

# General Conditions of Purchase

## § 1 General – Scope

- (1) Our Conditions of Purchase shall apply exclusively; we will not accept any supplier's conditions contrary to or deviating from ours, unless we expressly agree to their validity in writing. Our Conditions of Purchase shall also apply in case we take delivery from a supplier without reservations, while having knowledge of that supplier's conditions being contrary to or deviating from ours.
- (2) All arrangements made between Gaudlitz and the supplier for the purpose of executing the present contract shall be taken down in that contract in writing.
- (3) Our Conditions of Purchase shall apply only to entrepreneurs within the meaning of § 310 para. 1 BGB (German Civil Code).

## § 2 Order – Ordering Documents

- (1) Our orders are binding for us for a period of two weeks only as of date of written order.
- (2) Gaudlitz reserves ownership and copyright to illustrations, drawings, calculations and other documents; these shall not be disclosed to third parties without our express permission given in writing. These documents shall be used exclusively for manufacturing the goods ordered by Gaudlitz; and they shall be promptly returned to Gaudlitz after the order has been wound up. These documents shall be treated as confidential vis-à-vis third parties.

## § 3 Prices – Terms of Payment

- (1) The price specified on the order shall be binding. Unless otherwise agreed upon in writing, the price shall be deemed to be inclusive of delivery free our premises and inclusive of packing. The return of packing materials shall be subject to separate agreement.
- (2) The price shall be deemed to be exclusive of the statutory value added tax.
- (3) Gaudlitz can process invoices only if they show the order number specified on Gaudlitz' order; the supplier shall be responsible for any consequences of his failure to observe this, unless he can prove that such failure is not due his fault.
- (4) Unless otherwise agreed upon in writing, Gaudlitz will pay the purchasing price minus a 3% discount within 14 (fourteen) days from receiving the consignment and the invoice, or net within 60 (sixty) days after receipt of the invoice.
- (5) Gaudlitz claims offsetting and retention rights in the scope granted by the law.

## § 4 Time of Delivery

- (1) The time of delivery specified on the order shall be binding.
- (2) The supplier shall promptly inform Gaudlitz in writing whenever any circumstances arise or can be inferred by the supplier that will or may jeopardize delivery within the specified time.
- (3) In case of a default or delay in delivery, Gaudlitz shall be entitled to make the claims granted by the law. In particular, Gaudlitz shall be entitled, after a reasonable grace time has elapsed without results, to claim damages in place of delivery, and rescission of the contract. If Gaudlitz claims damages, the supplier shall be entitled to prove that the default or delay is not due to any fault of his.

## § 5 Passing of Risk - Documents

- (1) Unless otherwise agreed upon in writing, delivery shall be made free Gaudlitz premises. The supplier shall bear the risk of accidental loss or destruction of the goods sold until their actual delivery to Gaudlitz (§ 446 BGB). This risk shall include not only physical destruction of the goods sold, but also their unlawful taking or seizure by any third party.
- (2) The supplier shall exactly state the Gaudlitz order number on all shipping documents and delivery notes; if he fails to do so, Gaudlitz cannot be held responsible for any delays in their processing.

## § 6 Inspection for Defects – Liability for Defects

- (1) We shall inspect the goods for any defects within a reasonable time.
- (2) Gaudlitz shall be entitled to the full claims granted by the law in case of defects; in any case, Gaudlitz shall be entitled to demand that the supplier, at Gaudlitz' option, remedies the defect(s) or makes a replacement delivery. Gaudlitz expressly reserves the right to claim damages, especially damages in place of the delivery.
- (3) Gaudlitz shall be entitled to remedy defects at the supplier's cost in case of imminent danger or particular urgency.
- (4) The limitation period shall be 36 (thirty-six) months from the passing of the risk.

## § 7 Product Liability - Indemnity – Liability Insurance

- (1) As far as the supplier is responsible for any product defect or for any injury or damage caused by a defective product, he shall indemnify Gaudlitz from any third-party claims for damages in as far as the cause of such injury or damage arose in his range of influence, and in as much as he himself is liable vis-à-vis Gaudlitz and third parties.
- (2) Within the scope of his liability for damages within the meaning of para. (1), the supplier shall further reimburse all expenses without exceptions for any recall campaign initiated by Gaudlitz and in particular those according to §§ 683, 670, 830, 840 and 426 BGB (German Civil Code). Gaudlitz will inform the supplier about the subject matter and scope of such recall measures as far as possible and reasonable, and give him the opportunity to comment. Any other claims granted by the law shall remain unaffected.
- (3) The supplier shall effect a product liability insurance covering a lumpsum amount of EUR 10 (ten) million per personal injury or property damage and up to twice of the insurance amount for all insurance claims in a year; any further claims for damages Gaudlitz may be entitled to shall remain unaffected.

## § 8 Industrial Property Rights

- (1) The supplier shall guarantee that no rights of third parties within the Federal Republic of Germany will be infringed in connection with his delivery.
- (2) If any third party should raise claims against Gaudlitz for such infringement, the supplier shall, upon Gaudlitz' first written request, indemnify Gaudlitz against such claims; Gaudlitz is not entitled to make any agreement or settlement with such third party without the suppliers permission.
- (3) The supplier's obligation to indemnify Gaudlitz shall cover all and any expenses necessarily incurred by Gaudlitz out of or in connection with the demands made by a third party.
- (4) The limitation period shall be 10 (ten) years from the contract date.

## § 9 Retention of Title – Supplied Components - Secrecy

- (1) If Gaudlitz furnishes the supplier with components to be fitted to or integrated into the goods purchased from him, Gaudlitz shall retain title to such components. Any processing, machining, conversion or other change of such components by the supplier will be made for Gaudlitz. If such retained components are used with other goods not belonging to Gaudlitz, Gaudlitz shall acquire co-ownership of the new goods in proportion to the value share of Gaudlitz' components (cost price plus value-added tax) in the said goods at the time of their manufacture.
- (2) The supplier shall keep all illustrations, drawings, calculations and other documents and information received from Gaudlitz strictly confidential and not disclose them to third parties without the express permission of Gaudlitz. The supplier's obligation of secrecy shall remain in force even after the present contract has been wound off; it shall expire when and as far as the manufacturing know-how contained in the illustrations, drawings, calculations and other documents has become common knowledge.

## § 10 Miscellaneous

- (1) If the supplier is a businessman, the principal place of business of Gaudlitz shall be the place of jurisdiction; Gaudlitz shall be entitled, though, to sue the supplier also at the court having jurisdiction at the supplier's place of business.
- (2) Unless specified otherwise on the order, the principal place of business of Gaudlitz shall be the place of performance/delivery.
- (3) These Conditions of Purchase and all contracts to which they apply shall be governed by the law of the Federal Republic of Germany.

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