

General Conditions of Purchase

1. Scope of Validity

- 1.1 Our General Conditions of Purchase shall apply only with respect to entrepreneurs, legal entities under public law or special-purpose entities under public law.
- 1.2 Our General Conditions of Purchase shall apply to all contracts, deliveries and services that the supplier provides for us. We shall not recognize any general conditions of purchase of the supplier which contradict or deviate from our Conditions of Purchase, unless we have expressly agreed to their validity in writing. Our Conditions of Purchase shall apply even if we knowingly and without reservation accept conditions of the supplier, relating to its deliveries of products and services, which contradict or deviate from our Conditions of Purchase, or if the deviating or additional conditions are sent with the order confirmation or in another way.
- 1.3 Our General Conditions of Purchase shall also apply to any future transactions with the supplier, even if the Conditions of Purchase are not expressly agreed once again.

2. Offers, Orders, Documents and Confidentiality

- 2.1 Offers submitted by the supplier shall be binding.
- 2.2 Only orders in writing shall be valid. The supplier must confirm the order immediately. If the supplier does not accept the order within two weeks of receiving it, we shall be entitled to revoke it and the supplier shall not be allowed to assert any claims as a result of this. Any declarations made by our employees before, during or after conclusion of the contract require our written confirmation in order to be effective.
- 2.3 We reserve all rights – particularly property rights and copyrights, as well as the right to register industrial property rights – in respect of all figures, drawings, calculations and any other documents or information.
- 2.4 The supplier must treat the documents referred to in Clause 2.3, any commercial or technical information that is issued and any personal data that is communicated as strictly confidential, and must not disclose it to third parties. Said documents, information and data may only be used for the purposes of fulfilling our order and, without our express written consent, may not be passed on to third parties for inspection, put at their disposal in any other way or used by the supplier in any other way, as long as and insofar as they cannot be proven to be public knowledge. Without our prior written consent, said documents, information or data may not be duplicated or used for commercial purposes, except where this involves deliveries made to us and for the purpose of fulfilling our order. On our request, all documents specified in Clause 2.3 – including any copies or records that have been made and any items provided on a loan basis – must be returned to us without delay and in full. After fulfillment of the order, the supplier must in all cases destroy and/or erase any personal data that has been communicated. The supplier shall undertake to adhere to all regulations relating to data protection, particularly where this concerns the German Federal Data Protection Act. By law, any breaches may be punished by fines

or terms of imprisonment. The supplier's duty to maintain confidentiality and adhere to data protection regulations shall continue to apply even after the order has been processed. The supplier shall also impose said duty to maintain confidentiality and adhere to data protection regulations on its employees as well as any third parties in the event that subcontractors approved by us are used.

2.5 The supplier may not use, offer to third parties or deliver to third parties any products that have been developed or produced according to documents we have drafted, according to our specifications or using our tools or tools modeled on our tools. The same shall apply to our print orders. This shall also continue to apply even after the order has been processed.

3. Prices and Terms of Payment

3.1 The price specified in the order shall be binding. Cost estimates shall be binding and shall not be subject to compensation unless otherwise agreed in writing. Unless otherwise agreed in writing, the price shall include delivery DDP from Rheinau to the specified delivery address in accordance with incoterms 2010, inclusive of freight, packaging and duty. The price shall not include the statutory value-added tax.

3.2 We shall only be able to process invoices if, in accordance with the specifications in our order, they state the ordering number, item number(s) and item designation(s) shown in the order; the supplier shall be responsible for any consequences arising from a failure to adhere to this duty (including, for example, a failure to adhere to the discount period), unless it proves that it is not responsible for this.

3.3 Unless otherwise agreed in writing, the following terms of payment shall apply: payment with a 3% discount within 14 days of receipt of the invoice; net payment within 30 days. In this context, receipt of the invoice requires that the supplier has delivered to our delivery address in accordance with the terms of the contract, and that the invoice is sent to our business location and states the ordering number, item number(s) and item designation(s). The invoice may not be included with the shipments. We reserve the right to negotiate bills of exchange.

3.4 We shall be entitled to rights of offset and retention without restriction as far as is permitted by law.

3.5 Claims against us on the part of the supplier may only be assigned to third parties with our consent. Payments shall only be made to the supplier.

4. Scope of Delivery, Changes to Deliveries, Delivery Dates, Software

4.1 The scope of delivery shall be defined by our specifications, service descriptions or other documents provided on conclusion of the contract. Drawings stipulated by us, including tolerance specifications, shall be binding. There shall be no obligation on us in the event of obvious errors, mistakes in written information or miscalculations in the documents issued by us. The supplier shall undertake to inform us about errors, mistakes or miscalculations of this kind so that our order can be corrected and reissued.

4.2 If deviations from the original specifications are required or appropriate when

performing the contract, the supplier must inform us of this immediately. Any subsequent changes may only be made with our written consent. If they result in an increase or a reduction in cost, both we and the supplier shall be entitled to request an adjustment to the compensation to which the supplier is entitled.

4.3 Our delivery batches shall be binding.

Overdelivery or underdelivery may only take place with our express consent, unless we can reasonably be expected to accept this. The values determined by us during incoming goods inspection shall be authoritative with respect to quantities, weights and dimensions, subject to any other forms of evidence.

4.4 The delivery time specified in the order shall be binding, as shall the agreed delivery dates.

4.5 The supplier shall undertake to notify us immediately in writing if circumstances arise that may prevent the stipulated delivery time from being adhered to, or if the supplier is made aware of such circumstances.

4.6 In the event of force majeure, labor disputes, interruptions of operations arising through no fault of our own, measures taken by authorities or any other unavoidable events that make it impossible or extremely difficult for us to fulfill our contractual duties, we may – without prejudice to our other rights – withdraw from the contract entirely or in part, or request delivery at a later date, without giving rise to claims on the part of the supplier, provided that said events last for a significant duration and result in a significant reduction in our demand.

4.7 In the event of a delivery default, we shall be entitled to statutory claims without restriction. Acceptance of a delayed delivery or service without reservation does not entail a waiver of the compensation claims to which we are entitled as a result of the delay; this shall apply until full payment of the remuneration owed to us has been made.

4.8 Where software that is included in the scope of delivery is concerned, plus its documentation, we shall have not only the right to its use as far as is legally permitted, but also the right to its use with the agreed performance features and within the scope required for contractual use of the product. We may create a backup copy even without express consent.

4.9 If the supplier has taken on the task of installation or assembly, and unless otherwise agreed in writing, the supplier shall be responsible for all required ancillary costs – such as travel costs, costs associated with the provision of tools and per diem rates – subject to any deviating provisions.

5. Inspection, Packaging and Shipping

5.1 If delivery of fully assembled units has been agreed, the supplier shall undertake to subject said units, before delivery, to inspection in respect of completeness, function, as well as fastening and assembly as prescribed, in accordance with our drawings or any other instructions where applicable. The supplier must present corresponding inspection plans on our request.

5.2 Transportation must take place without any additional costs and with exchangeable packaging units. Lattice box pallets and Euro pallets shall be exchanged with the forwarding agent responsible for delivery at our incoming goods location. The supplier must ensure that any other exchangeable packaging units are returned without any additional costs arising for us. The supplier must observe the regulations of the forwarding agent in question. The supplier shall be liable for damage arising as a result of defective packaging.

5.3 The delivery receipt and the consignment note must be attached to the outside of the shipment in a clearly visible location. The delivery receipt must show our ordering number, our item number(s), our item designation(s), the quantity, the quantity unit, the gross, net and – where applicable – invoiced weight, and the remaining quantity in cases where partial deliveries are being made. We may refuse acceptance of goods without this information. If we accept said goods anyway, this shall only take place in return for reimbursement of any additional administration expenses we incur.

6. Transfer of Risk and Defect Liability

6.1 Risk shall not be transferred until we have confirmed transfer from the supplier to the agreed delivery address via the forwarding agent.

6.2 Acceptance shall take place subject to the goods being inspected to ensure they are free from defects. Any defect claims that we assert in accordance with Section 377 et seq. of the German Commercial Code shall be deemed timely if we send them to the supplier within a period of eight days, calculated from the point at which the goods are received, or from the point of discovery in the case of latent defects.

6.3 We shall be entitled to assert statutory defect claims to their full extent, without restriction.

6.4 Section 439 of the German Civil Code shall apply in respect of rectification claims. The supplier shall undertake to bear all expenses required for the purpose of defect removal or replacement deliveries. The right to compensation for damages shall remain expressly reserved. If the supplier does not begin rectifying the defect immediately after our request to do so, in urgent cases – particularly where it is necessary to defend against acute sources of danger or avoid significant damage – we shall have the right to undertake this work ourselves or have a third party undertake it at the supplier's cost.

6.5 If a customer of ours asserts a claim against us, the statutory provisions of Sections 478 and 479 of the German Civil Code shall apply in respect of our recourse to our supplier.

6.6 Defect of quality claims shall lapse 24 months from delivery of the item, unless the item has been used for a structure according to its usual type of use and has caused defectiveness in said structure; in such cases, the claims shall lapse five years from this point. If a defect of quality arises within 6 months of the risk being transferred, it shall be assumed that the defect was

present when the risk was transferred, unless an assumption of this kind is not compatible with the nature of the item or defect. In all other cases, statutory provisions shall apply to our claims, particularly damage compensation claims and their statutes of limitations with respect to the supplier.

6.7 The supplier shall guarantee that all deliveries or services conform to the latest standards of technology, the relevant national and international statutory provisions, and the regulations and directives of authorities, professional associations and specialist bodies. If deviation from said regulations is necessary in individual cases, the supplier must obtain our written consent to this. Liability for defects of quality shall not be restricted by consent of this nature.

7. Product Liability, Release, Liability Insurance

7.1 If the supplier is responsible for product damage, it shall, on first demand, undertake to release us from damage compensation claims asserted by third parties insofar as the cause is within its sphere of control and organization and it is liable in respect of the external relationship.

7.2 In this context, the supplier shall also undertake to reimburse us for all costs and expenses that may arise from or in relation to recall action we have implemented. Where possible and reasonable, we shall inform the supplier of the content and scope of the recall actions to be implemented and provide the supplier with the opportunity to submit a statement. This shall not affect any other statutory claims.

7.3 The supplier shall undertake to maintain global business and product liability insurance with a minimum coverage total of 5 million euros per personal injury/property damage claim (as a lump sum) and to provide evidence of said insurance on request by presenting the insurance policy; any further damage compensation claims to which we are entitled shall remain unaffected by this.

8. Property Rights

8.1 The supplier shall be responsible for ensuring that no property rights of third parties are breached in the context of its delivery.

8.2 If a third party asserts a claim against us relating to the delivery as a result of property rights being breached, the supplier shall undertake to release us from said claims on first written demand. However, the supplier shall reserve the right to provide evidence that it is not responsible for breaching the rights of the third party.

8.3 Said release duty shall relate to all expenses that inevitably arise for us from or in relation to claims by a third party.

9. Ownership Structures, Provision, Tools

9.1 Any tools that we provide to the supplier shall remain our property. The supplier shall undertake to use tools belonging to us exclusively for the

purpose of manufacturing the goods ordered by us and, at its own cost, to insure them for the replacement value against damage by fire, water and theft. At the same time, the supplier shall immediately assign all damage compensation claims arising from this insurance to us; we hereby accept this assignment. The supplier shall undertake to perform any maintenance and inspection work required on our tools both promptly and at its own cost; overhauling work shall be performed further to written agreement. The tools must be kept in a serviceable condition at all times, and must be handled and stored correctly and professionally. The supplier must notify us of any malfunctions immediately. If the supplier fails to adhere to these duties, it shall undertake to compensate us for the damage arising from this.

9.2 Tools shall become our property if the supplier has produced or had them produced specifically for the purpose of executing our order and we have paid the invoiced manufacturing costs in full. Should our delivery contract relationship end before the tool manufacturing costs have been paid in full – irrespective of the legal basis for this – we shall be entitled, but not obligated, to acquire ownership of the tools by paying the amount that is still outstanding at the point when the relationship ends.

9.3 Any items or materials that we provide to the supplier shall remain our property. They may only be used as intended. Any processing and remodeling of items or materials made available to us by the supplier shall be carried out on our behalf. If our items are processed together with other items that do not belong to us, we shall acquire co-ownership of the new item as a ratio of the value of our item (purchase price plus value-added tax) to the other processed items at the time of processing.

9.4 Once the order has been processed, the supplier must return our tools and any other documents to us on our request.

10. Work on Other Business Premises

10.1 Persons who carry out work on our business premises within the context of performing the contract must observe statutory provisions, accident prevention regulations and the provisions of the applicable company rules.

10.2 If damage or injury is suffered by said persons on the business premises, we and our legal representatives or vicarious agents shall only be liable in cases of deliberate or grossly negligent breaches of duty, injuries to life, body or health and any culpable breaches of duty.

11. Return and Disposal Duty

11.1 We reject any transfer of the disposal duty to us.

12. Compliance with Ethical Standards and the German Minimum Wage Act

12.1 The supplier shall assure us that it and any subcontractors it uses in order to perform the contract shall consistently comply with the following standards:

- Zero tolerance of forced labor, child labor, unlawful discrimination and

corruption.

- All legislation and regulations that apply within the context of performing the contract, particularly in respect of working hours, compensation, occupational safety, hygiene, environmental protection and freedom of assembly.

12.2 The supplier shall undertake to adhere to the specifications of the German Minimum Wage Act (MiLoG) where applicable; this means, in particular, that it shall pay its employees the minimum wage prescribed by the MiLoG when they carry out any work or services for us. The same shall apply in respect of any minimum-wage regulations that are in force in other countries. Under no circumstances shall the supplier commission subcontractors to carry out work for the purpose of performing the contract if it is aware or – for reasons of negligence – is not aware that said subcontractors would breach the specifications of the MiLoG or other minimum-wage regulations in performing this work. The supplier shall use suitable means to ensure that any subcontractors it uses do not carry out any breaches of minimum-wage regulations either. On first demand, the supplier shall release us from any liability for paying the minimum wage to employees of the supplier and to employees of any subcontractors it uses.

12.3 If requested to do so, the supplier shall provide us with evidence of compliance with the aforementioned standards and specifications.

13. Place of Fulfillment, Place of Jurisdiction

13.1 The place of fulfillment for payments shall be our business location unless otherwise agreed or evident from the circumstances. The place of fulfillment for deliveries shall be location to which the goods are to be delivered according to the order.

13.2 In the event of any disputes arising from the contractual relationship, action must be brought at the court responsible for our business location. However, we shall also be entitled to sue the supplier at its headquarters or the location of its subsidiary.

14. Miscellaneous

14.1 If a provision of these Conditions or any further agreements that are reached is or becomes ineffective, this shall not affect the validity of the remaining provisions.

14.2 If the supplier ceases its payments, a temporary insolvency administrator is appointed or insolvency proceedings are initiated, we shall be entitled to withdraw from the contract entirely or in part.

14.3 The law of the Federal Republic of Germany shall apply to all legal relationships between us and the supplier, to the exclusion of the referral provisions under German international private law.

With reference to the German Federal Data Protection Act, we draw attention to the fact that any data created in the context of the business relationship shall be stored if and to the extent required for the purpose of conducting the business relationship.

Zimmer GmbH Daempfungssysteme

Am Glockenloch 2

D-77866 Rheinau / Germany

Phone: +49 (0)7844 9138-0

Fax: + +49 (0)7844 9138-80

<http://www.zimmer-group.de>