

## **GENERAL CONDITIONS OF PURCHASE VALID AS OF 1ST JANUARY 2005**

### I GENERAL – SCOPE OF APPLICATION

1. Our terms and conditions of purchase apply exclusively; we do not acknowledge conflicting terms and conditions of the supplier or terms and conditions of the supplier which differ from our terms and conditions unless we have specifically accepted their validity in writing. Our terms and conditions of purchase shall continue to apply if we unconditionally accept delivery from the supplier in knowledge of the conflicting terms and conditions of the supplier or of terms and conditions of the supplier which differ from our purchase conditions.
2. All agreements which are made between us and the supplier for the purpose of implementing this contract are to be recorded in writing in this contract.
3. Our purchase conditions apply only to businesses within the meaning of Section 310 para. 4 of the German Civil Code.
4. In accordance with the provisions of the Federal Data Protection Act the supplier is made aware that we make use of electronic data processing for the processing of personal and company-related data required for the carrying out of business transactions.

### II QUOTATION – QUOTATION DOCUMENTS

1. Our orders are subject to change unless they specify otherwise. The supplier shall upon request confirm the order request in writing. The order confirmation must contain full details of the order. In the case of an order which is subject to change, the contract is regarded as having come into being if we do not immediately contest the acceptance.
2. We retain ownership and copyright rights to all pictures, drawings, calculations and other documents; they may not be made available to third parties without our express written permission. They are to be used only for manufacturing and processing related to our order; after processing of the order they are to be returned to us even if we make no specific request for them. They are to be kept confidential with regard to third parties; Section VIII para. 3 applies additionally in this regard.
3. In accepting the order the supplier undertakes to facilitate any checking of certificates of origin and suppliers' declarations which may be required by the customs authorities, to supply all necessary information required in this context and to provide requisite official confirmations (information sheets). In addition the supplier undertakes to compensate us for all losses arising from in-complete fulfilment of this obligation.

### III PRICES – TERMS OF PAYMENT

1. Unless otherwise specified in the contract the price quoted in the order is binding insofar as the supplier does not offer an overall reduction in price for the contractual goods.
2. The legally applicable value added tax is to be shown separately.

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DVA Group, Valentinskamp 70/ EMPORIO, 20355 Hamburg, Germany

3. We can only process invoices if they include our order number as specified by us in our order. The supplier is responsible for any consequences of non-fulfilment of this requirement unless he can demonstrate that he is not responsible for them.
4. Unless otherwise agreed in writing we shall pay the purchase price within 14 days calculated from delivery and receipt of invoice with 3% discount or within 30 days of receipt of invoice net.
5. We have set-off and retention rights to the extent that they are provided for in law.
6. Claims which the supplier may have against us cannot be assigned or mortgaged to third parties without our approval.

#### IV DELIVERY

1. The delivery time quoted in the order is binding. If the delivery time is exceeded the supplier is in default; no notice of such default is required.
2. Without prejudice to the legal consequences arising from para. 1 of this Section, the supplier is obliged to notify us immediately in writing if circumstances arise or are identified by him which indicate that delivery cannot be effected within the agreed time.
3. In the case of delay in delivery we are entitled, irrespective of any higher level of loss which can be proven, to request flat-rate damages for delay in the amount of 1% of the value of the delivery for each complete week but not amounting in total to more than 15%. We retain the right to more substantial claims in law (cancellation and compensation for damages instead of performance). The supplier has the right to demonstrate to us that no loss or a significantly lower loss has arisen as a result of the delay.
4. Unless expressly specified otherwise in the contract, delivery is effected at the supplier's expense to the place of receipt stipulated by us. If we are responsible for freight the supplier must choose the type of transport stipulated by us; otherwise he must choose the type of transport and delivery which is most favourable for us.
5. . Packing is included in the price. If the contract expressly states that this is not the case, packing is to be charged at cost price. The supplier must ensure that the packaging protects the goods from damage and that all legal requirements relating to the despatch are adhered to, including in particular the declaration required for hazardous goods. We are not obliged but we are entitled to return the packaging or to have it returned. If the packaging is returned at least two thirds of the in-voiced value is to be credited.
6. Risk transfers to us only when the goods are accepted by us at our place of receipt.
7. On all despatch documents and delivery notes the supplier must quote correctly and in full our order number, description of items, quantity and unit size and gross, net and if appropriate computational weight. We cannot be responsible for delays in processing if he fails to do this.

## V INSPECTION OF DEFECTS – LIABILITY FOR DEFECTS

1. We shall inspect the goods within an appropriate time for any defects in quality or quantity. A complaint is timely if it is received by the supplier within a period of 5 working days, or 10 working days in the case of deliveries abroad, calculated from receipt of the goods or in the case of concealed defects from discovery of said defects.
2. It is open to us to pursue all statutory claims for damages. We are in every case entitled to require the supplier to remedy the defect or if we so choose to supply a replacement item. We expressly retain the right to compensation and in particular to compensation instead of performance.
3. We are entitled to remedy the defects ourselves at the supplier's expense if there is risk attached to delay or if there is cause for particular urgency.
4. The limitation period is 36 months, calculated from the transfer of risk.

## VI PRODUCT LIABILITY – RELEASE FROM LIABILITY – PRODUCT LIABILITY INSURANCE

1. If the supplier is responsible for product damage, he shall indemnify us against compensation claims by third parties when first requested to do so if the cause lies within his sphere of control and organisation and he is himself liable to third parties.
2. In the context of his liability for cases of damage under para. 1, the supplier shall reimburse us for any expenses under Sections 683, 670 of the German Civil Code or under Sections 830, 840, 426 of the German Civil Code which arise from or in connection with a recall program implemented by us. Insofar as it is possible and reasonable we shall inform the supplier of the subject matter and extent of the recall measures to be undertaken and give him opportunity to respond. Other statutory claims are not affected.
3. The supplier undertakes to protect against the above-mentioned compensation claims by taking out product liability insurance at an adequate level.

## VII INDUSTRIAL PROPERTY RIGHTS

1. The supplier warrants that his supply does not involve any infringement of the rights of third parties within the Federal Republic of Germany.
2. If claims are made against us in this respect by a third party, the supplier shall when first so requested in writing hold us harmless against these claims; we shall not be entitled to make any agreements with the third party, in particular for the purpose of reaching a settlement, without the consent of the supplier.
3. The supplier's obligation to hold us harmless extends to all expenditure necessarily incurred by us because of or in connection with the making of a claim by a third party.
4. The period of limitation is ten years, calculated from the conclusion of the contract.

## VIII RETENTION OF TITLE – PROVISION OF MATERIAL – TOOLS - NONDISCLOSURE

1. Any materials and/or parts which we make available to the supplier shall remain our property. Processing or remodelling by the supplier shall be on our behalf. If goods to which we retain the title are processed with other items which are not of our property, we are entitled to co-ownership of the newly manufactured item in the ratio of the value of our parts or substances (purchase price plus value added tax) to the other processed items at the time of processing.
2. If the parts or substances provided by us are irreversibly blended or combined with other items which are not of our property, we are entitled to co-ownership of the newly manufactured item in the ratio of the value of goods to which we retain the title (purchase price plus value added tax) to the other blended or combined goods at the time of blending or combining. If the blending or combining takes place in such a way that the supplier's item is to be regarded as the principal item, it is taken as agreed that the supplier assigns to us the proportionate co-ownership; the supplier preserves sole or joint ownership for us.
3. The supplier shall keep all pictures, drawing, calculations and other documents which he receives strictly secret. They may not be made available to third parties without our express consent. The duty of nondisclosure continues to be effective after termination of this contract; it ceases if and to the extent that the production information contained in the pictures, drawings, calculations and other documents submitted to the supplier becomes public knowledge.
4. Insofar as the value of the securities to which we are entitled under para. 1 and/or para. 2 exceeds the purchase price of all our goods subject to retention of title and not paid for by more than 10%, we are compelled at the request of the supplier to release those securities selected by us.

## IX PLACE OF JURISDICTION – PLACE OF DELIVERY, GOVERNING LAW

1. If the supplier is a registered trader, the place of jurisdiction is Hamburg; we shall however also be entitled to bring proceedings against the supplier at the court of his place of residence.
2. If not otherwise indicated in the order, the place of delivery is the delivery address quoted in the order.
3. The law of the Federal Republic of Germany shall apply, excluding the UN Purchasing Convention. The same applies to contracts with an overseas element.

## X SEVERABILITY CLAUSE

1. Should one or more of the above provisions be or become unenforceable, the validity of the remaining provisions shall in no way be affected. In such case the parties undertake to replace the unenforceable provision with a valid new provision coming as close as possible to the intention of the unenforceable provision.