

**General Terms of Purchasing (GTP) of Gebr. Hörr GmbH,
Villingendorf
for Business Relations with Merchants**

§ 1 General provisions

- (1) The following General Terms of Purchasing (GTP) apply to contractual relationship between

Gebrüder Hörr GmbH

Hochwaldstraße 76
D-78667 Villingendorf

- hereinafter: "Purchaser" or "We" -

and the seller (hereinafter: "Supplier") for the supply of products to the Purchaser by the Supplier.

- (2) Our General Terms of Purchasing apply exclusively in our business relationships with merchants, legal entities of public law and public-law investment funds. These GTP shall not apply to relations with consumers in the definition of Sec. 13 BGB [German Civil Code].
- (3) The exclusive basis for all of our orders shall be the following terms. We hereby expressly object to any terms of the Supplier that contradict, supplement or deviate from our GTP, unless We had expressly agreed in writing to their applicability. Our Terms of Purchasing also apply when We unconditionally accept the supplier's delivery in knowledge of the contrary, supplementing or deviating terms of the Supplier.
- (4) All agreements concluded between us and the Supplier for the performance of the contract shall be set forth in writing in this contract.
- (5) Our Terms of Purchasing in their respectively valid version shall also apply to future transactions with the Supplier, insofar as they are legal transactions of the same or related nature.
- (6) Legally relevant declarations and notifications, which shall be given to us after the Supplier's signing of the contract require the written form for validity (e.g. setting of deadlines, dunning notices, declarations of withdrawal).
- (7) Individual agreements made in the specific case with the Supplier shall take precedence over these General Terms of Purchasing.

§ 2 Orders and order confirmations

- (1) Only orders placed in writing are valid and to be regarded as an offer to conclude a contract.
- (2) The order confirmation from the Supplier must be received by us in text form within a period of five days from the order date. The receipt of the ordered products is also deemed an acceptance. If acceptance does not take place in a timely manner, We shall be entitled to revoke your order.
- (3) If in doubt, verbal agreements and side agreements, which are given before the conclusion of the contract, shall be valid only if We confirm them in writing.

§ 3 Delivery period

- (1) The delivery period agreed in writing or prescribed in the order shall be binding and begin two days after the order date.
- (2) As soon as the Supplier can foresee that timely delivery by it – for whatever reasons – is impossible, it shall inform us in writing of this without delay, stating the reasons and the expected duration of the reasons for its prevention. Neither the assertion of default damages nor a subsequent acceptance of the belated delivery or service shall be excluded by this nor.
- (3) If the day on which the delivery must be executed at the latest can be determined based on the contract, the Supplier shall be in delay of delivery as of the end of this day, without a warning of this being required from us.
- (4) In the event of a delay of delivery, We shall be entitled without limitation to the statutory claims, including the right of withdrawal and the claim for damage compensation in lieu of performance after unsuccessful expiration of an appropriate grace period. The acceptance of a belated delivery or service shall also not represent a waiver of these claims.
- (5) We are entitled in the case of delivery delays to demand a contract penalty in the amount of 0.5%, whereas at most 5% of the respective contract value per week of delivery delay, after prior written warning of this to the Supplier. The contract penalty shall be deducted from the default damage to be compensated by the Supplier. If We accept the belated performance, We must claim the contract penalty at the latest on the final payment.

§ 4 Shipment

- (1) Unless agreed otherwise in writing, the delivery shall be made free to the place of delivery. If the place of destination is not indicated and nothing else has been agreed, the delivery shall be made to our place of business in Düsseldorf. The respective place of destination shall also be the place of performance for the delivery and any subsequent fulfilment (debt to be discharged at creditor's domicile).

- (2) Extra costs for any expedited transport potentially required for meeting a delivery date shall be borne by the Supplier.
- (3) The shipment shall be adequately insured by the Supplier at its own cost. All damages caused by inadequate packaging shall be at the Supplier's cost.
- (4) We have a right to return the packaging.

§ 5 Transfer of ownership

- (1) The delivered products shall transfer into our ownership upon the handover. The Supplier, however, may reserve title until payment of the delivered product.
- (2) We hereby expressly object to any extended reservations of title by the Supplier.
- (3) Processing, mixing or combining (further processing) of objects that have been provided by us by the Supplier shall be done on our behalf. The same applies in the case of further processing of the delivered Products by us, so that We will be deemed the manufacturer and, at the latest on the further processing, acquire the ownership of the Product in accordance with the statutory requirements.

§ 6 Notification of defects

- (1) Any obligation to inspect and notify of defects shall begin only once the products including the related documents and delivery slip has been received at the place of destination indicated in the order. If the Supplier has undertaken to conduct its own outgoing goods inspection for quality assurance, We shall be obligated to notify of obvious defects, whereas not to inspect the delivered products. Our duty to notify of defects with respect to any defects discovered at a later time shall remain unaffected.
- (2) Deemed without delay in the definition of Sec. 377 HGB [German Commercial Code] is a period of 10 days.
- (3) The notification of a defect is not subject to any requirements of form. If the notification of defect is given in writing, the period shall be deemed observed when the notice is sent for which We must merely prove that it was sent.

§ 7 Quality and documentation

- (1) The technical specifications, properties and conditions, and standards named in our orders or other agreements with the Supplier are parts of the contract and describe the properties and condition owed by the Supplier. They shall also apply to reorders, contract changes and additions. If the Supplier has concerns against the kind of the execution requested by us, it shall inform us thereof in writing without delay.

- (2) In case of an order according to a model, the delivery and service must be consistent with the specifications, properties and standards of the model.
- (3) We are entitled to inspect or have third parties inspect the material procured by the Supplier for the order fulfilment, the production procedure and the products ready for dispatch at the Supplier, its upstream suppliers, and subcontractors.
- (4) Notwithstanding the foregoing conditions, the Supplier shall continuously inspect the quality of its deliveries and services under its own responsibility, maintain an accordant quality assurance system and present the records of this on request.
- (5) The Seller guarantees that the products delivered by it comply with all relevant regulations of the Federal Republic of Germany.

§ 8 Rights in the event of defects

- (1) The Supplier warrants that its deliveries and services, as well as those of its upstream suppliers and subcontractors are free from property damages and defects of title as defined by law on the transfer of risk and that they are consistent in terms of workmanship and material with the latest state of technology, the respectively applicable regulatory and technical requirements and standards, as well as accident prevention regulations.
- (2) Defects of title must also be deemed present, in particular, if the delivery or service from the Supplier infringes on the rights of third parties; this shall not apply if the Supplier has produced its delivery or service in accordance with drawings, models or equivalent other descriptions having been provided by us or information from us, meanwhile it does not necessarily have to know the related infringement on third parties' proprietary rights. The Supplier shall inform us on request of the use of published and unpublished proprietary and licensed property rights and patent applications relating to the object to be delivered or service to be performed. It shall furthermore inform us without delay of any infringement risks and alleged cases of infringement becoming known to it; inversely, We shall also inform the Supplier thereof.
- (3) If a defect becomes apparent within one year from the transfer of risk, it will be assumed that the object was defective on the transfer of risk.
- (4) In deviation from Sec. 442 (1) sent. 2 BGB, We shall therefore also be entitled to unlimited warranty claims if the defect remained unknown to us on the signing of the contract in consequence of gross negligence.
- (5) In the event of property defects or defects of title, We shall be entitled to the claims and rights pursuant to the Civil Code. Regardless of the nature of the contract with the Supplier, We shall have the right to choose the type of subsequent performance. Subsequent performance shall be provided, if need be, in multi-shift operation with overtime or in work on Sundays and holidays; all

required expenses for the purpose of the subsequent performance shall be borne by the Supplier. If, in spite of subsequent performance, defects in the deliveries or services should arise, the Supplier shall rectify the defects on our request by modified design or other use of materials.

(6) In the event of unjustified claims of defects, We shall be liable only to the extent that We have recognised or gross negligently failed to recognise that no defect was present at the time of the claim.

(7) Without prejudice to our statutory rights, the following applies: If the Supplier does not fulfil its obligation for subsequent fulfilment – at our choice, by rectification of the defect (reworking) or delivery of an object free from defects (replacement delivery) – within an appropriate period set by us, We can rectify the defect ourselves and demand the refund of the required expenses for this purpose or a corresponding advance payment from the Supplier. If the subsequent fulfilment by the Supplier has failed or if it is unreasonable to us (e.g. due to particular urgency, risk to the operating safety or impending occurrence of disproportionate damages), setting of a period will not be required; We shall inform the Supplier of such circumstances without delay and, if possible, in advance.

(8) Our further statutory rights and claims shall remain unaffected.

(9) The following limitation periods apply to our rights and claims in the case of defects:

- For defects of title, the limitation period is three years, beginning at the end of the year when the claim arose and We attained knowledge of the circumstances justifying the claim or when We failed to take notice through gross negligence, whereas at the longest 30 years from the statutory start of the limitation period.
- In the case of property defects, the statutory limitation periods apply with the proviso that instead of the limitation period of 2 years a limitation period of 30 months shall apply.

For parts reworked or delivered as replacements, the limitation period shall start over again on the reworking or replacement delivery. For parts that cannot be kept in operation during the inspection of a defect and/or defect repair, a running limitation period shall be extended by the period of the interruption of operations.

(10) The limitation of our warranty claims shall be suspended until the Supplier inspects the presence of a defect and informs us of the result of the inspection or declares the rectification of the defect or refuses the continuation of the rectification. The limitation shall occur at the earliest three months from the end of the suspension.

(11) If claims are brought against us for defects on our products or services and if these defects are due to the deliveries or services of the Supplier or if

the causes are found in the Supplier's sphere of control or organisation, the Supplier shall be obligated without requiring that We set it a period for subsequent performance, to compensate us for all expenses, which are incurred by us due to or in connection with the defects, and to indemnify us from all damage compensation and other claims, which are brought against us in this respect. Compensable expenses are also such that result from or in connection with a necessary recall measure conducted by us.

If the defect of the Supplier's delivery or service becomes apparent in these cases within one year from the transfer of the risk for our delivery or service to our customer, it will be assumed that the Supplier's delivery or service was defective on the transfer of the risk to us.

The limitation period for our claims against the Supplier defined in this paragraph shall apply at the earliest two months after the date on which the expenses have been incurred by us; this suspension of the limitation period shall end at the latest five years from the date on which the risk transferred from the Supplier to us.

Any further rights and claims in our legal entitlement shall remain unaffected thereof.

§ 9 Supplier's liability, quality assurance

- (1) The Supplier shall be liable for each level of fault. We do not accept any contract clauses of the Supplier that limit liability. The Supplier's liability for compensation shall be excluded or limited, however, to the extent that We have effectively excluded or limited our liability toward our customers.
- (2) The Supplier shall conduct a quality assurance process, which is suitable in kind and scope and conforms to the latest state of the art, and it shall prove this quality assurance process to us on request. Furthermore, the Supplier shall obtain insurance with an appropriate cover sum for the risks relating to product damage, including the recall risk, and to present the insurance policy for inspection on first request.

§ 10 Recourse against the supplier

- (1) Our recourse claims within a supply chain, as defined by law according to Sec. 445a, Sec. 445b, and Sec. 478 BGB, are in our unlimited entitlement besides the warranty claims.
- (2) Before We acknowledge or fulfil a warranty claim asserted by our buyer, We shall inform the Supplier by providing a brief description of the facts of the case and ask it for a written statement. If no statement is provided within an appropriate period, the warranty claim actually granted by us shall be deemed owed to our buyer; the Supplier shall have the burden of proof for the opposite in this case.

§ 11 Producer liability

- (1) If the Supplier is responsible for a product damage, it shall indemnify us from the claims of third parties to the extent that the cause is found to be within the sphere of its control and organisation.
- (2) Within the scope of its obligation to indemnify, the Supplier shall reimburse any expenses according to Sec. 683, Sec. 670 BGB, which arise from or in connection with any claims brought by third parties including any recall campaign conducted by us. We shall inform the Supplier of the subject and scope of the recall actions – to the possible and reasonable extent – and provide it the opportunity to provide statements. Further statutory claims remain unaffected.

§ 12 Prices and terms of payment

- (1) The price indicated in the purchase order is binding. In absence of any deviating written agreement, the prices are understood “free to the place of delivery” including packaging.
- (2) For orders of tools, the order of the required models and design drawings are included in the prices. These shall be provided to us free of cost on request. The required type samples shall be at the Supplier’s cost.
- (3) The Supplier shall inform us if it grants more affordable prices or more favourable terms of supply to other comparable buyers.
- (4) Unless agreed otherwise in writing, the Supplier’s invoices shall be paid on the 25th day of the month following the receipt of goods and receipt of the invoice, with deduction of 3% discount. For as long and insofar as We are entitled to withhold the invoiced amount, the discount period shall be suspended.
In the event of default, We shall owe default interest in the amount of at most 4 percentage points above the base interest rate per year. We have the right to prove a lesser damage.
- (5) The invoice must not be enclosed in the delivery.
- (6) We shall have rights of set-off and withholding within the statutory scope. We shall have a right to withhold the payment of tools and means of production for as long as We have not received a tool specification or design drawing signed by it from the Supplier.

§ 13 Means of production, confidentiality

- (1) If We make models, samples, tools, drawings or other documents available to the Supplier for the performance of the contract, We reserve ownership and all copyrights on them.

- (2) The aforementioned means of production and new tools that are manufactured by the Supplier directly must not be made accessible to third parties nor be used for third parties. This confidentiality obligation shall also apply for the time after the end of this contract. It shall expire only if and insofar as the specialised know-how contained in the models, samples, tools, drawings, calculations and other documents having been provided become general knowledge.
- (3) The Supplier is obligated to insure the tools, moulds, models, raw materials, semifinished goods, etc. provided by us for the new value at its own costs for damages in result of fire, theft, storm and water damages, etc. If such damages are not insured or not sufficiently insured, the Supplier shall be liable for compensation.
- (4) The Supplier shall then be obligated to perform any required maintenance and inspection work at its own cost.

§ 14 Prohibition of assignment

Claims against us may be assigned by the Supplier only with our written agreement.

§ 15 Choice of law, place of performance and place of jurisdiction

- (1) This Agreement is exclusively governed by German law. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- (2) The place of performance for both Parties is the place of our registered office or the place named by us in writing at the conclusion of the contract.
- (3) If the Supplier is a merchant, the place of jurisdiction for all claims arising from the business relationship shall be the place of our registered office, regardless of the place of payment. However, We also have the right to also sue the Supplier at its general place of its residence.

§ 16 Written form

All changes and amendments to these GTP and the waiver of their applicability require the written form according to Sec. 126 BGB. This also applies with regard to a potential waiver of this requirement of the written form.

§ 17 Severability clause

- (1) If one or more provisions of these GTP or parts of a provision should be invalid, this shall have no effect on the validity of the remaining provisions or the contract on the whole.
- (2) Paragraph 1 shall apply analogously in the event of an omission in provisions.

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