



# General Terms and Conditions of Purchase of BAUER Lean-Engineering GmbH

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## § 1 Scope of application - General

1. Our Terms and Conditions of Purchase shall only apply to entrepreneurs pursuant to Section 310 (1) BGB.
2. All our business transactions with suppliers or other contractors (hereinafter jointly referred to as "Suppliers") shall be governed exclusively by these General Terms and Conditions of Purchase (GTCP). We hereby object to any terms and conditions of sale and delivery as well as other terms and conditions of the Supplier. They shall not apply. This shall also apply insofar as the terms and conditions of sale and delivery or other terms and conditions of business of the Supplier contain provisions that go beyond the provisions of these Terms and Conditions of Purchase. Our Terms and Conditions of Purchase shall also apply if we accept the supplier's delivery or service without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase.
3. Our Terms and Conditions of Purchase shall also apply to all future transactions with the supplier. We shall be entitled to amend these Terms and Conditions of Purchase with effect for the entire future business relationship with the Supplier following a corresponding notification. The notification shall be made in writing. If the supplier does not object to the changes communicated in the notification within 6 weeks of receipt of the notification, the modified terms and conditions of purchase shall be deemed to have been accepted by the supplier. In our notification, we shall draw the supplier's attention to this legal consequence.
4. If a framework agreement exists between the Supplier and us, these Terms and Conditions of Purchase shall apply both to this framework agreement and to the individual orders, unless otherwise agreed in the corresponding framework agreement.
5. Should one of the provisions of these Terms and Conditions of Purchase be or become invalid, this shall not affect the validity of the remainder of the contract. The invalid provision shall then be replaced by the statutory provision. In no case shall the invalid provision be replaced by the supplier's terms and conditions.

## § 2 Order and order documents

1. An order shall not be deemed to have been placed until it has been placed by us in writing (including by e-mail). Orders placed verbally or by telephone shall only be binding on us if we subsequently confirm them in writing within the meaning of sentence 1. Inquiries on our part are subject to change and non-binding until the contract is concluded.
2. The supplier is obliged to accept our order within a period of 2 weeks.
3. By accepting the order, the supplier acknowledges that he has informed himself about the type of execution and scope of the service by inspecting the available documents. In the event of obvious errors, typing and calculation errors in the documents submitted by us, etc., we shall not be bound by them. The supplier is obliged to inform us of such errors so that our order can be corrected accordingly. This shall apply analogously in the event that documents are missing.



4. We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents. They may not be made accessible to third parties without our express written consent. They are to be used exclusively for production on the basis of our order. After completion of the order, they must be returned to us unsolicited. They must be kept secret from third parties; in this respect, the provision in § 11 shall also apply.
5. By accepting the order, the supplier acknowledges the regulations for external companies regarding conduct on our company premises or our premises which it must enter in order to carry out the order. When entering our company premises or our premises, the supplier shall sign the corresponding guidelines, if such guidelines exist for the respective factory premises or the respective premises.

### **§ 3 Prices - Invoices - Terms of payment - Assignment**

1. The price stated in the order is binding. All prices are net prices plus the statutory value added tax. Other ancillary costs such as customs duties, insurance premiums and similar shall be borne by the supplier.
2. Unless otherwise agreed in writing, the price shall include delivery "free domicile" and packaging. Insofar as we have to bear the shipping costs by way of exception due to a deviating written agreement, the supplier shall choose the shipping method specified by us, or alternatively the most favorable one for us. Insofar as we have to bear the packaging costs by way of exception on the basis of a deviating written agreement, the packaging costs shall be charged at cost price, whereby the supplier shall choose the type of packaging specified by us and shall ensure that the goods are protected from damage by the packaging.
3. We can only process invoices if they contain the BAUER order number shown on the order, in accordance with the specifications in our order. The Supplier shall be responsible for all consequences arising from non-compliance with this obligation, unless he can prove that he is not responsible for them. Furthermore, the invoices must comply with the provisions of the Value Added Tax Act.
4. Unless otherwise agreed in writing and provided that there are no rights on our part to the contrary, we shall pay the purchase price net within 14 days with a 2% discount or net within 30 days of delivery and proper invoicing. Decisive for the beginning of the discount period is the receipt of the corresponding invoice by us. Invoices that do not contain the information specified in § 3 (3) and/or contain incorrect invoice amounts shall only be deemed to have been received by us after receipt of a corrected invoice.
5. If the provision of a work service is the subject of this contract, acceptance shall take the place of delivery.
6. We shall be entitled to rights of set-off and retention to the extent permitted by law.
7. The assignment of claims of the supplier arising from the contractual relationship with us is not permitted without our prior written consent. In the event that the supplier has assigned a counterclaim against us to a third party, we shall be entitled to make payment to the supplier with discharging effect against the third party

### **§ 4 Delivery dates**

1. The delivery date stated in the order is binding.
2. We are under no obligation to accept the goods before the delivery date has expired. In the event of premature delivery, we shall be entitled, at our discretion, to return the goods at the supplier's expense or to store them at the supplier's expense and risk.
3. The supplier is obliged to inform us immediately in writing if circumstances arise or become apparent to him which indicate that the agreed delivery date cannot be met.
4. If the supplier is in default of delivery for reasons for which he is responsible, we shall be entitled to charge the supplier a contractual penalty of 0.1% of the contractually agreed price per calendar day of default, up to a maximum of 5% of the order value (excluding VAT). Further claims for damages on our part remain unaffected. Offsetting by the supplier against a forfeited contractual penalty is only permissible with legally established or recognized counterclaims. We are entitled to assert the



contractual penalty until payment to the supplier for the delivery affected by the delay. If and insofar as we have agreed intermediate delivery dates with our suppliers, we clarify that the contractual penalty is always based only on the contractually agreed final delivery date. The time of delivery may also be the time of completion if a contract for work and services exists.

5. Further statutory claims, such as withdrawal or compensation in lieu of performance, remain reserved.

## **§ 5 Transfer of risk - documents**

1. Unless otherwise agreed in writing, delivery shall be "free domicile".
2. The risk shall pass - even if delivery ex works or shipment at our expense has been agreed - upon arrival of the delivery at our premises or at the place of delivery specified by us.
3. The delivery of drawing parts must be accompanied by the following documents: original drawings, order specifications or parts lists. Otherwise the delivery shall be deemed incomplete. In the case of multiple deliveries of the same parts, corresponding copies must be enclosed.
4. The supplier is obliged to state our order number, our order item, the part designation, the ID number and our project number exactly on all shipping documents and delivery bills. If he fails to do so, we shall not be responsible for delays in processing.

## **§ 6 Inspection for defects - Warranty - Liability for defects - Quality assurance - REACH**

1. We are obliged to inspect the goods for any deviations in quality and quantity within a reasonable period of time. The complaint shall be deemed timely if it is received by the supplier within a period of 7 calendar days, calculated from receipt of the goods or, in the case of hidden defects, from discovery.
2. The goods to be delivered must be free of defects, comply with the specifications provided by us, be developed and manufactured according to the latest state of the art, be usable for the contractually stipulated purpose without restriction and comply with the relevant statutory and official protective regulations applicable in the Federal Republic of Germany.
3. We shall be entitled to the statutory claims for defects. In any case, we shall be entitled to demand that the supplier, at our discretion, remedy the defect or deliver a new item. We expressly reserve the right to claim damages, in particular damages in lieu of performance.
4. We are entitled to remedy the defect ourselves at the supplier's expense if there is imminent danger or particular urgency.
5. The limitation period for material defects and defects of title is 2 years. It begins with the delivery of the goods or with the acceptance of the service/goods by us. For repaired or newly delivered parts of the supplier, the limitation period begins with the completion of the repair or the new delivery.
6. The supplier undertakes to ensure continuous quality assurance by means of suitable tests and checks, in particular before goods are dispatched. He must document these tests and inspections. We are entitled to convince ourselves of the type of quality assurance on site, if necessary also at sub-suppliers. In addition, we expressly reserve the right to conclude a quality assurance agreement with the supplier.
7. The supplier undertakes to supply us only with goods that fulfill all requirements of the EU Regulations (EC) 1907/2006 ("REACH") and (EC) 1272/2008 ("CLP Regulation"). These obligations include, in particular, the registration and information obligations under REACH and the obligation to classify, label and package under the CLP Regulation. The supplier shall provide us with the necessary safety data sheets for substances and mixtures free of charge upon request in order to determine the suitability of the materials. The supplier shall, without being requested to do so, send us safety data sheets free of charge in good time before the first delivery and again as soon as relevant changes become necessary. In particular, we regard the fulfillment of the registration obligation and the transmission of current and complete safety data sheets as an essential basis for all deliveries. The supplier hereby indemnifies us against all recourse claims by third parties in the event that the safety data sheets are not supplied, supplied late or supplied incorrectly. In the case of delivery of products



in accordance with the definition of REACH, the supplier undertakes to supply us only with products whose content of substances of very high concern on the "candidate list" of the European Chemicals Agency does not exceed 0.1% (m/m). The supplier shall inform us if a substance on the candidate list - even below the limit of 0.1% - is contained in the goods.

## § 7 Product liability - Indemnification

1. Insofar as the supplier is responsible for product damage, he shall be obliged to indemnify us against claims for damages by third parties upon first request to the extent that the cause lies within his sphere of control and organization and he himself is liable in relation to third parties.
2. Within the scope of its liability for cases of damage within the meaning of para. 1, the supplier shall also be obliged to reimburse any expenses pursuant to §§ 683, 670 BGB and pursuant to §§ 830, 840, 426 BGB which arise from or in connection with a recall campaign carried out by us. We shall inform the supplier of the content and scope of the recall measures to be carried out - as far as possible and reasonable - and give him the opportunity to comment. Other statutory claims shall remain unaffected.
3. If we should have discovered the defect for which the supplier is responsible and/or should have taken measures to avert the damage, we shall only be liable in relation to the supplier for intent and/or gross negligence on the part of our executive bodies, employees and vicarious agents.
4. The supplier waives the right to assert recourse claims against us in connection with product or producer liability. However, this exclusion shall not apply in the event of intent or gross negligence or negligent breach of material contractual obligations by us or in the event of intentional or negligent injury to life, limb or health by us.

## § 8 Property rights

1. The supplier warrants that no third-party rights are infringed in connection with its delivery.
2. If claims are asserted against us by a third party due to an infringement of its rights pursuant to paragraph 1, the supplier shall be obliged to indemnify us against these claims upon first written request.
3. The supplier's obligation to indemnify relates to all expenses necessarily incurred by us from or in connection with the claim by a third party.
4. The limitation period is ten years, calculated from the conclusion of the contract.

## § 9 Retention of title by the supplier

1. If the delivered goods are goods that must be sold by us quickly due to their nature or their intended use, the supplier's retention of title to the goods is excluded. We shall then retain unrestricted title upon delivery of the goods to our premises or to the receiving points specified by us.
2. A current account reservation as well as an extended reservation of title of the supplier to the goods delivered by him is excluded in any case. Provisions deviating from this in the supplier's General Terms and Conditions, order confirmation, delivery bill and invoices shall have no legal effect, even without any objection on our part in individual cases.

## § 10 Provision

1. If we provide parts to the supplier, we reserve title to these parts. Processing or transformation by the supplier shall be carried out on our behalf. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
2. If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved item (purchase price plus VAT)



to the other mixed items at the time of mixing. If the mixing takes place in such a way that the supplier's item is to be regarded as the main item, it is agreed that the supplier shall transfer co-ownership to us on a pro rata basis; the supplier shall hold the sole ownership or co-ownership for us.

## § 11 Secrecy

1. As a rule, BAUER concludes a dedicated non-disclosure agreement with its suppliers. In the absence of a non-disclosure agreement, the provisions of paragraphs 2 and 3 shall apply instead.
2. The supplier is obliged to keep all illustrations, drawings, calculations and other documents and information received from us strictly confidential. They may only be disclosed to third parties with our consent. The confidentiality obligation shall also apply after the completion of this contract. The supplier shall not be obliged to maintain secrecy or shall not be obliged to maintain secrecy if the illustrations, drawings, calculations and other documents provided to him are publicly known at the time they are handed over to him. Should the documents and information become public knowledge at a later date, the confidentiality obligation shall cease to apply from the time they become public knowledge. The confidentiality obligation shall also cease to apply if the documents/information become known to the supplier by a third party in a lawful manner or if the supplier must disclose them due to a court or official order.
3. If the supplier breaches its confidentiality obligation, it shall be obliged to pay us an appropriate contractual penalty for each breach, to be determined by us at our due discretion. The supplier and/or we shall be entitled to request the competent court to review the amount of the contractual penalty.

## § 12 Assignment

Rights and obligations arising from this contractual relationship may only be transferred to third parties with our consent.

## § 13 Choice of law and place of jurisdiction

1. These General Terms and Conditions of Purchase and the contractual relationship between us as the Buyer and the Supplier shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the supplier is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, our registered office in Vaihingen an der Enz shall be the exclusive, and also international, place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same applies if the supplier is an entrepreneur within the meaning of § 14 BGB.
3. We are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions of Purchase or an overriding individual agreement or at the supplier's general place of jurisdiction. This shall not affect overriding statutory provisions (exclusive places of jurisdiction).

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