

General Purchasing Terms and Conditions of BUFAB Germany GmbH

§ 1

Sphere of Validity

- (1) Exclusively these Purchasing Terms and Conditions shall be valid for the purchases and orders of BUFAB Germany GmbH (hereafter, “we” or “us”). Our Purchasing Terms and Conditions shall also then be valid if we, while being aware of the Supplier’s Terms and Conditions which oppose or deviate from our Purchasing Terms and Conditions, unconditionally accept the delivery and/or render payments.
- (2) These Purchasing Terms and Conditions shall be valid only if the Supplier is an entrepreneur (§ 14 BGB [German Civil Code]), a juridical person under public law or a special foundation under public law.
- (3) Deviations from these Purchasing Terms and Conditions shall only then be valid if we have confirmed them in writing. Any confirmed deviations shall be valid respectively for the concrete individual case without any ramifications for the long-term future.
- (4) These Purchasing Terms and Conditions shall replace all previous Purchasing Terms and Conditions. The Purchasing Terms and Conditions shall also be valid for all future business dealings with us without our being required to again make reference to them in the individual case.

§ 2

Orders / Packaging Directives, Etc.

- (1) Only written orders shall be binding. The same shall be valid for other legally relevant declarations and notifications which are made before or after the contractual agreement is concluded.
- (2) The Supplier must notify us of any obvious mistakes (e.g. typing or calculation mistakes) and incomplete information on the order, including the order documents, so that we can correct and/or complete them before it accepts the order; otherwise, the contractual agreement shall be considered to have not been concluded.
- (3) Our orders may be accepted only within a timeframe of two weeks after the date of the order by written confirmation or by the unconditional sending of the goods.
- (4) We reserve our ownership rights and copyrights to order documents (sketches, charts, plans, calculations and other computations, production descriptions and other documents). These bidding documents must be used exclusively for rendering contractual performance and may not be made available to third parties without our prior express written approval. After the order has been filled, they must be returned to us without our having to request this.
- (5) Without our prior written approval, the Supplier shall not be entitled to have services rendered by third parties (e.g. sub-contractors).

- (6) The Supplier shall be obliged to adhere to our separate (that is to say, they have not been printed in these General Purchasing Terms and Conditions) “Packaging Directives” as amended which may be requested from us or may be sent to it by us without this having to be requested.

§ 3

Prices / Payment Terms and Conditions

- (1) Insofar as nothing to the contrary has been agreed, the prices stated on the order are considered to be fixed prices “DDP Werk [**Factory**] Mörfelden-Walldorf” (or to another location if agreed) in accordance with Incoterms 2010. They are considered to be binding and are understood to include the statutory VAT if this has not been separately indicated.
- (2) Ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance), taxes, customs duties and other levies – with the exception of VAT – shall be assumed by the Supplier. Upon our request, the Supplier must take back packaging materials at its own expense.
- (3) After the receipt of the delivery, our payments shall be made with a 3% discount (off the net amount) within 14 days after the receipt of the invoice or within a month after the receipt of the invoice with no deductions insofar as nothing to the contrary has been agreed. The payment constitutes neither a statement about the quality of the delivery nor restricts our rights.
- (4) We shall owe no late payment interest. The Supplier’s claim to the payment of late payment interest shall remain unaffected, but shall nonetheless amount to only five percentage points above the base lending rate specified in § 247 BGB.
- (5) We shall be entitled to offsetting and payment retention rights in the statutorily permissible scope.

§ 4

Delivery Timeframes / Delivery Deadlines

- (1) The delivery timeframes and/or delivery deadlines that are stated on the order shall be binding. If a delivery timeframe is stated on the order, then this timeframe shall begin to run on the date that the order is received. If no delivery timeframe has been agreed on the order, then it shall be four (4) weeks after the date that the order is received. The delivery date shall be the date that the delivery arrives at the delivery destination we have designated.
- (2) If it becomes recognisable that delivery timeframes – regardless of the reasons – cannot be met, then the Supplier must promptly notify us.
- (3) If the Supplier fails to render its contractual performance, does not render it within the agreed delivery timeframe or enters into delivery default, then our rights – particularly to the rescission of the contractual agreement and to demand damage compensation – shall be determined in accordance with the statutory directives. We shall not accept liability limits. In the event that we accept late deliveries, this shall constitute no waiver of our legal rights.

- (4) The deliveries must be made on weekdays (Monday to Friday) during customary business hours. The signing of the delivery note and/or the actual acceptance of the supplied goods shall not constitute any statements as to whether the delivery is contractual.
- (5) In the event that, owing to force majeure that also includes strikes, lockouts and transport and operation disruptions in our area for which we are not at fault, we are unable to take possession of and/or accept the delivery, then we shall be released from our obligation to take possession of and/or accept the delivery for this timeframe. In these cases, any claims of the Supplier to counter-performance as well as damage compensation shall be excluded.

§ 5

Transfer of Risk / Reservation of Ownership by the Supplier

- (1) The deliveries shall be made “DDP Werk Mörfelden-Walldorf” (or to another location if agreed) in accordance with Incoterms 2010.
- (2) The surrendering of the goods to us shall be made unconditionally and without taking the payment of the purchase price into consideration. In any case, all forms of extended or expanded reservation of ownership shall be excluded so that, where applicable, any reservation of ownership that has been declared with legal validity by the Seller shall only then be valid until payment is rendered for the goods that have been supplied to us and shall only be valid for these goods.

§ 6

Provision of Information

The Supplier shall be obliged to state our order no. as well as the other order data (date, quantity, shipping specifications, etc.) on the order confirmation, the shipping documents, the delivery notes and invoices. The Supplier shall furthermore be obliged to adhere to the billing and shipping addresses stated on the orders. If it fails to fulfil one of the aforementioned obligations, then we shall not be responsible for any related processing delays.

§ 7

Quality / Documentation / Compliance, Etc.

- (1) The deliveries must fulfil the statutory directives, the latest state of science and technology standards as well as particularly the relevant environmental directives and meet the agreed specifications.
- (2) The Supplier must set up and maintain a documented quality assurance system which is suitable in manner and scope and corresponds to the latest state of technology standards. The Supplier must, for example, be a holder of an ISO 9001 certification which is regularly renewed. It must keep records, particularly about quality tests, and submit them to us upon our request to do so.
- (3) Within the parameters of its business operations, the Supplier shall comprehensively take environmental protection aspects into consideration.

- (4) Upon our request, the Supplier shall, promptly and at its own expense, submit to us delivery acceptance testing certifications in accordance with EN 10204 3.1 B.
- (5) The Supplier must undertake production-supporting tests which, insofar as this is applicable, are based upon the methods of Statistical Process Control (SPC) and also use suitable quality control cards.
- (6) The Supplier must retain all documents that are relevant for product quality in retrievable fashion for 12 years.
- (7) After having made advance notice and providing a suitable run-up period, we shall be entitled to inspect the operations, the production processes, the quality management system and the other operational sequences and documents that are relevant for product quality, or to have them inspected by our authorised representatives, on the Supplier's premises. The Supplier must appropriately support us in this regard.

§ 8

Initial Samples and Initial Sample Testing Reports

- (1) Before beginning serial production, the Supplier must submit one or more initial samples as well as related suitable initial sample testing reports.
- (2) Initial samples and testing reports shall be subject to our review and approval. Before approval is made, the Supplier may not commence serial production.

§ 9

Notification of Defects / Liability for Defects / Liability

- (1) We shall be obliged to inspect the delivery for any defects within an appropriate timeframe. Our inspection obligation shall be limited to obvious defects which are discovered during our incoming goods control while making a superficial assessment including of the delivery documents as well as during our quality control during random sampling processes (e.g. transport damage, incorrect deliveries or delivery underages). The notification of the defect shall be considered to have been made promptly if it is submitted within ten (10) working days (Monday to Friday) based upon when the goods are received or, for hidden defects, upon discovery (whereby we shall be obliged only to promptly send the notification against documentation).
- (2) If the Supplier is obliged to undertake its own outgoing goods control for quality assurance purposes, then we shall be obliged only to make notification of any defects – but not to inspect the goods.
- (3) The costs incurred for the purpose of the inspection and rectification work by the Supplier shall also be assumed by the Supplier even if it turns out that no defect actually existed. Our liability to pay damage compensation for unjustified requests to eliminate defects shall remain unaffected; however, we shall be liable in this regard only if we recognised, or failed to recognise owing to our own gross negligence, that no defect actually existed.
- (4) The statutory provisions for our rights for material and legal defects shall be valid with the following supplements:
 - a) The statute of limitations period for claims for defects shall be two (2) years, calculated from the

delivery date, insofar as the law does not stipulate a longer timeframe. In the cases in which delivery acceptance is prescribed by law or contractually, the statute of limitations period shall begin to run when delivery acceptance is made.

- b) In the event that the delivery is defective, we shall be entitled, at our own choice, to demand either rectification (elimination of the defect) or a replacement delivery (delivery of flawless goods). If the Supplier does not fulfil this obligation within an appropriate extension period we have set for it, then we may eliminate the defect on our own and demand that the Supplier reimburse us for any required expenditures and/or pay us a corresponding advance payment. If the rectification attempt or replacement delivery is unsuccessful or we consider it to be unreasonable (e.g. owing to a special urgency), we are not required to grant an extension period.
- (5) The Supplier shall be liable for any degree of fault. We shall not recognise any liability-limiting clauses of the Supplier.
- (6) Insofar as third parties assert legal claims against us owing to the defectiveness of our product and this defectiveness is attributable to goods provided by the Supplier, then the Supplier must, upon our initial request, indemnify us from these damage compensation claims.

§ 10 Manufacturer's Liability

- (1) If the Supplier is responsible for product damages, then it must, upon our initial request, indemnify us from any third-party claims as the cause lies in its sphere of control and organisation and it itself shall be liable in the external relationship.
- (2) Within the parameters of its indemnification obligation, the Supplier must reimburse any expenditures in accordance with §§ 683, 670 BGB which are incurred from or in conjunction with a third-party claim including any product recall campaigns we undertake. Insofar as it is possible and reasonable, we shall inform the Supplier of the content and scope of any recall campaigns and grant it the opportunity to submit a position statement. Any more extensive legal claims shall remain unaffected.
- (3) The Supplier shall be obliged to take out sufficient insurance coverage against all product liability risks and, upon our request, to document to us that it holds this insurance coverage. Any more extensive legal claims shall remain unaffected.

§ 11 Proprietary Rights

- (1) The Supplier shall ensure that the product it supplies is not encumbered by third-party proprietary rights which are valid within the European Union.
- (2) In the event that third parties assert claims against us owing to violations of proprietary rights, then the Supplier shall be obliged, upon our initial request, to indemnify us and to reimburse us for all required expenditures that are related to this claim. This indemnification shall also be valid for our end customers. This indemnification obligation shall cease to be valid if the Supplier has produced the delivery goods according to our sketches, models or similar descriptions. In such a case, insofar as the Supplier fears a

violation of proprietary rights, it shall promptly notify us of this.

§ 12 **Place of Performance**

The place of performance shall be the delivery destination which we have designated for all deliveries and services (the delivery address stated on the order) and, insofar as such a delivery destination has not been explicitly designated, our factory in Mörfelden-Walldorf.

§ 13 **Assignment**

The Supplier shall not be entitled to assign its payment claims from the contractual relationship to third parties. This shall not be valid insofar as this involves monetary payment claims.

§ 14 **Choice of Law / Legal Venue / Confidentiality / Miscellaneous**

- (1) The law of the Federal Republic of Germany shall be valid. The validity of the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.
- (2) The exclusive – including international – legal venue for all disputes arising from the delivery relationship shall be Mörfelden-Walldorf in the Federal Republic of Germany; we shall be entitled to also take legal action against the Supplier in its own legal venue. This shall also then be valid if the Supplier has no general legal venue domestically.
- (3) The Supplier shall be obliged to keep all charts, sketches, calculations and other documents and information confidential. They may be disclosed to third parties only with our express written approval to do so. The confidentiality obligation shall also be valid after the winding-up of the contractual agreement and shall only then lapse if and insofar as the information has become generally known.
- (4) In the event that individual provisions of these Purchasing Terms and Conditions should, in whole or in part, be null and void or invalid, the validity of the rest of the provisions shall remain unaffected. Insofar as these Purchasing Terms and Conditions contain gaps or omissions, those legally valid provisions shall be agreed which the contractual partners would have agreed, based upon the commercial goals of the contractual agreement and the purpose of these Purchasing Terms and Conditions, if they had been aware of the gap or omission.

Date: March 2014
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