

GENERAL TERMS AND CONDITIONS OF PURCHASE 04/2006

ASIS GmbH

§ 1 General Provisions – Scope

- (1) Our terms and conditions of purchase shall apply exclusively; any general terms and conditions of purchase of suppliers that conflict with or deviate from these general terms shall not be recognized unless we have explicitly agreed to their validity in writing. Our general terms and conditions shall also apply if we accept the delivery of the supplier without reservation and with knowledge of the supplier's general terms and conditions that conflict with or deviate from our general terms and conditions of purchase.
- (2) Any provisions that are agreed upon mutually by us and the supplier with regard to the execution of this agreement have to be set down in writing in this agreement.
- (3) Our terms and conditions of purchase shall apply only to entrepreneurs according to § 310 para. 4 BGB (German Civil Code).

§ 2 Offer - Offer Documents

- (1) The supplier shall be obliged to accept our order within a 2-week period.
- (2) We reserve the copyrights and proprietary rights in any illustrations, drawings, calculations and other documents; they may not be disclosed to third parties without our prior express consent, in writing. They shall be used exclusively for production purposes related to our order and they shall be returned to us without request after completion of the order. They shall not be disclosed to any third parties; in this regard the provisions according to § 9 para. (4) shall apply additionally.

§ 3 Prices - Terms of Payment

- (1) Prices stated in the purchase order shall be binding. Unless otherwise agreed in writing, prices shall be carriage paid including packaging. The return of the packaging must be agreed separately.
- (2) Prices shall include statutory value added tax.
- (3) We shall only be able to process invoices that - in keeping with the instructions on the order - state the order number indicated therein; the supplier shall be responsible for all consequences that derive from non-compliance with this obligation unless he proves that he is not responsible for any such non-compliance.
- (4) Unless otherwise agreed in writing, we shall pay the purchase price within 14 days after delivery and receipt of the invoice with a discount of 2 % or net within 30 days after receipt of the invoice.
- (5) We shall be entitled to statutory rights of set-off and retention.

§ 4 Delivery Time

- (1) The delivery time stated in the purchase order shall be binding.
- (2) The supplier shall be obliged to notify us immediately in writing as soon as circumstances indicating that the agreed delivery time cannot be met occur or become apparent to the supplier.
- (3) In the event of default in delivery we shall be entitled to claim a flat rate damage for default in delivery to the amount of 1.5% of the delivery value for each commenced week; we shall however only be able to claim a maximum of 5 % of the value as flat rate. In this regard the supplier shall be entitled to prove that we did not incur any damage or a substantially lower damage.
- (4) Any further legal and contractual claims (in particular claims for damages on the grounds of breach of duty) shall remain unaffected.

§ 5 Passage of Risks – Documents

- (1) Unless otherwise agreed in writing the delivery shall be made carriage paid.
- (2) The supplier shall be obliged to indicate our order number accurately on all shipping documents and delivery notes; if he fails to do this, we shall not be responsible for delays of its processing.

§ 6 Inspection for Defects - Liability for Defects

- (1) Our obligation to check for defects and give notification of defects concerning non-apparent defects according to § 377 HGB (German Commercial Code) is excluded. We undertake to perform a minimal check on the basis of the delivery note and damages in transport; the supplier shall be obliged to perform the pre-delivery inspection of the goods and he shall conclude a quality assurance agreement with us.
- (2) In the event that no quality assurance agreement was concluded or that apparent defects are found, our notification of defects shall be regarded as timely if the supplier receives it within 7 business days (excluding Saturdays) after receipt of the goods or - concerning non-apparent defects - after detection of the defect. If, in an individual case, the "prompt delay" ("Unverzögerlichkeitsfrist") according to § 377 HGB should exceed 7 business days, this longer delay shall be applicable.
- (3) We shall be entitled to the full statutory warranty claims; we shall be entitled in all cases to request the supplier to either remedy the defect or to deliver a new product, whichever option we prefer. The right to claim damages and in particular the right to claim damages in place of the product shall remain explicitly unaffected.
- (4) We shall be entitled to remedy the defects ourselves at the expense of the supplier in cases of imminent danger or if the defects need to be repaired urgently.
- (5) The limitation period shall be 36 months from the passage of risk, whereas it shall be five years in cases according to § 438 I no. 2 BGB.

§ 7 Product Liability - Indemnification - Liability Insurance

- (1) In the event that we are held liable on account of producer liability, product liability or other elements of liability concerning a defect of a product that was delivered by the

supplier, the supplier shall be obliged to indemnify us against and hold us harmless from any such claims arising from the defect, if and in so far as he is responsible for the defect and he is externally liable for it. The indemnification shall be provided after the first request.

- (2) In this context the supplier shall also be obliged to reimburse possible expenses according to §§ 683, 670 BGB and §§ 830, 840, 426 BGB that may arise from or in connection with a recall campaign. Insofar as it is possible and reasonable, we shall notify the supplier without delay of the nature and scope of the campaign. Further legal claims shall remain unaffected.
- (3) In the event that we are otherwise held liable on account of a defect of the product that was delivered by the supplier, we are fully entitled to claims of recourse against the supplier according to § 478 BGB; except if we have received a prior equivalent compensation for the claims of recourse.
- (4) The supplier undertakes to keep in effect product liability insurance with a flat-rate insured sum of € 10 million per claim of personal injury / property damage. If we are entitled to damage claims beyond the stated sum, these shall remain unaffected.

§ 8 Proprietary Rights

- (1) The supplier warrants that no third-party rights shall be infringed in connection with his delivery.
- (2) If a third party holds us liable on this account, the supplier shall be obliged to indemnify us against and hold us harmless against any such claims. We shall not be entitled to reach any agreements with the third party, in particular to reach a settlement, without agreement of the supplier. The indemnification shall be provided after the first request.
- (3) The supplier's duty to indemnify relates to all expenses necessarily incurred by us as a result of or in connection with a claim made by a third party.
- (4) The period of defect warranty shall be ten years from conclusion of contract.

§ 9 Reservation of Ownership - Provision - Tools – Confidentiality

- (1) In so far as we provide the supplier with parts, we reserve our title to them. Any processing or transformation by the supplier shall be performed on our behalf. If our goods under reservation of title are processed with other items not belonging to us, we shall acquire joint ownership of the new item in the proportion of the value of our item (purchase price plus value-added tax) to the other processed items at the time of processing.
- (2) If the goods provided by us are inextricably mixed with other items that do not belong to us, we shall acquire joint ownership of the new item in proportion to the value of the goods under reservation of title (purchase price plus value added tax) in relation to the other mixed-in items at the time of the mixing. If the mixing is carried out in such a way that the supplier's item is to be regarded as the main item, it is deemed as being agreed upon, that the supplier transfer proportional joint ownership to us. The supplier shall preserve the items of sole ownership or joint ownership for us.
- (3) We reserve our title to tools. The supplier shall be obliged to use the tools exclusively for the production of the goods that we ordered. The supplier shall be obliged to insure at his expense the tools owned by us at the replacement value against fire damage, water damage and damage caused by theft. The Supplier already now assigns to us any compensation claims arising from the insurance. We hereby accept the assignment of claims. The supplier shall be obliged to carry out on our tools all necessary maintenance and inspection work as well as all servicing and repair work in due time at his expense. The supplier shall give us immediate notification of any and all disruptions of operations. If the supplier culpably fails to do so, we shall reserve the right to assert damage claims.
- (4) The supplier shall be obliged to keep all illustrations, drawings, calculations and other documents and information strictly confidential. They may only be disclosed to third parties with our express agreement. The obligation to maintain confidentiality shall continue to apply after the termination of this agreement. This obligation ceases to apply if and in so far as the processing knowledge that is contained in the provided illustrations, drawings, calculations and other documents becomes public knowledge.
- (5) If the value of security rights to which we are entitled pursuant to this clause exceeds the value of the secured claims (nominal value) by more than 50 %, the surplus security rights shall be released. We shall decide on their selection.

§ 10 Jurisdiction - Place of Performance - Applicable Law - Contractual Language - Burden of Proof

- (1) If the supplier is a businessperson, the sole venue for all disputes arising hereof shall be our principal place of business. However, we may also bring an action at the supplier's place of business.
- (2) Our principal place of business is the place of performance unless the purchase order indicates otherwise.
- (3) Regarding all claims and rights in relation with this agreement, the non-unified law of the Federal Republic of Germany (BGB, HGB) shall be applicable. The UN convention on the international sale of goods (CISG) shall be excluded. The contractual language shall be German.
- (4) The supplier shall effect at his expense an appropriate general liability insurance that covers damages that may be caused by his services, his personnel and / or subcontractors. Proof of the insurance has to be presented upon our request. In addition, the supplier has to effect an appropriate transport insurance at his expense.
- (5) None of the clauses pertaining to these terms and conditions change the division of burden of proof according to law or case law.