

## GENERAL TERMS AND CONDITIONS OF PURCHASE OF BODO EHMANN GMBH

### § 1 General Provisions, Scope of Application

(1) These Terms and Conditions of Purchase shall be applicable to any business relations with our suppliers exclusively. Deviating, conflicting or supplementing general terms and conditions of the Supplier shall only become a part of the contract if and to the extent to which we approved of their applicability expressly in writing. This approval requirement shall apply in any case, in particular also if we accept the delivery without any reservations and/or make payments though being aware of Supplier conditions which conflict with or deviate from our Terms and Conditions of Purchase.

(2) These Terms and Conditions of Purchase shall only be applicable if the Supplier is an entrepreneur (Section 14 of the German Civil Code ("BGB")), a legal person under public law or a special fund under public law (*öffentlich-rechtliches Sondervermögen*).

(3) Any individual agreements concluded with the Supplier in the individual case (including side agreements, supplements and amendments) shall always have priority over these Terms and Conditions of Purchase. As regards the content of such agreements, a written contract and/or a written confirmation given by us shall be decisive. Any information transmitted by fax or email shall be deemed equal to the written form.

(4) These Terms and Conditions of Purchase shall replace all previous terms and conditions of purchase. The Terms and Conditions of Purchase shall also be applicable to any future business with us, and we shall not be obliged to make any reference to these Terms and Conditions in each individual case.

(5) Any reference to the applicability of statutory provisions is for clarification purposes only. Therefore, the statutory provisions shall be applicable also without any such clarification unless they are directly amended or expressly excluded in these Terms and Conditions of Purchase.

### § 2 Orders

(1) Only written orders shall be binding. The same shall apply to other legally relevant declarations and notifications which are issued before or after conclusion of the contract. Any information transmitted by fax or email shall be deemed equal to the written form.

(2) The Supplier shall inform us before acceptance if the order – including all documents belonging to the order – contains errors (e.g. typing, drawing or calculation errors) or is incomplete so that we can correct or complete the order; otherwise the contract shall be deemed to be not concluded.

(3) Our orders can only be accepted within fourteen (14) calendar days from the date of order by means of a written confirmation. A delayed acceptance shall be regarded as a new offer and is to be accepted by us.

(4) If the Supplier has made us an offer for the provision of services, our subsequent written order shall be the acceptance of this offer.

(5) Without our prior written consent, the Supplier shall not be entitled to have services provided by third parties (e.g. contractors).

### § 3 Order Documents, Provisions

(1) We reserve any rights (in particular ownership and industrial property rights) to order documents (such as drawings, illustrations, plans, calculations and evaluations, product descriptions and other documents). These order documents are to be exclusively used for the contractual services and may not be made accessible to third parties without our express prior written consent. They shall be treated as secret within the meaning of section 13 (3). The order documents shall be returned to us without further request as soon as they are no longer required for executing the order.

(2) The above provision shall apply accordingly to materials (e.g. software, finished and semi-finished products) as well as to patterns, models, samples and other items which we provide to the Supplier for the purpose of contractual performance. Until being processed, such items shall be stored separately and secured adequately against destruction and loss at the Supplier's expense.

(3) Processing or reshaping of such items and materials provided by us shall be carried out in our name and at our expense. If goods subject to retention of title are processed together with or are connected to other items not owned by us, we shall obtain joint ownership in the new item in the ratio of the value of our original item to other items to be processed at the time of processing.

(4) We reserve title to all tools provided for fulfilling the obligation to supply. The Supplier will store the tools for us with the ordinary care free of charge. For the time for which the Supplier has the tools, the Supplier will insure them at its own expense for their as-new value against the usual risks such as loss or damage (fire, water and theft damage).

(5) The Supplier is obliged to carry out any maintenance and inspection work required on our tools in due time and at its own expense.

(6) Provided materials and tools may only be used to fulfil the Supplier's obligations or the Supplier's obligations arising from other orders placed by us. They may neither be loaned to nor made accessible to third parties or – in case of the tools – be copied for the purposes of third parties.

### § 4 Prices / Payment Conditions

(1) Unless agreed otherwise, the prices stated in the order shall be fixed prices "DDP factory Bodo Ehmann GmbH, Mainhausen" in accordance with the Incoterms 2010. They are binding and shall include the statutory VAT unless this tax is stated separately.

(2) Unless agreed differently in the individual case, the prices shall include all of the Supplier's services and ancillary services (e.g. for mounting and installation). Ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurances), taxes, customs duties and other charges – except for the VAT – shall be borne by the Supplier. On our request, the Supplier shall take back any packaging material at its own expense.

(3) Invoices shall include the information given in section 7 (5) and be issued in duplicate after complete delivery and/or – should an acceptance be required – after acceptance.

(4) By means of the invoice, the Supplier shall issue the supplier's declaration within the meaning of regulation (EC) no. 1207/2001 and confirm the goods' preferential originating status. The Supplier shall vouch for the correctness of the supplier's declaration and shall be liable towards us for any damage. The Supplier is permitted to issue a long-term supplier's declaration.

(5) After receipt of the deliveries our payments shall be effected as follows unless agreed differently: less 3% cash discount (from the net amount) within 14 days after receipt of invoice and after com-

plete delivery and/or acceptance or without any deduction within one month after receipt of invoice and complete delivery and/or acceptance. The payment shall neither imply a statement on the delivery's quality nor shall it restrict our rights.

(6) We do not owe any maturity interest. The Supplier's claim to a payment of default interest shall remain unaffected. Any default in payment on our part shall be governed by the statutory provisions; however, possibly in deviation herefrom, a written reminder by the Supplier shall be required in any case.

(7) We are entitled to rights of set-off and retention within the scope of statutory provisions.

(8) The Supplier is only entitled to rights of set-off and retention due to counter claims which have become res judicata or which have not been contested.

### § 5 Delivery Period, Delay in Delivery, Contractual Penalty

(1) The delivery periods or delivery dates stated in the order are binding. If the order includes a term of delivery, such term shall commence on the date of receipt of order. The delivery date is the day on which the delivery arrives at the place of destination specified by us.

(2) If the Supplier realises that delivery periods or dates cannot be met – for whatever reasons – the Supplier shall inform us thereof without undue delay.

(3) If the Supplier does not provide its service or not within the agreed delivery period or if the Supplier is in default, our rights – in particular our right of withdrawal and our right to compensatory damages – shall be governed by the statutory provisions. We do not accept any restrictions of liability. By accepting delayed deliveries, we do not waive the rights to which we are entitled by law.

(4) If the Supplier is in default, we may charge a contractual penalty in the amount of 1% of the net price per completed calendar week. However, the contractual penalty may in total not exceed an amount of 5% of the net price of the delayed goods. We are entitled to demand the contractual penalty in addition to performance and as minimum amount of the compensatory damages owed by the Supplier in accordance with the statutory provisions; the assertion of further damages shall remain unaffected. If we accept the delayed performance, we will assert the contractual penalty with the final payment at the latest.

(5) Any goods are to be delivered on weekdays (Monday to Friday) during the usual business hours (Monday to Thursday 7.00 am to 4.15 pm, Friday 7 am to 1.15 pm). By signing the delivery note and/or by actually accepting the delivered goods we do not declare that the delivery has been performed in accordance with the specifications.

(6) Should we not be able to accept deliveries due to acts of god – also including strikes, lockouts as well as interruptions of transport and operation on our premises for which we are not responsible – we shall be exempt from our obligation to accept deliveries for that period of time. In such cases, any claims of the Supplier for consideration as well as compensatory damages shall be excluded.

### § 6 Partial Deliveries, Dispatch, Passing of Risk, Default in Acceptance, Supplier's Retention of Title

(1) Partial deliveries and partial performance are subject to our consent.

(2) Deliveries shall be effected "DDP factory Bodo Ehmann GmbH, Mainhausen" in accordance with the Incoterms 2010. The Supplier shall send us a dispatch note upon shipping of the goods at the latest.

(3) Title to the goods shall be transferred to us without any conditions and regardless of the payment of the purchase price. In any case, any types of extended or expanded retention of title shall be excluded; i.e. any retention of title possibly declared by the Supplier effectively shall only be valid until payment of the goods supplied to us in the respective case and shall only apply to those goods.

### § 7 Quality, Documentation, Provision of Information

(1) The deliveries must comply with the agreed specifications.

(2) The deliveries must comply with the statutory provisions, the latest state of the art as well as the relevant environmental regulations; in particular, the deliveries must meet any relevant requirements stipulated by the German Electrical and Electronic Equipment Act ("*ElektroG*") as well as regulation (EC) no. 1907/2006 (REACH regulation). The Supplier must comply with possibly relevant safety regulations (e.g. the German Product Safety Act (*Produktsicherheitsgesetz*), CE regulations etc.).

(3) The Supplier shall set up and maintain a documented quality management system which is suitable as regards its type and size and which embodies the latest state of the art. The Supplier is e.g. holder of an ISO 9001 certification which is to be renewed on a regular basis. The Supplier shall create records, in particular on quality inspections, and shall make them available to us on request.

(4) By labelling the products or – if this is impossible or inexpedient – by means of other suitable measures the Supplier will ensure that in case of a product fault it is possible to immediately determine which other products may be affected (traceability).

(5) The Supplier's confirmation of order, shipping documents, delivery notes and invoices must include our order number and at least the following information: date of issuance and dispatch; quantity and unit of quantity; gross, net and – if applicable - calculation weight, item description with our item number, the project number and (in case of partial deliveries) the remaining quantity. The Supplier moreover undertakes to pay attention to the invoice addresses and addresses for shipment stated in the orders. Should the Supplier fail to comply with any of the above obligations, we will not be liable for any processing and payment delays resulting therefrom.

### § 8 Notification of Defects / Liability for Defects / Liability

(1) We are obliged to inspect the delivery for possible defects within a reasonable time limit. Our duty to inspect the goods is limited to defects which become obviously apparent when carrying out an outward examination of the goods, including the shipping documents, during our incoming goods inspection as well as when taking random samples during our quality inspection (e.g. transport damage, wrong or short deliveries). The notification of defect shall be in time if it is sent within five (5) weekdays (Monday to Friday), calculated from the date of receipt of goods or – in case of hidden defects – from the date of discovery (we only have to provide proof of having sent the notification in time).

(2) Our rights in case of defects of quality and title shall be governed by the statutory provisions along with the following amendments:

a) In derogation of Section 442 (1) Sentence 2 *BGB*, we are – without any restrictions - entitled to claims based on defects even if the defect was not identified by us upon conclusion of the contract due to gross negligence.

b) In derogation of Section 438 (1) No. 3 *BGB*, the limitation period for claims based on defects of quality amounts to three (3) years, calculated from the date of passing of risk, unless the law prescribes a longer period. In those cases in which an acceptance is provided by law or the contract, the period shall commence upon acceptance. The 3-year limitation period shall apply accordingly also to claims based on defects of title, in which case the statutory limitation period for in rem claims for return by third parties (Section 438 (1) No. 1 *BGB*) shall remain unaffected. Furthermore, claims based on defects of title shall by no means become time-barred as long as the third party may still assert the right vis-à-vis us.

c) If deliveries show defects, we are entitled to demand subsequent improvement (remedy of the defect) or a substitute delivery (delivery of a faultless good) at our choice. If the Supplier does not meet this obligation within a reasonable time limit set by us, we may remedy the defect ourselves and request the Supplier to compensate us for the required expenses and/or request an appropriate advance. If the subsequent improvement or substitute delivery has failed or is unacceptable for us (e.g. due to particular urgency, imminent occurrence of disproportionately high losses etc.), no time limit must be set; we will inform the Supplier of such circumstances without undue delay.

(3) The Supplier shall be liable for each degree of fault. We do not accept clauses of the Supplier which limit its liability.

### § 9 Product liability

(1) If the Supplier is liable for a product damage, the Supplier shall exempt us from claims by third parties upon first request to the extent to which the cause for such damage has originated in the Supplier's domain and organisational area and the Supplier itself is liable vis-à-vis third parties.

(2) Within the scope of its obligation to exempt us from liability, the Supplier shall reimburse us for any expenses arising from or in connection with a claim asserted by third parties including product recalls carried out by us. To the extent possible and reasonable, we will inform the Supplier about the matter and scope of recalls and give the Supplier the possibility of a statement. Any further statutory claims shall remain unaffected.

(3) The Supplier is obliged to insure itself sufficiently against all risks arising from the product liability and to provide proof of this insurance to us upon request.

### § 10 Property Rights

(1) The Supplier must guarantee that in connection with its deliveries no property rights of third parties will be violated in countries of the European Union, North America and other countries in which the delivered products will, for the Supplier predictably, be distributed.

(2) Should third parties assert claims vis-à-vis us due to violations of property rights, the Supplier is obliged to exempt us from such claims on first request and to reimburse us for all expenses required in connection with such claim. This exemption shall also apply vis-à-vis our customers. This obligation of exemption shall not apply if the Supplier has produced the delivered goods in accordance with our drawings, models or equal descriptions. Should the Supplier fear a violation of property rights in such case, the Supplier will inform us hereof immediately.

### § 11 Place of Performance

Place of performance for all deliveries and services shall be the place of destination specified by us (the delivery address stated in the order) and, if such place has not been stated explicitly, the factory of Bodo Ehmann GmbH, Mainhausen.

### § 12 Assignment

The Supplier is not entitled to assign its claims arising from this contractual relationship to third parties. This shall not apply in case of claims for money.

### § 13 Place of Jurisdiction / Secrecy / Miscellaneous

(1) The law of the Federal Republic of Germany shall be deemed to be agreed. The UN Sales Convention does not apply.

(2) The exclusive – also international – place of jurisdiction for any and all disputes from the delivery relation shall be Frankfurt am Main, Federal Republic of Germany. This shall also apply if the Supplier does not have a general place of jurisdiction within the country.

(3) The Supplier is obliged to keep secret any illustrations, drawings, calculations and other documents and information received. They may only be disclosed to third parties upon our express written consent. The obligation to observe secrecy shall continue to apply after the winding up of the contract and shall only cease to exist if and to the extent the information has become general knowledge.

(4) If individual provisions of these Terms and Conditions of Purchase should in whole or in part be null or void, this shall not affect the validity of the remaining provisions.

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