

General Purchase and Contract Terms and Conditions

All our purchases in the context of commerce with traders are subject solely to the following General Purchase and Contract Terms and Conditions, unless otherwise agreed on a case-by-case basis; this also applies to the agreement of commercial clauses, with specific regard to Incoterms. We shall only be bound by any deviating terms or counter-confirmations issued by the Seller if, and to the extent that, we have explicitly consented thereto. Our silence in respect of such deviating terms shall not, in particular, be construed as acceptance or consent. We herewith explicitly repudiate such deviating terms or counter confirmations issued by the Seller.

I. Contract subject

The contract subject shall be the written order issued by us. Deviations from that order, especially with regard to the quantity, nature and quality of the goods, will only be deemed to be approved and subject to remuneration following our written confirmation.

II. Delivery period

1. The Seller must notify us in writing immediately after becoming aware of delivery and service delays; at the latest, this notification must be issued prior to the delivery deadline.
2. In the event of a delayed delivery – even through no fault of the Seller - we shall be entitled to withdraw from the contract after setting an appropriate grace period. We retain the right to restrict the withdrawal to partial deliveries.
3. If the agreed deadline or delivery period is exceeded for reasons for which the Seller is responsible, we shall be entitled to levy a contractual penalty of 0.25% in respect of each commenced working day of delay; this penalty may not total more than 5% of the total net order value. Notwithstanding the provisions of § 341 Paragraph 3 of the German Civil Code, it will be sufficient to assert the contractual penalty together with the final payment.
4. We reserve the right to avail of other contractual or statutory rights, and to assert damages resulting from the delay.

III. Obligation to examine the goods and issue notice of defect

1. Any requirements or obligations to examine the goods or issue notice of defect shall not enter into force until full delivery or service performance.
2. The Seller accepts that we carry out our receipt examinations properly, by examining a Reasonable number of random samples to check the identity of the items delivered, as well as the weight, dimensions and appearance; this will be done immediately following delivery or, at the latest, within 14 days.
3. We are not obliged to carry out technical function tests or other tests.
4. We must notify the Seller of defects in respect of the delivery which become apparent during the above-mentioned examinations within, at the latest, 14 days; in respect of concealed defects, we will notify the Seller within 14 days of detecting the defect.

IV. Warranty

1. The Seller is aware that our company operates in the automobile industry, and that this entails more stringent requirements with regard to the quality of the items supplied.
2. The Seller warrants that the items delivered are free from defects, with particular regard to the requirements pursuant to Article IV. 1., and that they comply with official and statutory requirements, even if the goods involved have been made to order.
3. In the case of a delivery or service which does not comply with the requirements pursuant to Article IV. 2., we shall have the option of demanding supplementary performance – if necessary, using different designs or material compositions - or exercising the right to withdraw from the contract or demand a price reduction. Supplementary performance may consist of rectifying the defect or delivering a faultless replacement; the choice shall be ours. Claims based on faulty delivery or performance, as provided for by statutory or contractual provisions, shall remain unaffected.
4. If necessary, the Seller must operate multiple shifts, work overtime or pay public holiday pay rates in order to render supplementary performance, if our own urgent operational Requirements make this necessary, and if this can be reasonably expected of the Seller. The Seller must bear all the costs of supplementary performance and/or replacement delivery, including the costs incurred by examining and determining the defect, and dismantlement costs.
5. Until they are replaced, parts which are the subject of a complaint will remain at our disposal, and will become the Seller's property immediately once a faultless replacement has been provided.
6. If the Seller is delinquent in respect of his supplementary performance obligation we shall be entitled, at the Seller's expense, to carry out the supplementary performance ourselves, or to have it carried out by a third party, or to arrange for a replacement delivery ourselves.
7. The limitation of actions relating to the assertion of defect claims shall be 36 months from the date of transfer of risk. The limitation of actions period will be extended by the period during which the Seller undertakes supplementary performance measures, from the time our notice of defect is received; this extension will last until the Seller declares in writing that the measures have been concluded, or until the Seller refuses further supplementary performance in writing. In the event of us undertaking supplementary performance ourselves pursuant to Article IV. 6., the limitation of actions period will be extended by the period which elapses until the supplementary performance has been concluded.
8. The provisions relating to recourse in respect of the supplier chain shall remain unaffected, in particular §§ 445a, 445 b, 478, 479 German Civil Code.

V. Product liability, recall, insurance

1. If our customer, or a third party, files claims for damage compensation against us deriving from product liability, regardless of the domestic or foreign legal basis for this, the Seller will indemnify us from such claims - including the associated legal defence costs - if the Seller has caused the damage and, in the event that the applicable law provides for strict liability, if the Seller is responsible for the circumstances underlying the liability.
2. In the context of liability pursuant to Article V. 1., the Seller is also obliged to reimburse us for necessary and reasonable costs arising from safety problems with the item delivered, in particular a product recall; a possible contributory negligence by us has to be taken into account.

3. If a contract party has reason to believe that a recall of the final product may be necessary due to one of the Seller's products, that contract party must immediately notify the other contract party of his reasons for so believing, and must provide the other contract party with what he regards as supporting documentation. The other contract party must immediately state his view of these reasons and of a possible recall. If the contract parties are unable to agree through correspondence on the need for a recall, the scope of such a recall or how the costs of a recall will be shared, one contract party may set a date for an immediate mutual meeting, in which persons authorised by each side to make decisions must participate. If one contract party does not proceed in accordance with this procedural plan, he cannot subsequently plead vis-à-vis the other party that the recall was or was not necessary, unless the other contract party misjudged the need for a recall, or lack thereof, due to gross negligence or intention.
4. The Seller must – especially if we are subject to measures taken by the market supervisory authorities as a result of equipment and product safety legislation - provide us with all requisite information, and offer us all the assistance required in order to avert corresponding measures being taken by the authorities. Any costs or expenditure incurred by the Seller will not be reimbursed.
5. The Seller must take out and verify product liability insurance.

VI. Drawings, documentation, confidentiality, customer production

1. We retain title to all drawings and documentation provided. They may not be otherwise used, nor may they be provided to third parties. Any breach of this provision shall render the Seller liable for damages.
2. The Seller must maintain confidentiality regarding all technical data, as well as other commercial and technical information which is not manifest, and of which the Seller becomes aware as a result of his business relationship with us. Such information may only be used in the course of executing our orders, and may only be made available to those of the Seller's employees whose deployment in the order execution is rendered necessary by the Seller's operational circumstances. The Seller will impose a strict confidentiality obligation on such employees in accordance with Clause 1.
3. In the case of each breach, the Seller will be obliged to pay a contract penalty amounting to the net order value in question, precluding any continuation of offence. We reserve the right to assert further claims.
4. The Seller is not entitled to use knowledge gained as a result of the business relationship with us in order to make direct contact with our customers, or to recruit those customers.
5. The Seller must impose an analogous obligation on any sub-suppliers in accordance with the above paragraphs.

VII. Remuneration and payment

1. Invoices must show the purchase order number, the precise designation and the quantity of the goods delivered, as well as the price per unit or quantity.
2. Except where otherwise agreed, payments will be made in 30 days without deduction, from the date of receipt of the service, receipt of invoice after receipt of the service or a later point of time determined by the Seller. This applies analogously in the case of payments on account.
3. The date on which the transfer order is issued shall determine the timeliness of the payment. If payment dates fall on a Saturday, Sunday or bank holiday, the following working day shall be deemed to be the payment day.

4. Payments do not constitute any acceptance of prices, terms or contract compliance in respect of the goods delivered. A payment may be withheld to an appropriate extent until full and proper contract performance.

VIII. Reservation of title

1. The Seller is entitled to the reservation of title which he seeks provided that this reservation of title lapses once the remuneration agreed in respect of the item delivered (reserved goods) has been paid, and provided that we are entitled to resell the goods during the proper course of normal business.
2. As security in the event of further processing and resale, in place of the reservation of title, and in the event that reservation of title pursuant to Article VIII. 1. has been effectively agreed, we herewith assign our claims against our customers deriving from the resale of a newly-produced items produced using the reserved goods to the Seller up to the invoice value of the reserved goods in question delivered by the Seller. In the event of the claims against our customers being included in an ongoing invoice, the assignment shall relate to the corresponding portion of the balance, including the closing balance, from the current account.
3. The Seller herewith re-assigns the claims assigned pursuant to Article VIII. 2. to us, subject to the condition precedent that we pay the remuneration invoiced in respect of the reserved goods in question.
4. We are entitled to collect the claims assigned to the Seller. A revocation of this authorization shall only take effect if we are in breach of the payment obligations deriving from the transaction underlying delivery of the reserved goods in question. Subject to this precondition, the Seller may also demand that we notify him of the assigned claims and the relevant obligor, and that we notify the obligor of the assignment, or the Seller may himself notify the obligor accordingly.

IX. Minimum Wage Law

The Seller is obliged to comply with all the obligations resulting out of the minimum wage law (Mindestlohngesetz). Furthermore, the Seller is obliged to use only those sub-suppliers, which have committed themselves towards him to comply with all the obligations resulting out of the minimum wage law. The Seller is obliged to provide us, on our request, with proof about the compliance with the minimum wage law. The Seller is obliged to indemnify us from any claims and costs resulting out of claims according to § 13 Mindestlohngesetz due to the non-payment of minimum wage to own employees of the Seller or employees of sub-suppliers. In case of any violation of the obligations resulting out of the minimum wage law by the Seller, we are in addition entitled to terminate the contract for cause and without notice.

X. Place of performance, assignment, written form

1. The place of performance is Hattingen.
2. The Seller may not assign his contractual rights to third parties without our prior written consent.
3. Amendments and codicils to these terms must be in writing. This also applies to agreements regarding a waiver of this written form agreement.

XI. Applicable law, legal venue

1. The contractual relationship is governed by German law.
2. If the Seller's registered office is not in Germany, the UN Convention Governing the International Sale of Goods (CISG) shall apply, subject to the following special provisions: any amendments to or terminations of the contract must be in writing. This also applies to agreements regarding a

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waiver of this written form agreement. In the event of a culpable breach of contract, the Seller shall also be liable for damage which could not be predicted at the time of contract conclusion. In the event of the Seller delivering goods which are in violation of the contract, we may demand a substitute delivery if the contract breach constitutes a fundamental breach of contract. A fundamental breach of contract shall be deemed to be present, inter alia, if the goods are only produced or distributed by the Seller, or if it would otherwise be unreasonable to expect us to procure the goods from a third party. In the event of goods being delivered which are in violation of the contract, we may repudiate the contract if the contract breach constitutes a fundamental breach of contract. A fundamental breach of contract will also be deemed to be present if it is difficult or impossible to estimate the damage, if intangible damage has occurred, if claims for damages are ruled out pursuant to Article 79 V of the UN Convention on the International Sale of Goods; if, in the case of continuous obligations, trust in the Seller's reliability has been lastingly impaired, or if the breach of contract represented by the goods is of such a degree that it is no longer possible to sell the goods during the course of normal commerce.

3. The legal venue for both parties is Hattingen; this also applies to legal actions relating to bank drafts and cheques. We are, however, entitled to file suit against the Seller in his own jurisdiction.

XII. Partial invalidity

Should some of the above provisions be or become invalid, the validity of the remaining provisions will not be affected thereby. An invalid provision will be replaced by a valid provision which most closely approximates to the invalid provision in respect of outcome.

XIII. Prevailing German Version

These General Purchase and Contract Terms and Conditions shall be interpreted according to German interpretation of law. If the English legal meaning deviates from the German legal meaning, the German legal meaning shall have precedence.

Hattingen, May 2018

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