner, then we obtain ownership of that thing in proportion of the value of our thing to the final product. In both cases the partner shall hold our ownership share in trust for us.

## § 8 Prices

19. Except to the extent agreed otherwise, prices are understood in euro, free place of delivery, exclusive of any taxes, in particular VAT, customs duties and other charges, packaging, freight, toll, postage and insurance.

## § 9 Certificates of origin, VAT certificates and export limitations

20. The partner shall include all necessary data in the certificates of origin required by us, and make them available to us in duly signed form. The partner shall immediately inform us in writing if data contained in the certificate of origin of the goods supplied no longer apply.
21. The same applies to VAT certificates in case of deliveries abroad or within the Communities.
22. The partner shall inform us immediately if a delivery is partly or completely subject to export limitations under German or any other jurisdiction.

## § 10 Payment terms, assignment of claims

23. Except to the extent agreed otherwise, we pay, also respecting those contained in Section 6 hereof, within 14 days at a 3% discount, or, subject to a separate agreement, the net amount within 30 days from delivery or receipt of the properly issued invoice. The payment deadline is calculated from whichever of the two events happens later.
24. In case of receipt of any early delivery, the due date shall be calculated on the basis of the agreed delivery deadline.
25. In case of defective or delayed delivery we are entitled to withhold payment in proportion to the value affected or until proper delivery.
26. The partner is not entitled without our written consent, not to be withheld unreasonably, to assign its claims against us, or to allow any third party to collect such claims. If, in exceptional cases (see Section 33), a prolonged reservation of rights is agreed, then our consent is deemed granted.  
If the partner assigns its claim against us to a third party without our consent against those written in the first sentence above, then such assignment shall be effective nevertheless. However, we have the liberty to decide to pay to the partner or the third party, and be released from our obligation.

## § 11 Delivery of transfer of risks

27. Except to the extent agreed otherwise, the partner shall make deliveries "ex works". This includes transfer of risks at the loading dock or, in individual cases, as agreed separately.
28. The delivery deadline starts with the dispatch of the order confirmation, and shall be extended as required if any event of force majeure applies.
29. Partial deliveries are only permissible under a separate agreement.
30. The delivery of additional amounts – but no shortages – is allowed up to 5% of the total ordered volume as required by the manufacturing process. The total price is adjusted in proportion to the volume of additional deliveries.

#### **§ 12 Work in our premises**

31. Persons working on the delivery of the partner's obligations in our premises are bound by our house rules and instructions with regard to applicable security, work safety, environmental and other regulations. Hazardous materials can be used in our premises only after agreement with our professional staff, and such materials shall be properly identified.

#### **§ 13 Delivery delays**

32. If the partner can foresee that the goods cannot be delivered within the delivery deadline, then the partner shall immediately inform us thereof in writing, with communication of the reasons therefore, and shall, to the extent possible, define the expected delivery deadline. We can claim a contractual penalty at 0.2% after each day of delay, but not more than 5% of the net value of goods in the given delivery if the partner is in delay. We can enforce the contractual penalty before payment of the delivery concerned. Claims for damages resulting beyond such penalty are not excluded. Other claims due to the delay of the partner remain unaffected.

#### **§ 14 Reservation of ownership**

33. The partner retains ownership of the delivered goods until full payment (simple reservation of ownership). No prolonged and/or extended reservation of ownership is accepted.

#### **§ 15 Physical and legal defects**

34. Goods must be free of any physical or legal defects at the time of delivery.
35. When making deliveries, the partner shall comply with all applicable legal norms of the European Union and the Federal Republic of Germany, such as the REACH Decree (EC 1907/2006), the Act on Electric and Electronic Devices (ElektroG) as the national implementation of the Guideline 2002/95/EC (RoHS), and the Guideline 2002/96/EC (WEEE), as well as the Decree on End of Life Vehicles.  
The partner shall immediately inform us of any relevant modifications of the goods, their deliverability or usability or quality caused by legal norms, particularly the REACH Decree, and shall agree on appropriate measures on a case-by-case basis. The same applies to the case when the partner foresees that such changes can be expected.
36. The partner warrants that all deliveries are free of the rights of third parties, and in particular that the delivery and use of the goods do not infringe on any patents or other industrial rights of third parties in the country of the agreed place of delivery, in the European Union, Switzerland, Turkey and – if communicated to the partner – the countries where use is intended. This provision does not apply if the partner produces according to our instructions, and does not and cannot know whether its deliveries infringe on the rights of third parties.
37. If the partner is directly liable to third parties under law, it shall keep us indemnified us from the claims of third parties from any infringement of intellectual property rights, and shall bear all necessary costs that arise in this context.
38. Claims for physical and/or legal shortcomings shall forfeit after 3 years from the date of delivery, except if a longer term applies under law or a special agreement. This limitation of statutes restarts with the delivery of repaired or newly delivered parts, except to the extent that the partner delivers clearly as a gesture of goodwill only.

#### **§ 16 Other claims, partner's liability**

39. If the partner is liable for damaged goods, it is obliged to keep us indemnified against the claims for damages of third parties to the extent that the cause for such damages is within the scope of control and organization of the partner, and it is itself liable towards external persons.
40. In the context of this liability, the partner is also held to reimburse possible expenses under articles 683, 670 BGB and articles 830, 840, 426 BGB that arise from or in relation to any recall campaigns organized by us or any of our customers. We shall inform the partner, to the extent possible and reasonable, of the contents and scope of any recall campaign, and shall give the opportunity to the partner to stake a stand. All other remedies possible under law remain unaffected.
41. The partner undertakes to maintain a product liability insurance of appropriate scope and amount. We can withhold any payment until we obtain evidence of the existence of such insurance. If we are entitled to any additional claims for damages, then these remain unaffected.

#### **§ 17 Our liability**

42. Possible claims for liability under whatever title can be enforced against us only in case of intent or gross negligence by our legal representatives or leading executives, or for culpable violation of our material contractual obligations. In case of any culpable violation of our material contractual obligations we are liable for typical damages under the contract that can be reasonably expected.  
The limitation of liability shall not apply in cases when we carry mandatory liability for personal injury and material damages under the Product Liability Law, and in case of any damages to the life, bodily integrity and health of persons.
43. If our liability is limited or excluded, the same also applies to the benefit of our corporate bodies, employees, representatives and delivery agents.

**§ 18 Place of delivery, place of jurisdiction and applicable law**

44. The place of delivery for all obligations of the partner, particularly for the delivery of goods and eventual remedial measures, shall be the place of destination determined by us.  
The place of delivery for our payments is the seat of our business that has entered into the contract.
45. The place of jurisdiction for all legal disputes, also in the framework of any litigation concerning checks and bills of exchange, shall be our seat of business. We are also entitled to file a claim at the seat of the partner.
46. The law of the Federal Republic of Germany shall apply exclusively to the contractual relationship.  
The application of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG-“Vienna Convention”) is hereby excluded.

***Otto Bauckhage GmbH & Co. KG***

**Heike Schäfer**

CEO