

## General Terms and Conditions of Purchase Rheonik Messtechnik GmbH

### 1. Scope of application, form

- (1) These general terms and conditions of purchase (GTCP) apply to all business relationships with our business partners and suppliers ("Seller").
- (2) These GTCP apply, in particular, to contracts to purchase and/or deliver movable objects (the "Articles") irrespective of whether the Seller itself manufactures the Articles or buys them from suppliers (Sections 433, 650 of the German Civil Code (Bürgerliches Gesetzbuch), "BGB"). Unless otherwise agreed upon, these GTCP as amended at the time of the purchaser's order or, in any case, the version last submitted to the purchaser in text form also apply as a framework contract to similar future contracts, without any need for us to refer to them again in each individual case.
- (3) These GTCP apply exclusively. Any deviating, conflicting or supplementary general terms and conditions of the Seller shall become an integral part of the contract only if and to the extent we have expressly approved of their applicability in writing. Even if we refer to a letter containing or referring to terms and conditions of the Seller or a third party, no approval of their applicability can be derived therefrom.
- (4) Individual agreements entered into with the Seller on a case-by-case basis (including collateral agreements, supplements or amendments) take precedence over these GTCP in any event. A written agreement or our written acknowledgement is decisive for the contents of such agreements subject to proof to the contrary.
- (5) Legally relevant declarations or notifications of the Seller in relation to the contract (e. g., setting a deadline, reminder, rescission) must be made in writing, i.e., in written or text form (e.g., letter, e-mail, telefax). Any statutory formal requirements and other evidence, particularly in case of doubts about the authority of the declaring person, shall not be affected thereby.
- (6) Any reference to the applicability of statutory provisions is only included for the purpose of clarification. Hence, such statutory provisions apply even without such clarification unless they are directly amended or expressly excluded by these GTCP.

### 2. Conclusion of contract

- (1) Our order shall be deemed binding at the earliest upon written submission or confirmation. The Seller must notify us of any obvious errors (e.g., typing and calculation errors) and gaps in the order including the order documents so that we are able to correct or complete them before the order is accepted; otherwise the contract shall be deemed to have not been concluded.
- (2) The Seller is requested to confirm our order in writing or, in particular, to unconditionally process it by forwarding the Articles within five business days (acceptance).
- (3) Late acceptance shall be deemed a new quote and must be accepted by us.

### 3. Delivery time and late delivery

- (1) The delivery time specified by us in our order is binding. If no delivery time is specified in the order and the delivery time is not agreed upon otherwise, it shall be two weeks from the date of the conclusion of the contract. The Seller is obligated to notify us in writing without undue delay if – for whatever reasons – he is likely to be unable to meet the agreed delivery times.

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- (2) Should the Seller not perform at all or not within the agreed upon delivery period or should the Seller default, our rights – particularly to rescind the contract or claim damages – shall be governed by statutory provisions. The provisions in para. 3 shall not be affected thereby.
- (3) In addition to further legal claims, we may claim lump-sum compensation of the damage suffered by us due to default in the amount of 1% of the net price for each full calendar week, but not more than 5% of the net price of the Articles delivered late if the Seller defaults. We reserve the right to prove higher damage. The Seller reserves the right to prove that no or significantly less damage arose.

#### **4. Performance, delivery, passing of risk, default in acceptance**

- (1) The Seller is not entitled to have the owed service performed by third parties (e.g., subcontractors)) without our prior written approval. The Seller bears the risk of procurement for his services unless otherwise agreed upon in the individual case (e.g., limitation to stocks).
- (2) Delivery shall be made “free domicile” within Germany to the place specified in the order. If no destination is specified and nothing else agreed upon, delivery shall be made to our place of business in Odelzhausen, Germany. The respective place of destination shall also be the place of performance for the delivery and supplementary performance, if applicable (obligation to be performed at the obligee’s place of business).
- (3) Delivery must be accompanied by a delivery note including date (issue and shipping), content of delivery (item number and quantity) as well as our order ID (date and number). If the delivery is not accompanied by a delivery note or if the delivery note is incomplete, we shall not be responsible for any delay in processing and payment resulting therefrom.
- (4) The risk of accidental loss and accidental deterioration of the Articles passes to us upon their hand-over at the place of performance. If acceptance of the Articles is agreed upon, the risk passes upon their acceptance. Apart from that, the statutory provisions under the law on contracts for work and services apply correspondingly in case of acceptance. Hand-over and/or acceptance shall be deemed to have been effected even in case of our being in default in acceptance.
- (5) Occurrence of default in acceptance is governed by statutory provisions. The Seller must explicitly offer us his services even if a certain or definable calendar period has been agreed upon for any act or cooperation on our part (e.g., provision of material). Should we be in default in acceptance, the Seller may request compensation for his extra expenses pursuant to statutory provisions (Section 304 BGB). If the contract refers to the manufacturing of a specific item (custom-made item) by the Seller, the Seller shall be entitled to further rights only if we have undertaken to cooperate and if we are responsible for the failure to do so.

#### **5. Prices and terms of payment**

- (1) The price specified in the order is binding. All prices include statutory VAT if not separately stated.
- (2) Unless otherwise agreed upon in the individual case, the price includes all services and supplementary work (e.g., assembly, installation) and all ancillary expenses (e.g., proper packaging, shipping charges, including transport and liability insurance, if applicable).
- (3) The agreed price is due and payable within 30 calendar days from complete delivery and performance (including acceptance, if agreed upon) and receipt of a proper invoice. Insofar as payment is made within 14 calendar days, the Seller grants us 3% cash discount on the invoiced net amount. In case of bank remittance, payment shall be deemed to have been made in due time if our bank received the remittance order before expiration of the payment period; we are not responsible for any delay on the part of the banks involved in the payment transaction.
- (4) We do not owe interest for due payments. Any default in payment is governed by statutory provisions.
- (5) We are entitled to any rights of set-off and retention as well as the defence of the unfulfilled contract to the extent permitted by law. In particular, we are entitled to withhold due payments as long as we have any claims from incomplete or defective deliveries against the Seller.



- (6) The Seller shall have a right of set-off or retention only if counter-claims have been found to be final and absolute or undisputed.

## **6. Secrecy and reservation of title**

- (1) We reserve title to and copyrights in illustrations, plans, drawings, calculations, standing operating procedures, product descriptions and other information and documents. These documents shall be exclusively used in connection with the contractual performance and returned to us after fulfilment of the contract. The documents, including the terms of the order, shall be kept confidential vis-à-vis third parties also after termination of the contract. The duty to observe secrecy ceases to apply only if and to the extent the know-how contained in the delivered documents has become common knowledge.
- (2) The foregoing provision correspondingly applies also to substances and materials (e.g., software, finished and semi-finished articles), as well as to tools, prototypes, samples and other objects we provide to the Seller for manufacturing. These objects shall be separately stored at the Seller's expense and adequately insured against destruction and loss until they are processed.
- (3) The Seller processes, mixes or compounds (further processes) any provided items on our behalf. This also applies in case of a further processing of the delivered Articles by us so that we are considered to be the manufacturer and obtain title to the product upon further processing at the latest in accordance with statutory provisions.
- (4) Title to the Articles must be transferred to us unconditionally and irrespective of the payment of the purchase price. However, if we accept an offer from the Seller providing for a transfer of title on the condition of the payment of the purchase price in a particular case, the Seller's reservation of title expires upon payment of the purchase price for the delivered Articles at the latest. We continue to be entitled to resell the Articles in the due course of business even prior to the payment of the purchase price by assigning the future claims resulting therefrom (alternatively, application of simple reservation of title extended until resale). Any other forms of reservation of title, particularly the reservation of title extended, passed on, and extended until further processing, are thus excluded in any case.

## **7. Defective delivery**

- (1) Unless otherwise provided for hereinafter, the statutory provisions shall apply to our rights in case of defects in quality and title of the Articles (including wrong and short delivery as well as improper assembly, imperfect instructions for assembly, use or operation), as well as in case of other breaches of duties on the part of the Seller.
- (2) Pursuant to statutory provisions, the Seller is particularly liable for the Articles having the agreed quality upon the passing of risk to us. Any product specifications that – particularly by indication or reference in our order – are a subject matter of the respective contract or that have been incorporated in the contract in the same way as these GTCP are deemed as agreement on the quality. In this respect, it is irrelevant whether the product specifications have been prepared by us, the Seller or the manufacturer.
- (3) We are not obligated to inspect the Articles or to make inquiries about possible defects upon the conclusion of the contract. Partially contrary to the 2nd sentence of Section 442(1) BGB, we thus shall have unlimited claims based on defects even if the defect remained unknown to us due to gross negligence.
- (4) The statutory provisions (Sections 377, 381 of the German Commercial Code (Handelsgesetzbuch), "HGB") apply to the commercial obligation to inspect the Articles and give notice of defects with the following proviso: Our obligation to inspect the Articles is limited to defects that become apparent at our incoming goods inspections by outward examination, including the shipping documents (e.g., transport damage, wrong and short deliveries) or at the quality checks by way of sampling procedure. There is no obligation to inspect the Articles if acceptance is agreed upon. Apart from that, it depends on to what extent an inspection is practicable in the due course of business in consideration of the individual circumstances. Our obligation to give notice of defects detected at a later point in time remains unaffected.



Notwithstanding our obligation to inspect the Articles, our complaint (notice of defects) shall be deemed to have been made without undue delay and in time if it is sent within 30 days from discovery or from delivery in case of obvious defects.

- (5) Supplementary performance shall also include the disassembly of the defective Articles and the new installation if the Articles have been installed or included in another object in accordance with their nature and intended use; our legal claim for compensation of the respective expenses shall not be affected thereby. The Seller shall bear the expenses incurred in connection with the inspection and supplementary performance even if it turns out that no defect existed. Our liability to pay damages in case of an unjustified request to remedy remains unaffected; in this respect, we shall, however, only be liable if we have been aware or grossly negligently not aware that no defect existed.
- (6) Notwithstanding our statutory rights and the provisions in para. 5 the following applies: If the Seller does not meet his obligation of supplementary performance – at our option by way of removal of defects (repair) or by way of delivery of a faultless thing (substitute delivery) – within a reasonable time limit set by us, we may remove the defect ourselves and claim compensation from the Seller for the necessary expenses incurred in this respect and/or a corresponding advance payment. If supplementary performance by the Seller failed or if it is unreasonable for us (e.g., due to particular urgency, risk to operational safety or imminent occurrence of unreasonable damage), no time limit needs to be set; we will notify the Seller of such circumstances without undue delay and, if possible, in advance.
- (7) Apart from that, we are entitled to reduce the purchase price or rescind the contract in case of defects in quality or title in accordance with statutory provisions. We are, in addition, entitled to claim damages and compensation for expenses in accordance with statutory provisions.

## **8. Recourse against supplier**

- (1) In addition to claims based on defects, we are entitled to our legally determined rights of recourse within a supply chain in accordance with Sections 445a, 445b, 478 BGB) without restriction. We are, in particular, entitled to demand precisely such kind of supplementary performance (repair or replacement) from the Seller as we owe our buyers in the individual case. Our legal option (Section 439(1) BGB) shall not be restricted by this.
- (2) Before we acknowledge or satisfy a claim based on defects asserted by our buyer (including compensation for expenses pursuant to Sections 445a(1), 439(2) and (3) BGB), we shall notify the Seller and ask for written comment by briefly describing the facts. If no substantiated comment is submitted within a reasonable period of time and if no amicable solution is found, the claim based on defects we actually conceded shall be regarded as owed to our buyer. In this case, the Seller is responsible to furnish evidence to the contrary.
- (3) Our claims under recourse against the supplier shall also apply if the defective Articles have been processed by us or another entrepreneur, e.g., by fitting them in another product.

## **9. Manufacturer's liability**

- (1) If the Seller is liable for a product damage, he shall indemnify us against any third-party claims insofar as the reason for the damage is within his domain and organizational area and he is personally liable in the external relationship.
- (2) Within the scope of the duty to indemnify, the Seller must reimburse us for expenses in accordance with Sections 683, 670 BGB incurring under or in connection with third-party claims including any recalls made by us. We shall notify the Seller of the matter and the scope of product recalls – if possible and reasonable – and give him the opportunity to comment. Further statutory claims shall not be affected thereby.
- (3) The Seller shall take out and maintain a product liability insurance with a lump-sum coverage of at least EUR 5 million per personal injury/property damage. The Seller shall provide us with a copy of the liability policy at any time upon request.



**10. Statute of limitations**

- (1) The mutual claims of the contracting parties expire in accordance with statutory provisions unless otherwise provided for hereinafter.
- (2) Notwithstanding Section 438(1)(3) BGB, the general limitation period for claims based on defects shall be three years from delivery and/or the passing of risk. If and to the extent acceptance has been agreed upon, the statute of limitations commences upon acceptance. The limitation period of three years applies correspondingly to claims based on defects in title, provided that the legal statute of limitations for third-party claims to return a real thing (Section 438(1)(1) BGB) remains unaffected; claims based on defects in title shall, however, not expire under any circumstances as long as a third party may still assert such claim against us because the claim has not yet become time-barred.
- (3) The statute of limitations under sales law, including the aforementioned extension, shall apply to all contractual claims based on defects to the extent permitted by law. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the normal legal statute of limitations shall apply (Sections 195, 199 BGB) unless the applicability of the limitation periods under sales law results in a longer limitation period in the individual case.
- (4) Limitation of warranty claims shall be suspended upon receipt of our written notice of defects by the Seller until the Seller rejects the claim or declares that the claim has been removed or otherwise refuses to continue negotiations about our claims. In the case of replacement and removal of defects, the warranty period for replaced and repaired parts shall commence again, unless we had to assume, based on the Seller's behavior, that the Seller did not feel obliged to take such action, but only carried out the replacement or removal of defects as a gesture of goodwill or for similar reasons.

**11. Property rights**

- (1) Pursuant to para. 2, the Seller shall be responsible for the products delivered by him not violating any property rights of third parties in countries of the European Union or other countries where he manufactures or has manufactured the Articles.
- (2) The Seller shall be obligated to indemnify us against all claims asserted by third parties against us as a result of a violation of intellectual property rights as set forth in para. 1 above and to reimburse us for any expenses incurred in connection with such claim. The foregoing shall not apply if the Seller proves that neither he is responsible for the violation of property rights nor that he had to be aware of the violation at the time of delivery exercising the due care of a businessman.
- (3) Our further legal claims based on defects in title to the products delivered to us shall not be affected thereby.

**12. Spare parts**

The Seller undertakes to stock spare parts for the products delivered to us for a period of at least two years after delivery.

**13. Assignment**

The Seller is not entitled to assign his claims under the contractual relationship to third parties. The foregoing shall not apply if the claim is a monetary claim.

**14. Compliance with laws**

- (1) The Seller is obligated to comply with any statutory provisions applicable to him in connection with the contractual relationship. This particularly includes anticorruption and money laundering laws as well as provisions on antitrust, labor and environmental protection.



- (2) The Seller shall ensure that the products delivered by him comply with all relevant requirements for placing them on the market in the European Union and the European Economic Area. He must prove conformity to us on request by submitting suitable documents (e.g., long-standing supplier's declarations).
- (3) The Seller shall make reasonable efforts to ensure compliance with his obligations set forth in this section 14 on the part of his subcontractors.

## **15. Choice of law and place of jurisdiction**

- (1) These GTCP and the contractual relationship between us and the Seller are subject to the laws of the Federal Republic of Germany without giving effect to the international uniform law provisions, particularly the UN Sales Convention.
- (2) Place of performance of either party and exclusive place of jurisdiction for all disputes under the contractual relationship shall be our place of business in Odelzhausen, Germany. However, in all cases we are also entitled to bring an action at the place of performance of the obligation to deliver in accordance with these GTCP or an overriding individual agreement or at the Seller's general place of jurisdiction. Any overriding statutory provisions, particularly on exclusive jurisdiction, remain unaffected.

Rheonik Messtechnik GmbH, Odelzhausen, January 01, 2024

