

## **TERMS AND CONDITIONS OF PURCHASING**

### **I. General information - scope of application**

1. Our Terms and Conditions of Purchase apply exclusively; we do not accept the supplier's terms and conditions which conflict with or deviate from our Terms and Conditions of Purchase unless explicitly agreed to in writing.
2. All agreements between us and the supplier for the purpose of fulfilling this contract are stipulated in this contract in writing.
3. Our Terms and Conditions of Purchase only apply to companies as defined by § 310 (4) of the German Civil Code (BGB).
4. Acceptance of goods or services of the supplier (hereinafter: subject matter of the contract) or payment thereof does not imply consent, even if the acceptance or payment is made with knowledge of conflicting or supplementary contractual terms of the supplier. Likewise, any previously agreed contractual terms and conditions of the Supplier which conflict with or supplement these Terms and Conditions of Purchase are no longer recognized
5. We look forward to business development in partnership and expect proactive information and support from our suppliers also in the requirements and concerns to be covered from the respective ordered and applied QM standards. This includes knowledge of our respective specific product, production and environmental requirements and applicable laws and compliance with them.
6. Open Innovation: we welcome any justified suggestion to improve our joint collaboration, our processes, and our products and services.
7. Communication: we live in the digital age: we expect an answer to the mail traffic or feedback on a daily basis, at the latest the following day, and good availability.

### **II. Order - offer documents**

- 2.1. Orders, contracts and delivery schedules as well as their amendments and supplements are only deemed to have been placed if they have been drawn up by us in writing. Orders placed verbally or by telephone only become binding for us after our written confirmation. By submitting an offer and/or accepting the order, the supplier acknowledges that he has informed himself about the type and scope of the service by inspecting the existing plans. We are not liable for any obvious errors, spelling mistakes and miscalculations in the documents submitted by us. The supplier is obliged to inform us immediately about such defects. This also applies in the case of missing documents.
- 2.2. Delivery call-offs are also available by remote data transmission. Delivery call-offs become binding at the latest if the supplier does not object within three working days of receipt. The written form requirement is also fulfilled by fax or e-mail.
- 2.3. Deviations in quality and quantity compared to the contents of our order and other changes to the contract are only deemed to have been agreed if we have expressly confirmed them in writing.

2.4. We reserve the right to cancel the order in whole or in part. Upon receipt of the cancellation, the supplier is obliged to immediately stop the work. We undertake to bear incurred and proven costs that are in proportion to the agreed price. The supplier undertakes to follow our instructions regarding the use of processed orders or materials.

2.5 We reserve the property rights and copyrights to illustrations, drawings 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; on fulfilment of the order they are to be returned to us without being requested. They must be kept confidential and not be disclosed to third parties.

2.6. Order confirmations must be received by us within 3 working days of the order date. If orders are not confirmed or not confirmed in time, the order is deemed accepted in full. Nevertheless, we are entitled to revoke them after 5 days without feedback.

### **III. Prices - terms of payment**

3.1. The price shown in the order is binding. Unless otherwise stipulated in writing, the price includes “carriage free” delivery, including packaging. A separate agreement is required if packaging is to be returned. Deviating from this, packaging and transport can be charged by agreement at cost price with proof.

3.2. The statutory value added tax is not included in the order price.

3.3. Each order is to be invoiced separately.

3.4. We can only process invoices if they contain our order number; the supplier is responsible for all consequences arising from non-compliance with this obligation, unless he can prove that he is not responsible for them. Delays due to incorrect or incomplete invoices do not affect discount periods. The QM standard commissioned or applied in each case for production and finishing must be documented in the invoice. Billing information: Graduated prices and the price tables on which the individual call-offs are based are to be clearly documented when invoices are issued.

3.5. Unless otherwise agreed in writing, we shall pay the purchase price within 14 days, calculated from delivery and receipt of invoice with a 3% discount, or within 30 days with a 2% discount, or within 60 days after receipt of invoice without discount (net).

3.6. We are entitled to set-off and retention to the extent provided by law.

3.7. The period starts on our receipt of the invoice and goods or services being rendered. Payment is subject to invoice verification.

3.8. Collective invoices: for expense reasons, collective invoices with at least 1000 Euro of accumulated orders are issued for small orders. If this amount is not reached, the supplier is also entitled to invoice on a quarterly basis.

#### **IV. Delivery dates**

4.1. The delivery date specified in the order is binding and must be confirmed within 3 working days by order confirmation to [einkauf@mayr-hoenes.de](mailto:einkauf@mayr-hoenes.de)

If this confirmation is not received, we are then entitled to cancel the order again and make other arrangements.

4.2. The supplier is obliged to inform us immediately in writing if circumstances arise or become apparent to him which indicate that the stipulated delivery date cannot be met. In this case, we are entitled to withdraw from the contract; the supplier cannot assert any claims.

4.3. We are entitled to legal claims in the event of delayed delivery. In particular, we are entitled to claim damages in lieu of performance after the ineffective expiry of a reasonable grace period. If we claim damages, the supplier is entitled to prove that he is not responsible for the breach of duty.

#### **V. Transfer of risk - documents**

5.1. Unless otherwise agreed in writing, delivery is to be provided carriage paid, including packaging. In all cases, the transport risk is borne by the supplier. The supplier bears the material risk until acceptance of the goods by us or our agent at the place where the goods are to be delivered according to the order. In the event of agreements to the contrary, the supplier must inform us of corresponding risks or insure against them.

5.2. Invoices, delivery notes and packing slips must be enclosed in duplicate with each shipment. These documents must contain the following mandatory information: Order number, quantity and quantity unit, gross and net weight, article description and our article number, remaining quantity in case of partial deliveries. Costs and delays resulting from non-compliance are borne by the supplier. In addition, we require the certificate of origin and the current hazardous material data sheet. If shipping, prior to delivery a shipping notification with these documents in digital form must be sent to [einkauf@mayr-hoenes.de](mailto:einkauf@mayr-hoenes.de) Please send invoices to [rechnung@mayr-hoenes.de](mailto:rechnung@mayr-hoenes.de)  
Please note Incoming Goods delivery address: Boschstraße 9-11, 73655 Plüderhausen

#### **VI Warranty - liability for defects**

6.1. The supplier is liable in accordance with the statutory provisions. He guarantees the proper and careful fulfillment of the contract, in particular compliance with the stipulated specifications and other execution regulations in accordance with the latest state of science and technology. The stipulated specifications are considered guaranteed properties of the delivery or service and are free of material defects and defects of title. The exact date of manufacture must be stated or at least proven upon request.

6.2. We are obliged to inspect the goods for any deviations in quality and quantity within a reasonable period of time. Any defects discovered are to be reported by us immediately following discovery. In this respect, the supplier waives the objection of delayed notification of defects. In case of defects we are entitled to receive an 8D report from the supplier upon request (period of time is the customary 4 and 10 days rule).

6.3. We refrain from extensive incoming goods inspection. The supplier is aware that we rely on his responsibility of defect-free performance. If, as a result of defective delivery, an incoming inspection exceeding the usual scope becomes necessary, the supplier is to bear the costs.

6.4. We are entitled to the statutory claims for defects in full; in any case, we are entitled to demand that the supplier, at our discretion, either remedy the defect or deliver a new item without delay. The right to claim damages, in particular damages in lieu of performance, is expressly reserved.

6.5. We are entitled to remedy the defect ourselves at the supplier's expense if there is imminent danger or special urgency.

6.6. The period of limitation is the 48 month period guaranteed to our customers, calculated from the transfer of risk.

#### **VII. Product Liability - indemnification - liability insurance coverage**

7.1. Insofar as the supplier is responsible for product damage, he is obliged to indemnify us against third party claims for damages upon first request, insofar as the cause lies within his sphere of control and organization and he himself is liable in relation to third parties.

7.2. Within the scope of its liability for damages within the meaning of Paragraph 1, the Supplier shall also be obliged to reimburse any expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) as well as pursuant to Sections 830, 840 426 of the German Civil Code (BGB) which arise from or in connection with a recall action carried out by us. We will inform the supplier – where possible and reasonable – of the content and scope of the recall measures to be conducted and give the supplier an opportunity to comment. This does not affect any other legal rights.

7.3. The supplier undertakes to maintain product liability insurance with a lump sum coverage of € 10 million per personal injury/property damage and financial loss; if we are entitled to further claims for damages, these shall remain unaffected. Proof of insurance coverage must be provided upon request. This must at a minimum comply with the recommendations of the German Insurance Association (GDV).

7.4 In all other respects, the statutory provisions shall apply.

#### **VIII. Property rights**

8.1 The Supplier warrants that no domestic or foreign rights of third parties, in particular industrial property rights such as patents, trademarks, copyrights or utility models, are infringed in connection with its delivery.

8.2. If claims are asserted against us by a third party in this respect, the supplier shall be obliged to indemnify us against such claims upon first written request; we shall not be entitled to enter into any agreements with the third party without the supplier's consent, in particular to conclude a settlement.

8.3. The supplier's indemnification obligation relates to all expenses necessarily incurred by us as a result of or in connection with the third party claim.

8.4. The limitation period is ten years from the date the contract was concluded.

#### **IX. Retention of title - provision - tools - secrecy**

9.1. If we provide parts to the supplier, the supplier is liable for loss, damage or misuse. We reserve the right of ownership for parts or materials provided. Processing or transformation by the supplier is performed 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 proportionate of the value of our item (purchase price or manufacturing costs plus VAT) to the other processed items at the time of processing.

9.2. We reserve the right of ownership in tools; the supplier is obliged to use the tools exclusively to manufacture the goods ordered by us. The supplier is obligated to insure our tools against loss due to fire, water and theft for replacement value at the supplier's expense. At the same time, the supplier hereby assigns all claims for compensation from this insurance; we hereby accept the assignment. The supplier is obliged to carry out any necessary maintenance and inspection work on our tools, as well as all maintenance and repair work, in good time and at his own expense. The supplier must immediately report any incidents to us; if the supplier culpably fails to do so, claims for damages will remain unaffected. All incidents and measures are to be precisely documented with the date and evidence is to be provided upon request. Tools are to be clearly marked as our property.

9.3. Process and performance data as well as techn. documents on our tools as well as any records thereof (e.g. photo, video) may only be forwarded to third parties with our consent.

#### **X. Compliance**

10.1. The supplier undertakes to comply with the relevant statutory regulations and international standards with regard to the treatment of employees, health and safety at work, human rights, environmental protection and occupational safety. This relates specifically to the 10 principles of the UN Global Compact concerning human rights, labor standards, environmental protection and anti-corruption ([www.unglobalcompact.org](http://www.unglobalcompact.org)).

Further applicable in the respective current version: EU REACH Regulation ([www.echa.europa.de](http://www.echa.europa.de)), EU ROHS Regulation ([www.ec.europa.eu](http://www.ec.europa.eu)) and EU Packaging Directive ([www.verpackungsgesetz-info.de](http://www.verpackungsgesetz-info.de)). Please note current downloads and regulations.

10.2. Upon request, the supplier shall inform us of all measures taken to comply with the above compliance guidelines and, in the event of violations of the law or complaints, provide evidence of the measures taken. In the event of repeated violations of the law and/or complaints, we reserve the right to terminate any existing contracts for cause after issuing a warning.

#### **XI. Non-disclosure**

Documents of any kind that we make available to the supplier, such as samples, drawings, models and data, etc., as well as all other information made available by us - insofar as these are not noticeably intended for the public - may not be made accessible to third parties unless this is necessary for the fulfilment of the contract.

## **XII. Applicable law**

The contract is concluded exclusively according to German law. Other rights, as well as the UN Convention on Contracts for the International Sale of Goods (CISG) and international private law are excluded.

## **XIII. Severability clause**

Should one or more of these provisions be or become invalid in whole or in part, the remainder of the agreement shall retain its validity. The contracting parties shall replace invalid provisions with valid provisions closest to their economic interests. This shall apply mutatis mutandis to amendments in the event of apparent gaps in the agreement.

## **XIV. Place of jurisdiction**

If the supplier is a registered merchant or a legal entity under public law, the place of jurisdiction for all disputes arising, including actions on bills of exchange, shall be exclusively the registered office of our company.

In case of doubt, the wording of the original (German version) shall apply to the English translation.

Plüderhausen, July 1st 2022  
**The Management**

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