

## § 1 General, Scope

- Our procurement terms are exclusive. We do not recognize vendor terms that conflict with or deviate from our own procurement terms, unless we have expressly agreed to their applicability. Our procurement terms also apply when we accept the vendor's deliveries without reservations even though we know that such vendor's terms conflict with or deviate from our own procurement terms.
- All stipulations by and between ourselves and the vendor with the aim of executing this agreement shall be made in writing.
- Incoterms 2000 shall apply to the interpretation of trade terms.
- Our procurement terms apply solely to companies pursuant to Section 310 para German Civil Code [Bürgerliches Gesetzbuch (BGB)].

## § 2 Offer, Offer Documentation

- Orders are binding only if they have been made in writing. The vendor shall accept our order(s) within one week by sending a written confirmation.
- We do not reimburse [costs incurred in connection with] offers. Any and all written correspondence in connection with responses to queries and/or the submission of offers shall be directed to the department of our company that initiated the respective query. Our relevant file number, as well as the date of our query, shall be included in all such correspondence. The vendor's offer(s) shall pertain to the goods and terms that follow from our query.
- We reserve both ownership rights and copyrights to figures, drawings, calculations, and other documentation. Such documentation may not be made available to third parties absent our express written consent. They shall be used exclusively for manufacturing purposes pursuant to our orders. The vendor shall return all such documentation to us of its own volition upon completion of the relevant order.

## § 3 Prices, Payment Terms

- The price shown in the order is binding. Absent any written agreement to the contrary, the price shall include delivery FOB to the place of delivery specified in the order, as well as packaging. The vendor shall take back and dispose of the packaging at its expense, to the extent that we ask the vendor to do so before paying for the delivery.
- All prices shall include value-added tax.
- We can process invoices only if they contain the purchase order number specified in our order. Invoices shall also contain a precise breakdown of the invoiced delivery according to number of units, dimensions and weight. The vendor shall be liable for all consequences resulting from noncompliance with this obligation, unless the vendor proves that the consequences cannot be attributed to it.
- The vendor shall submit invoices to us, in duplicate, immediately upon delivery. We must be able to verify the invoices, and copies shall be marked as such. The vendor shall also submit invoices for monthly deliveries no later than by the third day of the subsequent month. In case weights and performance parameters deviate from specifications, we shall only recognize weights and performance parameters that we ourselves have measured. Offsets shall be made on the basis of the quantities, dimensions, performance parameters, and number of units we have determined. The vendor shall be free to prove the quantities, dimensions, performance parameters, and number of units as determined by such vendor.
- Unless stipulated otherwise in writing, we shall pay the purchase price within 14 days calculated from the date of delivery and receipt of the invoice, subject to a cash discount of three percent (3 %) or within 30 days net from the date we received the invoice. The 14-day period governing the cash discount shall not begin to run prior to the date on which we receive an invoice from the vendor that contains the information set forth in para 3. of this Article. Our obligation to pay the purchase price is contingent on whether delivery of the goods to us was complete and free of defects.
- We do not have any obligation to accept goods sent COD (cash-on-delivery). The vendor shall bear all costs incurred in connection with CODs.
- Offsetting and title retention rights shall be available to us as defined by law.

## § 4 Delivery Deadline

- The delivery date given in the order is binding.
- The vendor shall notify us, in writing by postal mail or fax, prior to each delivery of such pending delivery. This notification shall contain precise data on the goods, especially the number of units to be delivered, as well as our purchase order number. The vendor shall be deemed to have satisfied its notification obligation if we receive such notice prior to the goods' arrival.
- The vendor shall notify us immediately, in writing, if circumstances arise, or become known to the vendor, that indicate that the binding delivery date cannot be met.
- We shall be entitled to statutory claims in case of delays. In particular, we shall be entitled to make claims for damages in lieu of performance and withdrawal once a reasonable deadline has expired to no avail. If we make claims for damages, the vendor shall have the right to prove to us that the breach of duty cannot be attributed to it.

## § 5 Transfer of Risk, Documents

- In any case, the risk of accidental loss and of accidental deterioration shall be transferred to us only after we have accepted the goods at the delivery destination set forth in the order.
- The vendor shall specify our purchase order number precisely as specified on all shipping documents and bills of lading. We shall not be responsible for any delays in processing deliveries if the vendor fails to do so.
- The bill of lading and a packing slip shall accompany each delivery in duplicate. The vendor number, purchase order number, material designation and material number, lot number, gross and net weight in kilograms, amount and type of packaging (disposable/reusable), the point of unloading, the recipient of the goods, and the place of deployment shall be specified in detail in all shipping documents and on the external packaging. Labels specifying the material designation, material number, serial number, and net weight shall be placed on single packages. The vendor shall use palettes that conform to IPPC standards, provided we asked the vendor to do so at the time the order was placed.
- The vendor shall send the requisite declarations of origin related to the goods for customs purposes no later than two weeks prior to delivery. A vendor that is domiciled abroad or imports goods shall assume the responsibility for the accuracy of the customs declaration, which must comply with customs regulations and the German Foreign Trade Act (Außenwirtschaftsgesetz). The vendor shall submit the requisite vendor declarations pursuant to EU Directive 1207/2001 for all goods originating in the EU. The vendor may also issue a long-term vendor declaration that shall be valid for one year. The vendor shall be liable for any and all disadvantages and costs that we incur due to vendor declarations that are not duly completed or late.

## § 6 Change in Quality, Quality Control, Inspections

- The vendor shall notify us immediately of any changes in the base materials used for an item during the execution of an order or in connection with a new delivery compared to prior deliveries of the same item, to the extent that such a change might be relevant to us.
- The vendor shall be liable for indemnifying the damage we incur if such vendor breaches its obligation pursuant to para 1. of this Article. In such cases, we shall also have a right of withdrawal.
- The vendor shall perform and maintain effective quality controls and prove same to us upon request. Upon request, the vendor shall use a quality control system pursuant to DIN ISO 9000 ff. or an equivalent standard.
- The vendor shall maintain records of all relevant details. The vendor shall also maintain appropriate records regarding all tests conducted as part of this quality control agreement. Such records shall be maintained for ten years. The vendor agrees to permit us to inspect such records.
- We shall have the right, during customary hours of business and operation, to perform quality audits at the vendor's place of business subject to advance notice. Such inspections shall serve to prove the purpose, efficiency, and precision of the quality control system used. The performance of such audits shall not in any way diminish the vendor's sole responsibility for the quality of the goods produced and delivered.

- The vendor is required to stipulate a corresponding quality control system with its suppliers.
- If quality problems have occurred in the past, we shall also have the right to carry out occasional inspections unannounced.
- Such inspections shall be performed by our quality control department, which is obligated to maintain confidentiality vis-à-vis third parties. Each contracting party shall bear the costs incurred by it for such inspections.
- If the vendor's manufacturing or quality control procedures are secret, the inspection(s) shall be limited to product controls of a sufficiently large number of units, provided our rights to perform such inspections are protected thereby. If sufficient checks are possible only if we obtain secret information, compliance with the relevant quality standard shall be reviewed by an expert appointed by the management of the German Technischer Überwachungsverein (TÜV – Technical Inspection Association). The findings of such an inspection shall be sent to both parties.
- If particular inspections have been stipulated, the vendor shall notify us at least one week in advance that it is ready to have the respective inspections performed and shall coordinate an inspection date with us. The vendor shall indemnify us for all expenses incurred by us in that connection if the contractual item is not ready for inspection on the stipulated date for reasons attributable to the vendor or if defects of the contractual item require repeated and additional inspections.
- The vendor shall pay all costs associated with providing materials certificates and/or test certificates, if it must provide such certificates. The material certificates and/or inspection certificates shall be available at the time of delivery.
- Neither inspections nor the provision of certificates shall affect our contractual or statutory acceptance and warranty rights.

## § 7 Inspection of Defects, Liability for Defects

- Defenses of delayed inspection or notification of defect are excluded. This does not apply to obvious defects. Payment of the stipulated or invoiced price shall not be construed as an acknowledgement that the delivery was consistent with the agreement or free of defects.
- All statutory claims under warranty shall be available to us in full; in any case, we shall be entitled to demand, at our discretion, that the vendor remedy the defect or deliver a new item. We expressly reserve the right to make claims for damages, especially the right to claim damages in lieu of performance.
- We shall have the right to remedy the defect ourselves at the vendor's expense if a delay would entail risks or if the matter is particularly urgent.
- Modifications to products that are made in connection with our orders shall, in each case, affect solely the respective individual order. Unless stipulated otherwise in writing, such modifications shall not result in any changes to the properties of the product underlying subsequent agreements.
- The statute of limitations shall be 36 months and it shall begin to run from the date on which risk is transferred.

## § 8 Product Liability, Hold Harmless Clause, Liability Insurance

- To the extent that the vendor is responsible for product damage, such vendor shall hold us harmless from third-party claims for damages, at first demand, provided such claims are rooted in the area subject to the vendor's control and organization and provided the vendor itself is liable toward third parties.
- In connection with its liability for claims within the meaning of para 1. of this Article, the vendor shall also reimburse any costs pursuant to Sections 683 and 670 German Civil Code or Sections 830, 840, and 426 German Civil Code resulting from or arising in connection with a product recall executed by us. We shall notify the vendor of the substance and scope of the planned recall measures – to the extent possible and reasonable – and shall give the vendor an opportunity to make a statement in regards thereto. This shall not affect any other statutory rights.
- The vendor shall purchase product liability insurance with a liability of 10 million € per personal injury/property damage; any claims for damages we may have above and beyond such liability coverage shall remain unaffected thereby.

## § 9 Industrial Property Rights

- The vendor warrants that its deliveries do not breach third-party rights.
- If a third party sues us in this connection, the vendor shall be obligated to hold us harmless from such claims at first demand. We shall have the right to make agreements with the relevant third party – without obtaining the vendor's approval – and, especially, to reach a settlement with the relevant third party.
- The vendor's obligation to hold us harmless applies to all expenses that we may incur by necessity under or in connection with such third-party claims.
- The statute of limitations shall be ten years and it shall begin to run as of the date of the agreement.

## § 10 Full Reservation of Title, Accessory Parts, Tools, Confidentiality

- We shall retain title to any accessory parts we make available to the vendor. Any processing or transforming of such parts by the vendor shall be on our behalf. If items subject to our reservation of title are processed together with goods not belonging to us, we shall acquire co-ownership of the new item at the ratio of the value of the item belonging to us (purchase price plus value-added tax) to the other items processed at the time of such processing.
- If our accessory is inseparably mingled with other items, we shall acquire co-ownership of the resulting item at the ratio of the value of the item subject to our reservation of title (purchase price plus value-added tax) to the other items mingled at the time of such mingling. If the mingling is performed in a manner that turns the vendor's object into the main component, it is agreed hereby that the vendor shall transfer pro-rated ownership to us; the vendor shall retain sole ownership or co-ownership on our behalf.
- We shall retain title to all tools; the vendor shall use the relevant tools solely for manufacturing the goods we ordered. The vendor is obligated to purchase fire, water, and theft replacement cost coverage for the tools belonging to us at its own expense. At the same time, the vendor now assigns all claims for indemnification under such an insurance policy to us and we hereby accept such assignment. The vendor is obligated to perform maintenance work and inspections, if any, required in connection with our tools, as well as all maintenance work and repairs, at its own expense in due time. The vendor shall notify us immediately of any defects; if the vendor's failure to do so is negligent, any claims for damages shall remain unaffected thereby.
- The vendor has the obligation to maintain strict confidentiality about all figures, drawings, and calculations, as well as any other documentation and information made available by us. Such records may be made available to third parties only with our express approval. This confidentiality obligation shall survive the execution of this contract; it shall expire if and when the manufacturing knowledge embodied in the figures, drawings, and calculations, as well as any other documentation, made available has become public knowledge.

- To the extent that rights of retention available to us under paras 1. and/or 2. of this Article exceed the purchase price of all unpaid items subject to reservation of title by more than ten percent, we shall have the obligation to surrender such reservation of title at the vendors' request at our discretion.

## § 11 Jurisdiction, Choice of Law, Place of Performance

- To the extent that the vendor is a business person, our domicile shall be the place of jurisdiction; however, we shall also have the right to sue the vendor at its domicile.
- The laws of the Federal Republic of Germany apply; the provisions of the Vienna Convention are excluded.
- Unless the orders stipulate otherwise, our domicile shall be the place of performance.

As per July 2008