

General Terms and Conditions of Purchase of AICHINGER GmbH

§ 1 General and scope of application

(1) These General Terms and Conditions of Purchase apply to all business relationships with our business associates and suppliers (hereinafter referred to as: „the Vendor“). The General Terms and Conditions

of Purchase only apply if the Vendor is either an entrepreneur (§ 14 German Civil Code [BGB]) a legal person under public law or a special fund under public law.

(2) The General Terms and Conditions of Purchase apply specifically to contracts relating to the sale and/or supply of movable goods (hereinafter also referred to as: „Goods“), regardless of whether the Vendor produces said Goods himself or purchases them from a subcontractor (§§ 433, 651 BGB). The applicable version of the General Terms and Conditions of Purchase also serves as a framework agreement for future contracts with the same Vendor relating to the sale and/or supply of movable goods, with no obligation on our part to make explicit reference to this fact in each instance; we will inform the Vendor immediately of any changes to our General Terms and Conditions of Purchase.

(3) These General Terms and Conditions of Purchase apply exclusively. Alternative, conflicting or supplementary General Terms and Conditions of Business produced by the Vendor only form part of the contract if, and to the extent that, we have explicitly approved their validity in writing. This requirement for approval applies in every instance; even if, for example, we accept deliveries from the Vendor without reservation in full knowledge of the General Terms and Conditions of Business of the Vendor.

(4) Separate agreements concluded with the Vendor (including subsidiary agreements, addendums and amendments) always take precedence over these General Terms and Conditions of Purchase. The content of agreements of this nature is governed either by a written contract or by our written confirmation.

(5) Material declarations and notifications to us by the Vendor after conclusion of the contract (e.g. deadlines, reminders, declaration of withdrawal) must be made in writing in order to become legally valid.

(6) Information regarding the validity of statutory provisions is provided purely for the purposes of clarification. As such, said statutory provisions apply even in the absence of such clarification, provided they have not been directly amended or explicitly excluded in these General Terms and Conditions of Purchase.

§ 2 Conclusion of the contract

(1) Legally binding orders will generally be placed via email or fax. The Vendor shall inform us prior to acceptance if the order itself or any associated documentation contains obvious errors (e.g. typing errors and miscalculations) or omissions, so that said documents can be corrected or completed; if the Vendor fails to comply with this requirement, the contract will be deemed not concluded.

(2) The Vendor must confirm our order in writing within 1 („one“) week, or execute [accept] said order without reservation by way of dispatching the Goods. Delayed confirmation on the part of the Vendor will be considered a new quotation, requiring subsequent acceptance by us.

§ 3 Delivery deadline and default of delivery

(1) The delivery deadline indicated by us in the order is binding. If the delivery deadline is not indicated in the order and no separate agreement is made, the delivery deadline is 1 („one“) week from conclusion of the contract. The Vendor must inform us in writing immediately if it is likely that agreed delivery deadlines will not be met, for whatever reason.

(2) If the Vendor does not fulfil his contractual obligations or fails to do so by the agreed delivery deadline, or enters into default of delivery, our rights, specifically those in relation to withdrawal and compensation, will be determined in line with statutory provisions. The provisions set out in section (3) below remain unaffected.

(3) If the Vendor enters into default of delivery, we will be entitled to request, in addition to more comprehensive statutory rights, flat-rate compensation for the damage we incur as a result of the default, in the amount of 1% of the net price; this rate applies per full calendar week of default, up to a maximum of 5% of the net price of the Goods subject to delay. We reserve the right to demonstrate that damage beyond this scope has been incurred. The Vendor reserves the right to demonstrate that we have incurred no damage or significantly lesser damage.

§ 4 Fulfilment of contractual obligations, delivery, transfer of risk, default of acceptance

(1) The Vendor must not commission third parties (e.g. sub-contractors) to fulfil his contractual obligations without our prior written approval. Where no separate agreement has been made, the Vendor shall bear the procurement risk for fulfilment of his contractual obligations (e.g. sale of goods from stock).

(2) Deliveries within Germany will be made at no extra charge, to the location indicated in the order. If the place of destination is not indicated and no alternative agreements have been made, deliveries must be dispatched to our headquarters in Wendelstein [Germany]. In each instance, the place of destination is also the place of performance.

(3) The delivery must include a delivery note that indicates the date [of issue and dispatch], the content of the delivery [item numbers and quantity] and our order identification details [date and number]. If the delivery note is missing or incomplete, we will not be liable for any associated delays in processing and payment.

(4) Acceptance of the risk of accidental damage and accidental deterioration will be transferred to us upon handover at the place of performance. Transfer of risk will be governed by any agreement reached on acceptance of the Goods. Further, the applicable statutory provisions of German law on contracts for work and services [Werkvertragsrecht] apply in the case of acceptance of the Goods. If we are in default of acceptance, risk will be deemed transferred or accepted.

(5) Entry into default of acceptance is governed by statutory provisions. However, the Vendor must also explicitly offer us his contractually agreed services if a specific or definable date has been agreed for action or co-operation on our part (e.g. the provision of materials). If we enter into default of acceptance, the Vendor is entitled, in line with statutory provisions, to request compensation for any extra expenses incurred [§ 304 BGB]. If the contract relates to the manufacture by the Vendor of any non-fungible goods [custom-made], the Vendor will only acquire additional rights if we have undertaken to work in co-operation and if we are responsible for the failure of said co-operation.

§ 5 Pricing and terms of payment

(1) The price indicated in the order is binding. All prices include statutory sales tax, unless this component is shown separately.

(2) In the absence of any individual agreements to the contrary, the price includes all goods and services to be provided by the Vendor, including any additional services (e.g. assembly, installation) and all incidental expenses (e.g. appropriate packaging or transportation costs, including any liability insurance). At our request, the Vendor shall dispose of any packaging materials.

(3) The agreed price is payable within 30 („thirty“) calendar days of complete delivery, fulfilment of contractual obligations (including any agreements regarding acceptance) and receipt of a suitable invoice. If we make payment within 14 („fourteen“) calendar days, the Vendor will grant us a 3% discount on the net invoice total. In the case of bank transfers, payment is considered promptly made provided our transfer order is presented to our bank prior to the end of the payment term; we accept no liability for delays attributable to the banks involved in the payment transaction.

(4) We are not obliged to pay interest from the due date [Fälligkeitsszinsen]. Annual default interest [Verzugszins] amounts to 5 („five“) percentage points above the base rate. Entry into default on our part is governed by statutory provisions and the Vendor must issue a written reminder in each case. This requirement may be in derogation of the said provisions.

(5) We have the right to set off and the right to retention, as well as the right to defence of unperformed contract, in compliance and scope of the applicable statutory provisions. Specifically, we are entitled to withhold payments that are due, provided we still have a claim against the Vendor in connection with incomplete or inadequate performance of contractual obligations.

(6) The Vendor only has the right to set off and the right to retention in the case of legally established or undisputed counter-claims.

§ 6 Confidentiality and retention of title

(1) We reserve the right of title and intellectual property rights to illustrations, plans, drawings, calculations, instructions, product descriptions and other documents. Documents of this type must be used exclusively for the performance of contractual obligations and must be returned to us upon completion of the contract. The documents must be kept confidential from third parties, even after the completion or termination of the contract. The obligation to maintain confidentiality only lapses if, and insofar as, the knowledge contained in any documents provided enters the public domain.

(2) The preceding provision shall in equal measure be applicable to products and materials (e.g. software, semi-finished products and finished products) and to tools, templates, samples and other items that we provide to the Vendor for the purposes of production. Items of this kind, provided they are not subsequently processed in some way, must be stored separately by the Vendor at his own cost and must be adequately protected against loss and destruction.

(3) The Vendor shall process, mix or combine (further processing) the items provided by us on our behalf. The same applies to further processing by us of the Goods supplied, by means of which we become the manufacturer and acquire, at the latest at the point of further processing and in line with statutory provisions, ownership of the product.

(4) Ownership of the Goods must be transferred to us without restriction and irrespective of payment of the purchase price. However, if we accept an offering from the Vendor subject to payment of the purchase price in return for transfer of ownership, the Vendor's right of title lapses at the latest when the purchase price of the Goods supplied has been paid. In the course of ordinary business, we remain authorised, even prior to payment of the purchase price, to resell the Goods, assigning in advance the resulting claim (alternatively, applying the simple right of title and right of title extended to the resale). Exceptions to this provision are all other forms of right of title; specifically, any extended reservation of title, transferred right of title extended to subsequent processing.

§ 7 Inadequate or bad delivery

(1) Insofar as no alternative provisions are subsequently applied, our rights in connection with material defects and defects of title affecting the Goods (including incorrect and incomplete delivery, improper assembly and inadequate assembly or operating instructions) and in connection with other breaches of duty by the Vendor are subject to the applicable statutory provisions.

(2) In keeping with the applicable statutory provisions, the Vendor is liable, specifically, for ensuring that the Goods are in line with the agreed specifications upon transfer of risk to us. The product descriptions that, specifically by means of indication or reference in our order, form the subject of the contract or have been appended to the contract in the same way as these General Terms and Conditions of Purchase constitute an agreement on the required specifications. The point above applies regardless of whether the product description was produced by us, the Vendor or the manufacturer.

(3) Contrary to the provisions of § 442 Para. 1 sentence 2 BGB, we retain full rights in connection with claims due to defects even if the defect was not known to us upon conclusion of the contract due to gross negligence.

(4) The commercial obligation to examine and provide notification of a defect is subject to the applicable statutory provisions (§§ 377, 381 German Commercial Code [HGB]), with the following stipulations: Our obligation to examine is limited to defects that become apparent from our incoming goods checks, with an external assessment and by checking the delivery documents, and from the random sampling that forms part of our quality control process (e.g. damage sustained during transportation, incorrect delivery or incomplete delivery). There is no obligation to examine if prior acceptance has been agreed. Further, the obligation to examine depends upon the extent to which examination taking into account the individual circumstances is feasible within the parameters of standard business operations. Our obligation to provide notification of defects subsequently discovered remains unaffected. In all instances, notification [of defects] will be deemed provided immediately and promptly if submitted to the Vendor within 5 („five“) working days of delivery.

(5) The Vendor shall bear all costs incurred in connection with the verification and rectification of defects (including costs of removal and re-installation where this is necessary), even if it becomes apparent that there was in fact no defect. Our liability for damages in the case of unjustified requests for rectification of defects remains unaffected; however, we will only accept liability if we knew, or through gross negligence did not know, that there was no defect.

(6) If the Vendor fails to fulfil his obligation to complete supplementary work, which, at our discretion, may take the form of rectification of the defect (rework) or delivery of a defect-free item (replacement), within a reasonable timeframe as specified by us, we are entitled to rectify the defect ourselves and to request from the Vendor compensation for the resulting expenses or a corresponding advance credit amount. If the supplementary work completed by the Vendor is not successful or the completion of supplementary work is not



an acceptable solution for us (e.g. due to the particular urgency of the situation, a risk to operational safety or the imminent likelihood of disproportionate damage), there is no obligation to set a deadline; we will inform the Vendor immediately, where possible in advance, if such a situation arises.

- (7) Further, in accordance with the applicable statutory provisions we are entitled to reduce the purchase price or withdraw from the contract in the case of any material defect or any defect of title. Also in accordance with the applicable statutory provisions, we are entitled to make a claim for damages and reimbursement of expenses.

§ 8 Manufacturer's liability

- (1) If the Vendor is responsible for a product liability issue, he must indemnify us against claims by third parties insofar as the cause lies within his area of control and responsibility and he has personal liability vis-à-vis third parties.
- (2) Within the scope of his obligation to provide indemnification, the Vendor must reimburse us, in accordance with §§ 683, 670 BGB, for expenses resulting from or in connection with a claim by a third party, including any recall campaigns we initiate. Where possible and reasonable, we will inform the Vendor of the nature and scope of any recall campaigns and give him the opportunity to respond. Any further legal claims remain unaffected.
- (3) The Vendor must conclude and maintain product liability insurance with blanket cover of at least 10 („ten“) million euro per instance of personal/property damage.

§ 9 Limitation of actions and liability in time

- (1) In the absence of any subsequent provisions to the contrary, the limitation of actions for reciprocal claims on the part of the contractual partners is in line with applicable statutory provisions.
- (2) Contrary to § 438 Para. 1 No. 3 BGB, the general limitation period for claims due to defects is 3 („three“) years from transfer of risk. If acceptance of risk has been agreed, the limitation period begins upon acceptance. The three-year limitation period applies in equal measure to

claims in connection with any defect of title, whereupon the statutory limitation period for the rights of third parties to and their claim for return of any purchased item (§ 438 para. 1 No. 1 BGB) remains unaffected; further, there is no limitation period for claims in connection with any defect of title provided the third party is still entitled to bring the claim against us, particularly in the absence of a limitation period.

- (3) The limitation periods associated with the purchase and sale of goods and services, including any extensions, outlined above, apply to the extent stipulated by statutory provisions, for all contractual claims related to all kind of defects. Insofar as we are entitled, in connection with a defect, to make further claims for damages outside the terms of the contract, the standard statutory limitation period (§§ 195, 199BGB) applies, provided application of the limitation periods associated with the UN Convention on Contracts for the International Sale of Goods does not result in a longer limitation period.

§ 10 Choice of law and court of jurisdiction

- (1) These General Terms and Conditions of Purchase and all other legal relationships between us and the Vendor are solely subject to the law of the Federal Republic of Germany, with explicit exclusion of uniform international law; specifically, the UN Convention on Contracts for the International Sale of Goods shall not be applicable. The requirements and effects of reservation of title are subject to the prevailing law at the storage location, insofar as, subsequently, the choice of law in favour of German law becomes impermissible or ineffective.
- (2) If the Vendor is an entrepreneur as defined by the German Commercial Code, a legal person under public law or a special fund under public law, the sole court of jurisdiction for all disputes arising from the contractual relationship, even internationally, is our headquarters in Wendelstein (Germany). However, we reserve the right to bring an action at the place of performance of the delivery obligation.

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