

## General Terms and Conditions of Purchase (Status: March 2022)

### I. General; Scope of application

1. The following General Terms and Conditions of Purchase shall apply exclusively to all business transactions with the supplier. Our attached Privacy Policy shall also apply. These General Terms and Conditions of Purchase and the Privacy Policy shall also apply to all future business transactions between us and the supplier without the need to refer again to our General Terms and Conditions of Purchase and Privacy Policy. They shall also apply even if we do not expressly refer to them in subsequent contracts, in particular if we accept the delivery or service without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase. Conflicting or deviating terms and conditions of business of the supplier or terms and conditions of business of the supplier that go beyond these General Terms and Conditions of Purchase shall not become part of the contract unless we have expressly agreed to their validity in writing.

2. Amendments and supplements to our General Terms and Conditions of Purchase shall be notified to the supplier in advance in writing or by email. A change or amendment shall be deemed to have been approved if the supplier does not object in writing within one month of the date of notification. The supplier shall be separately informed of this again in the notification of the change or addition.

3. The General Terms and Conditions of Purchase shall only apply to entrepreneurs within the meaning of Section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law.

### II. Tenders; Tender documents

1. Our orders are only binding if they have been placed in writing, in text form (Section 126 b of the German Civil Code (BGB)) or by means of an electronic data carrier which is suitable for the written embodiment of such data (in particular by email). A verbal order from us is only effective if it has been confirmed by us in the aforementioned form.

2. Our order can only be accepted by written declaration within 14 days, calculated from receipt by the supplier. After the expiry of this period, our order shall no longer be effective.

3. We shall retain all rights to samples, calculations and other documents as well as to all other information which the supplier receives from us or on our behalf in connection with the preparation and implementation of the business relationship and which, according to our notification or due to the circumstances, are subject to secrecy. These may not be made accessible to third parties without our prior written consent or be used for purposes that are outside of the productions required for our order. After complete processing of the order, these are to be returned to us immediately, without special request. They must be kept secret from third parties; in this respect, the provision in Clause X. 3 shall apply in addition.

4. If no further requirements are specified in the order, the goods shall be delivered in accordance with the customary quality and, if DIN standards or equivalent standards are relevant, these shall be taken as a basis.

### **III. Prices**

The price stated in the order is binding until the order has been fully processed. Unless otherwise agreed, the price shall be "free domicile" and shall include packaging and the assumption of transport insurance. We are only obliged to return the packaging if a separate agreement has been made in this respect or if an obligation to return it arises from mandatory statutory provisions. In the event of the return of packaging, the supplier shall bear the costs incurred thereby.

### **IV. Invoice; Payment**

1. We can only process the invoice if it complies with the legal requirements, in particular those relating to sales tax, and shows the order number stated in the order. If delays occur due to incorrect or incomplete invoices, this shall not affect discount periods.

2. Unless otherwise agreed in individual cases, we shall pay the remuneration owed within 15 days, calculated from complete delivery or performance in accordance with the contract and free of defects and receipt of the invoice in accordance with the contract, with a 3% discount or within 30 days strictly net. Payments to be made by us shall only be made to the supplier.

3. We shall be entitled to rights of set-off and retention to the extent provided by law.

### **V. Delivery conditions**

1. Delivery shall be made on the date set out in the purchase contract and to the place of receipt specified by us. If no delivery date has been agreed within the framework of the respective contract, the date specified in the order shall be decisive.

2. If it is apparent to the supplier that it will not be able to deliver on time, it must inform us of this in writing without delay. Further rights arising from default remain reserved.

3. If the supplier is in default of delivery, we are entitled to demand lump-sum damages for default amounting to 1% of the delivery value per week, but not more than 10% of the delivery value. The right to assert further legal claims (in particular rescission and damages in lieu of performance) is expressly reserved. The supplier is entitled to prove to us that no damage at all or considerably less damage has been incurred as a result of the delay.

4. The supplier may only label, deliver and invoice goods as waste if we have expressly permitted this in the order. In this case, the supplier must expressly state in the delivery note and invoice that the goods delivered are waste.

5. If a safety data sheet exists for the ordered goods, the supplier shall transmit the current safety data sheet to us electronically upon delivery of the goods.

6. The supplier is aware of its legal obligation to make declarations in accordance with Annex II of Directive 2006/42/EC on machinery in conjunction with the ninth regulation on the Product Safety Law or corresponding successor regulations: In case of delivery of a machine according to Section 2 (1) and (2), ninth regulation on the Product Safety Law, the EC declaration of conformity according to Annex II Part 1 Section A of Directive 2006/42/EC must be enclosed, and in case of delivery of an incomplete machine according to Section 2 (8) of the ninth regulation on the Product Safety Law, the declaration of incorporation according to Annex II Part 1 Section B of Directive 2006/42/EC must be enclosed. The supplier shall therefore provide us with the respective declaration owed in writing upon delivery of a machine or an incomplete machine. The delivery can only be recognised as complete with the corresponding declaration.

7. We attach great importance to environmental protection. The supplier shall therefore, as far as possible, dispense with disposable transport packaging and use exchange packaging or packaging made of recyclable material. The obligations arising from the Packaging Ordinance shall remain unaffected by this.

#### **VI. Transfer of risk; Documents**

1. Unless otherwise agreed in writing, delivery shall be made free domicile.

2. The supplier is obliged to state our exact order number on all shipping documents and delivery notes; if it fails to do so, we shall not be responsible for any delays in processing.

#### **VII. Obligations of the supplier in case of defects / Recourse of the entrepreneur**

1. The supplier warrants that the goods it delivers and/or services it renders are free from defects and correspond to our specifications, in particular those made in the order. The supplier warrants in particular that the goods it delivers are not contaminated with radioactivity which exceeds the basic radiation level that is natural and typical of the material of the respective goods. The supplier's warranty according to Clause 1 also refers to the fact that the respective contractual object has all the properties that we can expect according to public statements of the supplier, the manufacturer or its vicarious agent, in particular in advertising or in labelling concerning certain properties of the contractual object.

2. The supplier warrants that all goods subject to the order are its sole property and that no rights of third parties (such as liens, rights from assignment of claims, conditional purchase, etc.) exist.

3. After receipt of the goods, we shall check them within a reasonable period for any deviations in quality and quantity. If a complaint in the case of obvious defects is received by the supplier within a period of 2 working days, calculated from receipt of the goods, or in the case of hidden defects within 14 days from discovery, it shall be deemed to have been made in good time.

4. In the case of deliveries of defective goods, we shall be entitled to demand from the supplier, at our discretion, rectification of the defect or delivery of a new item (subsequent performance) and/or compensation for damages.

5. In the cases of Clause VII. 4., the supplier shall also reimburse the expenses necessary for the purpose of subsequent performance in accordance with Section 439 (2) and (3) of the German Civil Code (BGB). This obligation cannot be waived by the supplier.

6. The costs incurred by the supplier for the purpose of inspection and subsequent performance within the meaning of Clause VII. 5. shall be borne by the customer even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognised or were grossly negligent in failing to recognise that there was no defect

7. If the supplier does not fulfil its obligation to remedy the defect – at our discretion, either by remedying the defect or by delivering a new item – within a reasonable period set by us, we may remedy the defect ourselves and demand reimbursement of the expenses required for this or a corresponding advance payment from the contractor. If subsequent performance by the supplier has failed or is unreasonable for us (e.g., due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the supplier of such circumstances without delay, if possible before carrying out a substitute performance.

8. Insofar as we are liable to our customers on the basis of public statements made by the supplier or its vicarious agent, in particular in advertising or in labelling concerning certain properties of the delivery items in accordance with Section 434 (1) (1) of the German Civil Code (BGB), the supplier shall indemnify us against any expenses arising from and in connection with this liability, unless we have adopted the supplier's respective statement as our own.

9. In deviation from Section 438 (1) (3) of the German Civil Code (BGB), the general limitation period for claims for defects shall be three years from the transfer of risk. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance. With regard to the parts newly delivered or repaired by the supplier by way of supplementary performance, the limitation period shall start to run again if an implied acknowledgement by the supplier can be assumed on the basis of the scope, duration and costs of the respective supplementary performance.

10. We shall be entitled to our statutory rights of recourse within a supply chain (recourse of the entrepreneur pursuant to Sections 445a, 478 of the German Civil Code (BGB)) without restriction in addition to the claims for defects. In particular, we shall be entitled to demand from the supplier exactly the type of subsequent performance (rectification or subsequent delivery) that we owe our customer in the individual case. Our statutory right of choice (Section 439 (1) of the German Civil Code (BGB)) is not restricted by this.

11. Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to Sections 445a (1), 439 (2) and (3) of the German Civil Code (BGB)), we shall notify the supplier and request a written statement, briefly stating the facts of the case.

If the statement is not made within a reasonable period of time and if no amicable solution is brought about, the claim for defects actually granted by us shall be deemed to be owed to our customer; in this case, the supplier shall be obliged to prove the contrary.

12. Unless otherwise stipulated above, our rights in the event of defects shall otherwise be determined in accordance with the statutory provisions.

### **VIII. Product liability, indemnification; Liability insurance cover**

1. If the supplier is responsible for damage caused by the defect in a product, it is obliged to indemnify us upon first written request against claims for damages by third parties insofar as the cause is attributable to its sphere of control and organisation, and it is liable in the external relationship.

2. Within the scope of its liability for cases of damage within the meaning of Clause 1, the supplier shall also be obliged to reimburse any expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) as well as to Sections 830, 840, 426 of the German Civil Code (BGB) arising from or in connection with a recall measure carried out by us or our customers. As far as is possible and reasonable, we shall inform the supplier about the content and scope of the recall measures to be carried out and allow the supplier the opportunity to comment. Other legal or contractual claims remain unaffected.

3. The supplier undertakes to maintain a product liability insurance policy with an insured sum of at least EUR 1,000,000.00 per personal injury or property damage as a lump sum; if we are entitled to further claims for damages, these shall remain unaffected.

### **IX. Property rights**

1. The supplier warrants that the goods it delivers and their exploitation by us do not infringe any industrial property rights of third parties in the territory of the Federal Republic of Germany. If we have notified the supplier prior to the conclusion of the contract that the products to be supplied by it are to be used in one or more countries outside the Federal Republic of Germany mentioned in our notification, the supplier also warrants that the products to be supplied by it and their exploitation by us do not infringe any third-party property rights in the territory of the stated countries.

2. If claims are asserted against us by a third party due to an infringement of property rights for which the supplier is responsible pursuant to Clause 1, the supplier shall be obliged to indemnify us against such claims upon first written request. With the supplier's consent, we are entitled to reach agreements with the third party, in particular to conclude a settlement.

3. The supplier's indemnity obligation relates to all expenses necessarily incurred by us from or in connection with the claim by a third party.

### **X. Principles of Magontec's Business Policy ("*Code of Conduct*")/*Human Rights/Bribery***

The supplier acknowledges the principles of Magontec's business policy contained in the Supplier Code and undertakes to observe and comply with these principles when handling deliveries.

Furthermore, the supplier is obliged to oblige any subcontractors employed by it in accordance with these principles. The Supplier Code can be found on the internet at: <http://magontec.com/coc-en.pdf>

The supplier confirms that it has carefully read the Magontec Supplier Code.

In relation to the supplier's execution/performance of the delivery and in accordance with these principles, the supplier shall, in the conduct of its business, respect the rights and dignity of all human beings and internationally recognised human rights by, inter alia:

- a. not hiring, employing or otherwise using forced labourers, trafficked persons or children, nor will it treat workers in an abusive or inhumane manner or tolerate such treatment;
- b. providing equal opportunities, avoiding discrimination and respecting the freedom of association of workers, in each case within the framework of the relevant laws; and
- c. mitigating or avoiding, as far as possible, negative consequences of the supplier's activities for the general public.

#### **XI. Retention of title; Provision; Tools; Secrecy**

1. Insofar as we provide parts to the supplier, we shall retain title thereto. Processing or transformation by the supplier shall be carried out for us. If our goods subject to retention of title are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.

2. We retain ownership of tools; the supplier shall be obliged to use the tools exclusively for the manufacture of the goods ordered by us. The supplier is obliged to insure the tools belonging to us at replacement value at its own expense against loss, damage and destruction, in particular against fire, water and theft damage. At the same time, the supplier hereby assigns to us all compensation claims arising from this insurance; we hereby accept the assignment. The supplier is obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work in good time at its own expense. It shall notify us immediately of any malfunctions; if it culpably fails to do so, claims for damages shall remain unaffected.

3. The supplier is obliged to keep all illustrations, drawings, calculations and other documents and information contained strictly confidential. They may only be disclosed to third parties with our express written consent. The confidentiality obligation shall also apply after the execution of this contract; it shall expire if and to the extent that the manufacturing knowledge contained in the provided illustrations, drawings, calculations and other documents has become generally known without a breach of the confidentiality obligation.

4. Insofar as the security interests to which we are entitled pursuant to para. 1 exceed the purchase price of all our reserved goods not yet paid for by more than 10%, we shall be obliged to release the security interests at our discretion at the request of the suppliers.

**XII. Final provisions**

1. The place of performance and exclusive place of jurisdiction for all claims between us and merchants or legal entities under public law or special funds under public law is Bottrop, unless mandatory statutory provisions to the contrary apply. However, we shall also have the right to bring an action against a supplier at the supplier's legal place of jurisdiction.
2. The legal relationship between us and the supplier or between us and third parties shall be governed exclusively by the law of the Federal Republic of Germany as it applies between German merchants. The application of the provisions on the international sale of goods (CISG; Vienna UN Sales Convention) is expressly excluded.
3. Should any of the above provisions be invalid or excluded by a special agreement, this shall not affect the validity of the remaining provisions.