



## General Terms and Conditions of Purchase

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This text is a translation from the authoritative terms and conditions in the German language and for reference purposes only

### I. Determining Conditions, Exclusion of Application of Other Business Terms

The legal relationship between supplier and purchaser shall be determined by the following conditions and any additional terms agreed between the contracting parties, if any. Changes and amendments to these conditions have to be made in writing. Any other business terms shall not be applicable, even if they were not rejected explicitly in any individual case.

### II. Orders

1. Supply contracts (orders and acceptance of such order) as well as any changes and amendments thereof are only binding if they are initiated or confirmed by the purchasing department in writing. Material releases may be issued by telecommunication. The supplier has to specify the order number in all documents referring to the order.

2. In case the supplier does not accept the order within one week of its receipt, the purchaser shall have the right to revoke such order. Any call-off shall become binding if the supplier does not reject such delivery schedule within two weeks of its receipt.

3. To the extent it is reasonably acceptable to the supplier, the purchaser may demand changes to be made to the goods relating to both design and make. In this case the consequences, especially with respect to additional costs or reduction of costs, as well as with respect to delivery dates, are to be resolved in an appropriate and mutually agreeable manner.

4. Packing is made by agreement between the partners and in the absence of a special agreement packing is chosen according to the purchaser's packing rules.

### III. Prices and Payment

1. Prices agreed are firm prices and are meant - exclusive of value added tax - carriage paid, inclusive of insurance, packing and carriage. If the agreed price is "ex works" or "ex warehouse", the purchasers' forwarding agent has to be assigned respectively the purchaser has to bear just the most favourable costs for carriage. With the exception of freight charges, the supplier shall bear all costs incurred (incl. loading costs) until handing over to the carrier. Should the packaging directive require the supplier to take the used packaging back, he shall bear the shipping and recycling costs. Agreement on the place of performance shall not be affected by manner of price setting. The purchaser reserves the right of acceptance of additional or short deliveries.

2. Price increases are only valid with previous agreement in writing by the purchaser.

3. Payment is to be made with a discount of 3 %, if it is made within 14 days, and of 2 % if it is made within 30 days or net within 60 days. For punctual payment, the execution of performance is decisive. Choice of means of payment is reserved to the purchaser. Deadlines for terms of payment begin to run the day the goods are received according to agreement (date of delivery note) respectively when the purchaser has received complete billing documents. In case of premature shipments, payment will be made according to the agreed delivery date. In case of defective deliveries, the purchaser shall be entitled to withhold a proportionate amount until the defective goods have been replaced.

4. Without previous written consent of the purchaser, which shall not be unreasonably withheld, the supplier shall not be entitled to assign his receivables to third parties or to have such receivables collected by third parties. In the event of an extended reservation of title, agreement to resale is assumed to have been given. Even if the supplier assigns his receivable against the purchaser contrary to the first sentence to a third party without the consent of the purchaser, the assignment remains valid. Regardless of the assignment the purchaser may choose whether payment is made to the supplier or the third party.

### IV. Delivery Dates and Time Limits, Delay

1. Agreed delivery dates and time limits are binding. Compliance with such dates or time limits shall be determined by the day of arrival of goods to be supplied at the purchaser. If delivery is not appointed "franco domicile", the supplier shall make the goods available in time taking into consideration the time usually necessary for loading and shipment.

2. The supplier has to inform the purchaser immediately about foreseeable delays. He shall be committed to compensate the purchaser for all damages caused by delay.

3. The purchaser's acceptance of a delayed supply without reservation is not to be taken as waiver for claims for compensation.

4. Except when otherwise proved, the values which the purchaser determined in his goods receipt control are decisive for number of pieces, weights and measures.

### V. Force Majeure

In case of act of God, strike, civil commotion, government directives and other non-foreseeable, inescapable and serious events the contracting parties shall be temporarily relieved from their obligations during the period of time such events continue and to the extent their liabilities are affected. The afore-stated shall also be applicable in case the contracting party concerned is already in default. The contracting parties are committed to give each other the necessary information (which may reasonably be expected without delay) and to adjust their obligations in good faith to the changed circumstances.

### VI. INCOTERMS, Certificates of Origin, Export Restrictions

INCOTERMS 2010 shall be applicable to all commercial terms. If the purchaser requests certificates of origin (e.g. "supplier's declarations, movement certificates on behalf of the EEC-EFTA-regulations of origin") the supplier shall immediately make those available including all necessary details and signed accordingly. The supplier shall inform the purchaser in case a delivery item is subject to export restrictions by German or any other foreign trade legislation.

### VII. Reservation of Title

The supplier may retain ownership of all goods supplied by him until it has been paid completely. Other reservations of title will not be accepted by the purchaser.

### VIII. Quality and Documentation

1. Concerning his deliveries the supplier commits himself to observe the acknowledged standards of engineering, the industrial safety regulations, rules for prevention of accidents as well as rules for care of the environment and further on to realize a quality assurance adequate to the state of the art and to prove it at request of the purchaser.

2. Determined specifications apply as contractually assured. Previous written consent of the purchaser is required in case of changes of delivery item. With regard to series deliveries for first sample inspection, the supplier has to take into account the VDA-publication "Sicherung der Qualität von Lieferungen in der Automobilindustrie-Lieferantenbewertung, Erstmusterprüfung", as per the latest version. For new parts the supplier shall deliver in principle a free first sample inspection report including at least five pieces measured as well as ten pieces as samples for approval and fitting samples before the purchaser releases for serial production. The afore-mentioned notwithstanding, the supplier shall permanently control the quality of the goods to be delivered. For all production and delivery positions, the supplier shall realise an in-house documentation of quality. The contracting parties shall inform each other of the possibilities of improving the quality of the goods to be delivered.

### IX. Notification of Deficiencies, Warranty for Defects

1. The purchaser shall notify the supplier in writing about any deficiencies of a shipment as soon as such deficiencies have been discovered in the course of orderly business practice, and, in case the purchaser complies with the afore-stated condition the supplier hereby waives his right to reject delayed notification of deficiency.

2. If defective goods are delivered the purchaser is entitled, according to the relevant legal requirements and the following clauses unless otherwise agreed upon, to claim the following:



- a) Before start of production (processing or fitting) the supplier shall first be given the opportunity by the purchaser to sort out as well as rework or replace defective parts unless this cannot reasonably be expected from the purchaser. In case the supplier is unable to accomplish the afore-stated or in case he does not conform with it immediately, the purchaser is entitled to rescind the contract to this extent and return the goods at the supplier's risk. In urgent cases he may, after consultation with the supplier, accomplish the rework himself or have it done by a third party. Any costs resulting therefrom shall be borne by the supplier. In case the same goods are repeatedly supplied in a defective condition, the purchaser shall be entitled to rescind the contract also with respect to the goods not yet supplied if, upon written notification, the supplier has again delivered defective goods.
  - b) In the event the defect is discovered only after start of production and the purchaser has observed para. 1 (notification of deficiencies), then he is entitled  
-according to § 439 para. 1, 3 und 4 BGB to claim subsequent performance and indemnification for cost of transport as well as costs of labour and costs of material, which are required for the additional fulfilment, or  
-to reduce the sales price.
  - c) If in addition to the delivery of defective parts the supplier has violated further contractual obligations (e. g. obligations of information, consultation, or examination), the purchaser can claim indemnification according to article X. These resulting damages are determined by the damages which the purchaser suffered from the delivery of defective goods regarding other goods than the parts delivered.
3. At his request the parts to be replaced shall be made available immediately to the supplier at his cost.
  4. If there is no differing agreement in writing the warranty expires at the end of 36 months after the first licensing of the final product, at the latest, however, 42 months after delivery to the purchaser. In case the end product is first licensed in North America or will be supplied there time limits prolong up to 48 or 54 months respectively.
  5. A warranty claim does not arise if the defect is attributable to the non-observance of operation, service or installation instructions, inappropriate or unsuitable use, incorrect or careless treatment, normal wear and tear as well as to changes to the good supplied made by purchaser or a third party.
  6. If defective goods are delivered claims of the purchaser on the Product Liability Act, and the civil law of delict and actions without mandate shall remain valid under article X. Guarantees regarding quality and durability have to be designated expressly and individually in writing.
  7. The supplier obliges to take out an insurance against risks of product liability including risk of recall actions up to an adequate amount, and on request of the purchaser, to prove this.
  8. The supplier complies with the legal regulations as applicable in the European Union and the Federal Republic of Germany, e.g. the REACH regulation (Regulation (EC) No 1907/2006), the law of the sale, return and environmentally sound disposal of electric and electronic equipment (Electrical and Electronic Equipment Act) as national implementation of the directive 2002/95/EC (ROHS) and the directive 2002/96/EC (WEEE) and the End-of-life Vehicle Act as national implementation of the EC directive 2000/52/EC.
  9. The supplier is obliged to immediately inform the purchaser about relevant changes in the product due to legal regulations, in particular the REACH regulation, its supply availability, use or quality and shall in individual cases agree with the purchaser on suitable measures to be taken. This applies as soon as and to the extent to which the supplier realises or should have realized that such changes will happen.

#### **X. Liability**

Insofar as these conditions do not provide for other liability clauses, the supplier shall be liable for damage directly or indirectly caused to the purchaser as a result of defective supply, violation of official safety regulation or for any other legal reason, attributable to the supplier only, according to the following.

1. A liability for compensation does, in general, only exist in case the supplier was at fault when causing the damage.
2. In case the purchaser is liable under foreign law, without any fault on his part, which liability cannot be excluded with regard to third party claimants, then the supplier shall hold the purchaser free and harmless of any claim to

the extent he would himself be liable directly. Compensation between supplier and purchaser shall be settled by applying the principles of § 254 BGB correspondingly. This shall also apply in the case the supplier is liable directly. This damage includes all costs and expenditures inclusive of costs of legal procedures as well as costs for precautionary recall actions.

3. Any liability shall be excluded to the extent the purchaser has on his part effectively excluded any liability in relation to his customer.

4. If the purchaser intends to assert a claim against the supplier according to the afore-stated provisions, he shall forthwith consult the supplier and shall comprehensively inform him. He shall give the supplier the opportunity to investigate the damage occurred. The contracting parties shall consult each other on the steps to be taken, especially in the case of negotiations for a settlement.

#### **XI. Secrecy**

1. The contracting parties commit themselves to deem as business secrets all commercial and technical details which come to their knowledge during the course of their business relationship unless such details are public.

2. Documents, drawings, data, IT information, software, materials or other similar objects (samples, models, etc.), provided to the supplier by the purchaser shall not be made available or otherwise be made accessible to unauthorized third parties. Reproduction of such objects is permitted only according to business requirements or in compliance with the laws on copyright. After having handled the order documents, drawings and so on have to be given back by the supplier of his own accord.

3. Products and spare parts for these products, which are produced by property of the purchaser, with his data or on the basis of his significant participation in processing, shall only be delivered to third parties with written consent.

4. Knowledge acquired of the data stated in para. 1 shall also not be used further on or be transferred to third parties if the purchase order is settled.

5. Subsuppliers shall commit themselves accordingly.

6. Each contracting party may use the established business relationship for advertising purposes only after having obtained previous written consent from the other party.

#### **XII. Protective Rights**

1. The supplier shall be liable for any claim which, by the use of goods according to the terms of the contract, result from the infringement of protective rights, either granted or applied for (protective rights), at least one of such protective rights being published in the supplier's mother country, by the European Patent Office or in either the Federal Republic of Germany, France, Great Britain, Austria or the United States of America.

2. The supplier shall hold the purchaser and the purchaser's customers free and harmless of all liabilities resulting from making use of such protective rights.

3. The afore-stated shall not apply inasmuch as the supplier has manufactured the goods to be delivered according to drawings, models or similar descriptions or statements provided by the purchaser and if, at the same time, the supplier does not know or was unable to know that protective rights were infringed.

4. The contracting parties commit themselves to inform each other forthwith on all risks of violation or alleged violations and to give each other the opportunity to jointly oppose such claims.

5. At the request of the purchaser the supplier shall inform the purchaser about the use of any published or unpublished protective rights relating to the goods to be delivered regardless whether they are owned by him or licensed to him including also any rights pending.

#### **XIII. General Provisions**

1. In the event one of the contracting parties ceases payment, or insolvency or non-judicial settlement proceedings are applied for, then the other party shall be entitled to rescind the contract with respect to the part not yet performed.

2. Should one of the provisions of these conditions or of any additional stipulations agreed upon be or become invalid the validity of the remaining part of these conditions shall not be affected thereby. The contracting parties are committed to replace the invalid provision by



another equivalent term, in so far as this is possible, with respect to the commercial effect.

3. Place of performance shall be the legal domicile of the purchaser. Concerning the shipments the parties may agree otherwise.

4. The court at the place where the plaintiff is domiciled, or any other competent court, shall have jurisdiction over these conditions.

5. If the parties have not agreed otherwise the laws of the Federal Republic of Germany shall be applied exclusively for all contractual and business relationship between the purchaser and the supplier. The application of the uniform law of sale contained in the Hague Convention on International Sale of Goods, dated 11th of April 1980, is hereby excluded.