

# Standard Conditions of Purchase

## Clause 1 Scope of Application

- (1) Our General Terms and Conditions of Business (GTB) apply exclusively; we do not accept contrary or deviating general terms and conditions of business of the Supplier unless we have expressly acknowledged in writing their application. The above provision shall also apply to any terms and conditions of business which are contained in order or other confirmations from the Supplier. Our GTB shall apply even if we accept delivery without reservation from the Supplier in the awareness of Supplier's terms and conditions which are contrary to, or deviate from, our Terms and Conditions of Business. They shall also apply to any and all future transactions, even if express repeated notification of their application has not been given.
- (2) Any and all agreements which we have concluded with the Supplier concerning the performance of the contract shall be set down in writing in the contract.
- (3) Our GTB apply solely to entrepreneurs, legal entities under public law or public-law special funds.

## Clause 2 Offers

- (1) The Supplier is obligated to accept our order within a period of 2 weeks by signing and returning to us the order form.
- (2) We retain title and copyrights to pictures, drawings, calculations and other documents; they may not be made accessible to third parties without our express written consent. They shall be used solely and exclusively for the manufacture of our order; they shall automatically be returned to us upon completion of the order. They shall be kept secret from third parties; the regulation of Clause 11 shall apply supplementarily.

## Clause 3 Prices and Terms and Conditions of Payment

- (1) The prices shown in our order are binding; subsequent claims of any nature, e.g. in the event of material price rises or increases in taxes and freight rates, are excluded.
- (2) The fixed prices do not include statutory value-added tax, which shall be itemised separately on the invoice.
- (3) Unless otherwise agreed in writing, the price includes delivery "free domicile", including packaging. The return of the packaging shall be subject to a separate agreement.
- (4) We can process invoices only if and when — as instructed in our order — they contain the order number, item identity number and item designation, the invoices are in compliance with all legal requirements, in particular pursuant to the UStG (German Value-Added Tax Act), and the Supplier has provided the proper documents (shipping documents, delivery notes, etc.). The Supplier is responsible for any failure to fulfil this obligation and its consequences, unless he can prove that he is not accountable.
- (5) Unless otherwise agreed in writing, we pay the purchase price within 30 days, subject to 3% cash discount, or within 60 days net, in each case calculated as of the delivery and receipt of the invoice in conformity with the provisions of Clause 3 (4).

## Clause 4 Delivery Time

- (1) The delivery time shown in our order is binding. The delivery date is understood to mean the arrival at the shipping address.
- (2) The Supplier is obligated to notify us immediately in writing if and when he will not be able to comply with the agreed delivery date or would like to deliver earlier. Our rights related to delay in the performance shall not be affected by this information obligation.
- (3) If and when the Supplier is in default of delivery, we are entitled to the statutory claims arising from delay in performance without any curtailments. In the event of default, we are entitled to charge a contract penalty for each and every business day of delay of 0.3%, but in the aggregate a maximum of 5%, of the order value. The contract penalty shall be applied to the total damages asserted as a consequence of the default.

## Clause 5 Delivery — Documents

- (1) Unless otherwise agreed in writing, delivery shall be made "free domicile".
- (2) The delivery of each and every consignment comprising 5 or more pallets shall be announced in advance of the delivery.
- (3) Partial deliveries are not permitted in general. Partial deliveries can be accepted only in exceptional cases and subject to the written consent of the responsible purchasing agent.
- (4) Title of ownership transfers to us upon acceptance of the consignment.
- (5) The risk transfers to us upon delivery and unloading of the consignment at the shipping address and issue of a confirmation of receipt. The Supplier shall conclude at his expense transport insurance with a reasonable sum insured.
- (6) The Supplier is obligated to include a delivery note containing order number, item identity number and item designation with each and every consignment. If he fails to do so, we will not be held accountable for any delays in processing. We are entitled to charge a lump sum of €50.00 for the additional expenses we incur during processing.
- (7) The Supplier is obligated to label any and all sales packaging with the symbol "Green Dot" of the company Duales System Deutschland AG (DSD AG).

## Clause 6 Termination or Rescission for Good Cause

We may terminate or rescind the contract for good cause, in particular in the event of failed, incorrect or delayed delivery to the Supplier himself, or if and when the Supplier has filed a petition initiating bankruptcy proceedings against his assets, has submitted a statutory declaration pursuant to Clause 807 ZPO (German Code of Civil Procedure) or has suspended his payments indefinitely, or if and when bankruptcy proceedings are initiated against the Supplier's assets or dismissed due to a lack of assets.

## Clause 7 Warranty

- (1) The Supplier warrants that the goods are in compliance with the legal provisions and regulations, EU directives, pertinent industrial standards and the latest development and manufacturing standards in material and technology applicable to their production, sale and utilisation in Germany. The Supplier is obligated to manufacture the goods in such a manner that no chemicals or components which are prohibited in Germany are used. The goods shall be labelled in conformity with pertinent provisions and with the product information. The Supplier shall obtain information regarding the pertinent provisions and prohibitions.
- (2) In addition, the goods must be in conformity with our quality requirements as specific to each product and with the specifications and provided samples for the specific item. Material, colour, features and finishing must be in conformity with the previously provided samples unless modifications have been requested or accepted expressly and in writing by the responsible purchasing department.

## Clause 8 Inspection for Defects — Liability for Defects

- (1) We examine the consignment for defects within a reasonable period. Delivery of a different item or of a shortfall in quantity shall be deemed the equivalent of a defect. The complaint shall be deemed to have been made in good time if and when it is submitted within one week. The complaint period shall commence upon the handover of the consignment in case of obvious deviations in quality and quantity; in the case of hidden deviations in quality and quantity, the complaint period shall commence upon their discovery. The Supplier waives the defence of the late complaint of defects pursuant to Clause 377 HGB (German Commercial Code) as a consequence of these measures.

(2) We are entitled to statutory claims for defects in their full scope. In particular, we are entitled, at our discretion, to request remedy of defects or delivery of new merchandise. We expressly reserve the right to assert damage compensation or damage compensation in lieu of performance for every degree of culpability in full in accordance with statutory provisions.

(3) We are entitled to remedy the defects ourselves at the Supplier's expense if there is imminent danger or in cases of special urgency.

(4) The limitation period for claims due to defects is 36 months, beginning with the transfer of risk.

## Clause 9 Product Liability – Indemnification – Liability Insurance Cover

(1) If third parties claim damages from us as a consequence of a product defect for which the Supplier is accountable, the Supplier shall, upon our first request, indemnify and hold us harmless from and against any and all third-party claims, including the costs required to defend against such claims, if and when the cause is to be found in the Supplier's sphere of influence and organisation and he is himself liable in the relationship to third parties.

(2) Within the scope of his liability for occurrences of damage or loss within the sense of Subclause 1, the Supplier is also obligated, pursuant to Clauses 683, 670 BGB (German Civil Code) or to Clauses 830, 840, 426 BGB, to reimburse us for any and all expenses which are incurred by or in relation to any recall action we have carried out. We shall, provided that it is possible and reasonable, notify the Supplier of the content and scope of the recall actions which must be carried out and give him the opportunity to submit a statement of his opinion. The above provisions are without prejudice to other statutory claims.

(3) The Supplier promises to maintain a product liability insurance policy with a sum insured of €5 million per person/incident of loss — lump sum; this is without prejudice to any more extensive claims for damages which we may have.

## Clause 10 Industrial Property Rights

(1) The Supplier warrants that no third-party rights within Germany are infringed upon in relation to his delivery.

(2) If and when a third party asserts claims against us owing to an alleged infringement on industrial property rights, the Supplier is obligated, upon our first written request, to indemnify and hold us harmless from and against any such third-party claims; we are not entitled — without the Supplier's consent — to conclude any agreements, in particular for a settlement, with the third party.

(3) The Supplier's indemnification obligation extends to any and all expenses which we necessarily incur as a consequence of or in relation to the assertion of the claims by the third party.

(4) The limitation period for these claims is ten years, commencing upon the day of the delivery of the merchandise.

## Clause 11 Retention of Title — Provision of Materials — Tools

(1) If and when we provide parts to the Supplier, we retain the title of ownership to the parts. Any processing or alteration by the Supplier shall be undertaken on our behalf. If and when our reserved goods are processed together with other objects not belonging to us, we shall acquire co-ownership in the new object in the ratio of the value of our item (purchase price, plus VAT) to the other processed objects at the time of the processing.

(2) If and when the object we have supplied is inseparably mixed with other objects not belonging to us, we shall acquire co-ownership in the new object in the ratio of the value of the reserved goods (purchase price, plus VAT) to the other mixed objects at the time of the mixing. If and when the mixing occurs in such a fashion that the Supplier's object must be regarded as the main object, it shall be deemed agreed that the Supplier conveys proportionate co-ownership; the Supplier shall safeguard our sole ownership or our co-ownership on our behalf.

(3) We reserve title of ownership to tools; the Supplier is obligated to utilise the tools solely and exclusively for the manufacture of the goods we have ordered. The Supplier is obligated to insure at his expense the tools belonging to us at replacement value for damage or loss due to fire, water and theft. The Supplier here and now simultaneously assigns to us any and all benefits paid by these insurance policies; we hereby accept the assignment. The Supplier is obligated to conduct in good time and at his expense any servicing and inspection work as well as any maintenance and repair work required on our tools. He shall notify us immediately of any malfunctions; if and when he culpably fails to do so, our claims for damages shall not be affected.

(4) If and when, and to the extent that, our security rights pursuant to Subclause 1 and/or Subclause 2 exceed the purchase price of all of our reserved goods for which payment has not yet been effected by more than 10%, we are obligated, at the Supplier's request, to release security rights of our choosing.

## Clause 12 Confidentiality

(1) The Supplier is obligated to maintain strict secrecy with respect to any and all pictures, drawings, calculations and other documents and information he has received. They may be disclosed to third parties solely with our express consent. The confidentiality obligation shall survive the execution of the contract; it shall expire if and when the production expertise contained in the pictures, drawings, calculations and other documents enters the public domain.

(2) The Supplier may give information regarding (partial) order values or (partial) prices to outside parties solely and exclusively as mandated by law. Press releases and other publications related to orders we have placed are permitted solely with our consent.

## Clause 13 Right of Retention — Offset — Assignment

(1) We are entitled to statutory offset and retention rights in their full scope. We are entitled to assign any and all claims arising from the contract without the Supplier's consent.

(2) The Supplier is not entitled to any rights of retention if and when they are based on counterclaims from other legal transactions with us. The Supplier may offset solely those claims which are undisputed or which have been finally determined by a court of law. The Supplier is not entitled to assign any claims from this contractual relationship to third parties without our prior written consent.

## Clause 14 Place of Performance — Proper Law — Venue

(1) Unless otherwise specified in the order, place of performance and place of payment is our registered office.

(2) Proper law shall be solely and exclusively the law of Germany, excluding application of the UN CISG.

(3) Venue for any and all disputes arising from the legal relationship is our registered office. We reserve the right to file suit or take other court actions at the Supplier's registered office.