

General Conditions of Purchase

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§ 1 General information, scope

- (1) The legal relationships between supplier and **purchaser (=Springfix)** are governed by these conditions and any other agreements in writing. Other General Conditions shall not apply even if they were not explicitly vetoed on a case-by-case basis.
- (2) Any amendment or addendum to this agreement requires the written form. Verbal ancillary agreements and amendments are ineffective. This is also true of any amendment to this requirement for the written form. Other forms such as text or electronic form shall only apply if this is explicitly regulated on a case-by-case basis in these conditions.
- (3) These agreements shall also apply to all future transactions with the supplier, especially for follow-up, call and new orders unless the contract has finally ended.

§ 2 Order placement

- (1) The purchaser is bound to his order for two weeks. The supplier is obliged to issue a confirmation of the order within this period. Text form instead of the written form is sufficient for this purpose. An effective contract will not come into force without the order being confirmed. As long as the purchaser has not received confirmation of his order, he may cancel his order at any time by means of a unilateral declaration in text form.
- (2) Supply contracts (order and acceptance) and call-offs as well as amendments and addenda thereto require the written form. Call-offs may also be effected via data transmission.
- (3) The purchaser is entitled to make changes to his order at any time, whereby increases or reductions in costs must be taken into account appropriately. If the parties cannot agree on increases or reductions in costs during a contractual relationship that has not yet been settled, an arbitrator shall reach a decision that is binding for both parties. If the parties cannot agree on who should be the arbitrator, this shall be determined on a binding basis by the Chairman of the Stuttgart Chamber of Commerce and Industry.

§ 3 Prices and payment conditions

- (1) The price shown in the order is binding. The statutory sales tax is not included in the price but must be shown separately. The price includes delivery to the agreed place of delivery ("free domicile") including packaging. A separate agreement is required in each case to return the packaging.
- (2) Payment by the purchaser shall take place within 30 days of receiving the delivery and invoice. If premature deliveries are accepted, the due date for payment shall be governed by the agreed delivery date. Payment shall take place solely by bank transfer unless agreed otherwise in writing on an exceptional basis.
- (3) In the event of delivery being defective, the purchaser is entitled to retain payment in proportion to the value of the defective goods until proper fulfilment of the contract.
- (4) The supplier is obliged to draw up a proper, sufficiently detailed invoice. The supplier's invoices must include at least the order number, delivery note number, article number/ material number and article description. As long as one or more of these details are missing, payment is not yet due.
- (5) The supplier is not entitled without the prior consent of the purchaser to assign his claims or have them collected by third parties. Any assignment to which consent has not been given shall be ineffective. However, the purchaser is free to make payment to the supplier or the third party, effectively discharging the obligation. Costs, which arise through an unauthorised assignment, are not to be paid by the purchaser.
- (6) The purchaser enjoys the rights of offset and retention permitted by law.

§ 4 Conditions of delivery

- (1) The delivery deadlines or periods quoted in the order are binding. Receipt of the merchandise by the purchaser is definitive for compliance with delivery deadlines.
- (2) The supplier is obliged to notify the purchaser in writing promptly if circumstances occur or of which he becomes aware, which mean that the agreed delivery time cannot be met. Possible other claims by the supplier shall remain unaffected by this.

- (3) The supplier undertakes to comply completely with agreed delivery quantities, including those that are part of call orders. The supplier shall be in default, without any reminder, if the merchandise is not delivered by the end of the specified delivery time (day, week, month).
- (4) The supplier must clearly quote the order number, the article number, the article description, an indication of quantity as well as the number of packages on all shipping documents and delivery notes. If he omits to do this and this results in delays in processing the merchandise at the purchaser, the supplier will be responsible for these delays.
- (5) Delivery notes must be attached to the merchandise in triplicate.
- (6) If the supplier is in default and the purchaser incurs a loss as a result, the supplier shall be obliged to pay compensation in the statutory amount on account of delay or non-performance of the service.

§ 5 Notice of defects

- (1) The purchaser must notify the supplier of any defects in writing promptly as soon as they are identified in the normal course of business. The supplier shall waive any objection based on delayed notice of defects.
- (2) The purchaser is exempted from the commercial duty to examine and give notice of defects pursuant to section 377 of the German Commercial Code (HGB). The duty to examine and give notice of defects in identity and quantity, damage that occurred during transport and storage on receipt of goods and to give notice promptly of defects discovered at a later date shall remain unaffected by this.

§ 6 Quality and liability for defects

- (1) The supplier must comply with the generally accepted rules of engineering, the current safety standards and the agreed technical data for his deliveries. He must ensure that the merchandise supplied meets the contractually agreed purpose in full.
- (2) The purchaser is entitled to carry out audits at any time, subject to appropriate advance notice, and other inspections, which are needed to review the agreed production and quality assurance standards properly.
- (3) The supplier must demonstrate the ability to deliver high-quality goods for mass production through initial sampling in accordance with VDA recommendations (VDA = Association of the German Automotive Industry) when requested by the purchaser. The supplier undertakes to carry out the measures needed to maintain the above-mentioned VDA standards and assume the quality monitoring needed for this purpose. The purchaser must be notified promptly in writing of disruptions in the quality assurance process – including that for parts purchased from third parties or processed. Section 5 (2) of this agreement shall apply mutatis mutandis. The purchaser is not required to carry out any further inspections.
- (4) If defective merchandise is delivered, the purchaser may demand the following, if the respective statutory conditions, listed below, apply and unless agreed otherwise:
 - a) Before production (processing or installation) starts, the purchaser must first give the supplier the opportunity to weed out the defective merchandise and to rectify the defects or to make subsequent (replacement) deliveries, unless this is unreasonable for the purchaser. If the supplier cannot do this or does not do this immediately, the purchaser may withdraw from the contract in this respect without setting an additional period and return the merchandise at the risk and expense of the supplier.
 - b) If the defect is not identified until after production starts despite the purchaser having complied with the obligation in section 5, the purchaser is free in accordance with section 439 (1), (3) and (4) of the German Civil Code (BGB) to demand rectification and reimbursement of the transport costs required for the purposes of rectification as well as removal and installation costs (labour costs, cost of material) or reduce the purchase price.
- (5) The cause of faults must be investigated by the supplier at his expense. The results of the investigation and the scope of the tests required for the new delivery must be agreed with the purchaser.
- (6) The purchaser shall have a claim against the supplier for those costs and expenses, which are necessary to prevent or limit disruptions to production at the purchaser's premises or those of his customers.
- (7) If the defect is only identified once merchandise produced by the purchaser has been supplied to third parties and if the supplier is responsible for the defect, he shall be obliged to pay compensation to the purchaser and the third party. The purchaser undertakes to inform the supplier promptly after becoming aware of such defects. The provisions of sections 478, 479 of the

German Civil Code (BGB) apply mutatis mutandis in the relationship between the purchaser and supplier.

- (8) If a claim based on his product liability is made against the purchaser because of the defectiveness of a product, the purchaser will inform the supplier promptly and fight off these claims in consultation with the supplier. The supplier shall support the purchaser at his own expense in fighting off these claims and shall reimburse the purchaser with all the costs that were incurred as a result of a product liability case for which the supplier was responsible. If a recall is ordered by the authorities because of the defectiveness of a product developed and/or supplied by the supplier or is objectively necessary to avoid people being harmed, the supplier shall be obliged to reimburse all costs arising from the recall (in particular, costs of material, removal and installation, costs caused by operations being interrupted at the purchaser's end customers' premises or costs caused by a lack of operational readiness on the part of the customers' end products manufactured with the supplied part as well as other settlement costs.
- (9) The supplier undertakes to maintain product liability insurance cover with a sum insured of € 6 million per personal injury or damage to property and to provide evidence of this if requested by the purchaser. The supplier is aware of the fact that product liability insurance does not, as a rule, offer insurance cover for financial losses caused by a vehicle recall. As far as financial losses, which are incurred because of an (impending) recall because of the risk of personal injury caused by merchandise supplied by the supplier, are concerned, the supplier must conclude suitable supplementary cover for vehicle recall costs and provide evidence of this.

§ 7 Call orders

Orders characterised as call orders do not oblige the purchaser to purchase the planned quantities which were taken as a basis for planning. The purchaser is only obliged to purchase the call quantities he requested on a binding basis. The supplier is likewise entitled to pre-order the quantities released for pre-ordering and procure any materials needed. If production is not continued or less is called than planned, the purchaser remains obliged to reimburse any materials procured through pre-ordering.

§ 8 Property rights

- (1) The illustrations, drawings, calculations and other documents made available to the supplier by the purchaser may only be used to carry out the order. The purchaser shall retain his title and copyrights to the information made available. They may not be made accessible to third parties without the prior, explicit, written consent of the purchaser. They must be returned to the purchaser voluntarily and without delay when the contract ends or at his request.
- (2) The supplier shall be liable for claims resulting from infringements of property rights and accumulations of property rights when the items supplied are used in accordance with the contract, of which at least one of this group of property rights is published in either the supplier's home country, by the European Patent Office or in one of the following states: the Federal Republic of Germany, France, the UK, Austria, Switzerland or the USA.
- (3) The supplier shall release the purchaser and his customers from all claims resulting from use of such property rights.
- (4) The contracting partners undertake to notify each other promptly of risks of infringements of which they become aware and alleged infringements and to give each other the opportunity to counter claims of this kind amicably.
- (5) The purchaser shall – without the consent of the supplier – neither fight off claims from the infringement of property rights for which the supplier is responsible nor reach settlements or conclude other agreements with the claimants.
- (6) The supplier shall not be liable for the infringement of property rights, which were produced by the supplier through drawings handed over by the purchaser, models or other equivalent specifications, provided that the supplier was neither aware of the infringement of property rights nor would he have been aware had he exercised commercial diligence.

§ 9 Retention of title

- (1) The supplier shall retain title to all merchandise supplied by him until payment is received in full (simple retention of title).
- (2) If the purchaser makes merchandise available to the supplier for fulfilment of the contractual purpose, the purchaser shall retain unrestricted title to the merchandise.
- (3) If the merchandise provided is combined with other items to produce a uniform item and the other item is to be viewed as the main item, the supplier is

obliged to transfer pro rata joint-title to the purchaser in as much as the main item belongs to him.

§ 10 Tools

- (1) If the purchaser makes tools or machinery available to the supplier to fulfil the contractual purpose, the purchaser shall retain unlimited title to these items. The supplier is obliged to keep the tools and machinery safe for the purchaser. For the duration of their safekeeping, the supplier shall bear all the costs and burdens associated with these items including the cost of insuring them against natural disasters.
- (2) The supplier is obliged to use tools made available to him by the purchaser solely for the merchandise ordered by the purchaser. The supplier is also obliged to insure the tools provided at replacement value at his own expense (against fire, water damage and theft at least) and to provide evidence of this if requested by the purchaser. The supplier shall be liable himself for uninsured risks. The supplier shall assign all rights to compensation from this insurance to the purchaser.
- (3) The supplier must carry out all maintenance and inspection work needed on the purchaser's tools as well as all maintenance and repair work in good time at his own expense. The purchaser must be notified of any breakdowns without delay. If the supplier omits to do so culpably, rights to compensation shall be unaffected.

§ 11 Limitation

The limitation period for the purchaser's claims as well as rights accruing to him because of defects – irrespective of their legal grounds – shall amount to four years. This period shall also apply if the claims are not associated with a defect. In the case of rectification by the supplier, the limitation period will start to run again for the rectification. Longer statutory limitation periods and further legal provisions regarding suspension and the recommencement of periods shall remain unaffected.

§ 12 Applicable law

- (1) These conditions shall be governed solely by the law of the Federal Republic of Germany unless agreed otherwise. Application of the United Nations Convention on Contracts for the International Sale of Goods dated 11.04.1980 is excluded.
- (2) The purchaser's registered office is the sole place of jurisdiction regardless of the actual legal place of performance.

§ 13 Severability clause

Should one or more provisions of this agreement be or become ineffective, this will not affect the effectiveness of the other provisions. The same is true if a material provision is not included. A statutory regulation is to replace the ineffective provision.

These General Conditions of Purchase can be downloaded from:
<http://www.springfix.de/de/downloads/allgemeines>