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A. General Provisions; Scope

1. These Terms and Conditions of Purchase shall govern exclusively. Any terms and conditions of the seller which conflict with or differ from the buyer's Terms and Conditions of Purchase shall not be recognized, unless the buyer has expressly consented in writing to their application. These Terms and Conditions of Purchase shall also apply even if the buyer accepts the seller's delivery unconditionally and in full knowledge of any terms and conditions of the seller which conflict with or differ from these Terms and Conditions of Purchase.
2. The Terms and Conditions of Purchase shall apply for the duration of the business relationship, and therefore also with respect to future orders, even if no further express reference to them is made.
3. All agreements reached between the buyer and seller for purposes related to the performance of the contract must be in writing.

B. Purchase Order and Acceptance of the Order (Formation of the Contract)

1. Purchase orders shall be valid only if they are placed in writing and signed, unless otherwise expressly provided in the purchase order.
2. The prices and other conditions set forth in the purchase order are binding.
3. Following receipt of the purchase order, the seller must, without undue delay, provide a written acceptance of the buyer's purchase order, listing the reference number/ contact person, the order number, the prices, all other terms and conditions and the binding delivery date, unless the buyer expressly waives such acceptance in the purchase order. The item descriptions and sequence in the acceptance of the order must correspond to the items in the purchase order. Performance by the seller shall be deemed acceptance of the order.
4. All oral agreements must be confirmed in writing by the buyer.
5. The right to use electronic ordering is reserved.

C. Delivery Time

1. The seller is obligated to comply with any delivery dates or times specified in the purchase order.
2. The seller is obligated to inform the buyer in writing without undue delay if circumstances occur or become known to the seller as a result of which the delivery date specified in the purchase order cannot be met. This notice must include the reasons for the delay and indicate the next possible delivery date. In order for this delivery date to apply instead of the date specified in the purchase order, the buyer must confirm this delivery date in writing. The buyer reserves the right to assert a claim for damages resulting from noncompliance with the original delivery date.
3. In the event of a delay in delivery, the buyer shall be entitled to all legal claims. In particular,

after the unsuccessful expiration of a reasonable grace period, the buyer shall be entitled to rescind the contract and/or, if seller is liable, claim damages instead of specific performance. Alternatively, the buyer may claim a form of liquidated damages from the seller in the amount of 1 % of the total order value for each commenced week, but no more than 10 % of the total order value overall. In this case, buyer and seller reserve the right to prove a higher or lower amount of actual damages.

D. Delivery Specifications, Packaging

1. The seller is obligated to attach a delivery note to each shipment detailing the buyer's specifications (i.e. order number, order date and contact person, as well as the material number and an exact product description). Partial deliveries or back orders must be identified as such.
2. The delivery must be carried out in compliance with the relevant laws, provisions and specifications, in particular the legislation on dangerous goods.
3. In the case of truck or freight car shipments where the shipment is based on a weight calculation, the seller shall provide an official weight certificate or a certificate confirming that the weighing procedure complies with the German Weights and Measures Act [*Eichgesetz*] or corresponding provisions of other EU countries. If the actual weight upon delivery differs from the contractually agreed weight, then the weight determined by the buyer upon delivery shall be binding, provided that it was determined using an official weighing procedure or one that complies with the German Weights and Measures Act.
4. The seller shall comply with existing regulations governing the disposal of the product packaging and fulfil the obligations resulting therefrom at its own expense. The seller shall bear the disposal costs.

E. Transfer of Risk

1. The risk shall not be transferred to the buyer until an agency or office authorized by the buyer has acknowledged receipt of the goods at the place of performance or - if the goods involve a formal inspection and acceptance (*Abnahme*) - has formally accepted the goods.
2. If the goods are initially accepted into the buyer's restricted storage area, then the risk shall not pass to the buyer until the expiration of the third day after delivery to the buyer, unless the buyer has already refused acceptance.

F. Indication of Origin; Classification, Packaging and Labelling Obligation

1. If the products to be delivered to the buyer contain commodities not manufactured in the EU, then the seller must specify the country of manufacture in the delivery notes and invoices.
2. With respect to the classification, packaging and labelling obligation, the seller shall be obligated to comply with the relevant legal provisions where required based on the type of product/material to

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be delivered, particularly the provisions of the German Chemicals Act [*Chemikaliengesetz*].

G. Prices, Payment Terms and Invoicing

1. The prices listed in the buyer's purchase order are binding and, unless otherwise agreed in writing, are quoted DDP to the delivery location specified by the buyer (Incoterms 2000) including packaging.
2. The invoice may not be enclosed with the delivered items, but rather must be sent in duplicate to the buyer's accounting department on the goods shipment date, under specification of the order number, the order date and our reference/contact person. The item descriptions and sequence in the invoice must correspond to the items in the purchase order. Insofar as the buyer has agreed to electronic invoicing with the seller, the relevant provisions of the German Value Added Tax Act (*Umsatzsteuergesetz*) must be observed, particularly sec. 14 para 3 of the Value Added Tax Act. To this end, the buyer may demand a separate agreement or declaration from the seller, which guarantees compliance with the provisions of the Value Added Tax Act.
3. Except as otherwise agreed in writing, the buyer shall pay within 14 days minus a 3% early payment discount from the gross amount or within 30 days net.
4. The payment periods shall commence upon receipt of the goods or in the event of item E.2 upon acceptance and upon arrival in due form of the invoice at the buyer's accounting department.
5. The buyer shall be entitled to rights of set-off and retention to the extent allowed by law.
6. The seller may not assign receivables without the buyer's prior written consent.
7. The buyer acknowledges the seller's ordinary reservation of title (*einfacher Eigentumsvorbehalt*).

H. Obligation to give notice of defects and to inspect

1. The buyer shall inspect the goods for any defects within a reasonable period of time. The notice of defects will be deemed timely made, if it is received by the seller within a period of ten business days calculated from the time of receipt of the goods at the place of performance or, in the case of latent defects, from the time the defect is discovered.
2. Payments made without reservation do not constitute any waiver of the right to give notice of defects.
3. Goods for which the buyer has given notice of defects shall be accepted by the buyer only for the account and at the risk of the seller and stored on the seller's behalf.
4. If the seller is not the manufacturer of the goods, then the seller is obligated to inspect the goods to determine whether they are free from defects.

I. Liability for defects

1. The seller shall be liable under the statutory provisions for defects in the quality and title of the goods. In each case, the buyer shall be

entitled to demand from the seller either a cure of the defect or a delivery of a new item. The right to compensatory damages, particularly the right to compensatory damages in lieu of specific performance, remains expressly reserved.

2. The limitation (or prescription) period is five years from the date the seller delivers at the place of performance or from the date of formal acceptance.
3. The buyer is entitled to cure the defect itself at the seller's expense if there is imminent danger (*Gefahr im Verzug*) or if there is a special urgency.
4. Upon a cure of the defect or delivery of a new item, the limitation period shall commence to run again. If only parts of the goods were defective, then this rule shall apply only to the defective parts.
5. If the defect or the removal thereof leads to an interruption of operation and if, as a result thereof, other goods delivered by the seller cannot be used as intended, then the limitation period for these goods shall also be extended by the duration of the interruption of operation.
6. All other claims to which the buyer is entitled due to the defective goods shall remain unaffected by the assertion of the claims arising from liability for defects.

J. Product Liability

1. The seller's product liability is determined by the statutory provisions.
2. To the extent that the seller is responsible for product damages, the seller is obligated, upon first request made, to indemnify the buyer with respect to third party claims for damages. Should the buyer satisfy the third party claim, then the buyer's claim for recourse from the seller shall remain reserved.

K. Vicarious Agents (*Erfüllungsgehilfen*)

The seller's statutory liability for its vicarious agents shall remain unaffected.

L. Rescission from the Contract

1. The buyer expressly reserves the right to rescind the contract if the seller:
 - a. is in breach of its any of its obligations under the contract, in spite of formal performance demand notice (*Mahnung*);
 - b. an application to institute insolvency proceedings against seller's assets has been filed or such application has been denied due to lack of sufficient funds;
 - c. the seller gives up or ends his business for other reasons; or
 - d. there is a significant change in ownership or management, unless such change does not threaten to have adverse effect on the buyer's interests.
2. The legal consequences of the rescission shall be determined by the statutory provisions. The right to assert claims for compensatory damages shall remain reserved.

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M. Freedom from Third Party Rights/ Transfer of Rights

1. The seller guarantees that all goods or services, which are received by the buyer in connection with a delivery by the seller, are not subject to any copyrights, intellectual property rights or other third party rights, which would conflict with the normal use by the buyer. The seller shall indemnify the buyer with respect to all third party claims in this regard. This duty shall include any legal defence costs. The buyer shall inform the seller about the assertion of any such third party claims.
2. To the extent that the delivery concerns items that were custom-manufactured for the buyer, the seller shall at the time of performance simultaneously transfer to the buyer all ownership rights and usage rights under copyright law, intellectual property law and other industrial property rights, as well as any other privacy rights to the item/items. Such transfer to the buyer shall be exclusive, perpetual and unlimited in terms of geographic or substantive scope. The seller states its agreement to all processing, particularly to modifications of the item/items by the buyer. The buyer is entitled, without the seller's consent in respect of individual or all rights granted, to grant non-exclusive or exclusive licenses to third parties or to assign the acquired rights, either in whole or in part, to third parties.
3. The seller guarantees that at the time of the transfer of rights as per item 2, the seller is entitled to all rights required for use by the buyer, particularly that the buyer has completely and duly acquired these rights from all affected authors and intellectual property right owners and all other contributors to the goods or services that are the subject of the contract. The seller guarantees that any rights under secs. 12, 13 sentence 2 and 25 of the German Copyright Act (*Urheberrechtsgesetz*) shall not be asserted against the buyer.
4. When supplying items that were custom-manufactured for the buyer, the seller expressly waives the right to have its name mentioned in connection with the use of the supplied items.

N. Manufacturing Resources

1. Manufacturing resources such as models, designs, tools, methods, drawings, formulations and the like, which buyer provided to the seller or used for manufacture according to specification or in coordination therewith, shall remain the property of the buyer. However, except as otherwise agreed in writing, these shall be returned to the buyer unbidden and without undue delay no later than after the order has been completed. The seller has no rights of retention.
2. These manufacturing resources may not be sold to third parties, used as collateral or otherwise physically delivered to third parties or used in any way for third parties without the buyer's prior written consent.
3. The same shall apply to the items manufactured by the seller using these manufacturing resources and for those developed or refined in cooperation with the buyer. Except as otherwise agreed in writing, the items may be supplied only to the

buyer.

4. The seller shall be liable for the proper storage and safekeeping of our manufacturing resources.

O. External Personnel

In any of the seller's personnel perform work at the buyer's factory premises, then they shall comply with the buyer's plant regulations. These regulations must be reviewed prior to starting work and to entering the factory premises and they must be acknowledged in the required manner.

P. Confidentiality

1. The seller agrees to keep secret any confidential information disclosed to it by the buyer, regardless of the format thereof, and to take all necessary precautions to prevent such information from becoming accessible to any unauthorized third party. Exempted from this obligation is any information of which the seller was already aware or which subsequently enters the public domain without the seller's own doing, or information which at the time of disclosure is already publicly-known technical or scientific knowledge or after disclosure becomes publicly-known technical or scientific knowledge without the seller's own doing, or any information stemming from generally accessible sources or which the buyer receives from a good faith third party.
2. The seller may not make any reference to its business relationship with the buyer in publications or for advertising purposes without the buyer's prior written consent. This obligation also applies after the order has been processed. The same obligation must be imposed upon any third parties commissioned by the seller in connection with the processing.
3. In the event of a culpable breach of the obligations under items 1 and 2, the seller agrees to pay a contractual penalty (*Vertragsstrafe*) in the amount of 5% of the total order value for each individual infringement. The minimum contractual penalty, however, shall be €5,000.00. Buyer and seller reserve the right to prove a higher or lower amount of actual damages.

Q. Data Storage

The seller consents to the storage of personal data for the purposes of processing orders and to meet the buyer's other needs resulting from the buyer's obligations to keep records. The buyer shall handle the seller's personal data in accordance with the statutory provisions on data protection.

Q. Place of Performance and Judicial Forum

1. The place of performance for goods and services is the delivery location specified by the buyer. The place of performance for payments is the buyer's principal place of business.
2. The jurisdiction and venue for both parties to the contract is the buyer's principal place of business.
3. The laws of the Federal Republic of Germany shall govern.

R. Severability Clause

1. If any of the foregoing provisions are deemed

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invalid, then the validity of the other provisions shall not be affected thereby.

2. In place of an invalid or incomplete provision, the parties shall agree on a provision which most closely reflects the economic intent, upon fairly considering the interests of both parties to the contract.
3. The foregoing provisions may not be voided by either commercial custom or implied consent.