

General Terms and Conditions of Purchase

General Terms and Conditions of Purchase of Friedrich Graepel AG
General Terms and Conditions of Purchase of Graepel-STUV GmbH

§ 1 General – Scope

- (1) Our Terms and Conditions of Purchase shall apply exclusively; we do not acknowledge terms and conditions of the Supplier which conflict with or deviate from our Terms and Conditions of Purchase, except where we have expressly consented to their application in writing. Our Terms and Conditions of Purchase shall also apply where we accept delivery without reservation from a Supplier with knowledge of terms and conditions of that Supplier which conflict with or deviate from our Terms and Conditions of Purchase.
- (2) All agreements and arrangements made between us and the Supplier for purposes of performing this contract must be recorded in writing in this contract.
- (3) Our Terms and Conditions of Purchase apply only vis-à-vis entrepreneurs within the meaning of § 310 sub. 4 of the German Civil Code.
- (4) Our Terms and Conditions of Purchase shall also apply to all future transactions with the Supplier.

§ 2 Order – Order documentation

- (1) The Supplier is obliged to accept our order within a one week period.
- (2) We reserve our rights of ownership and copyright to images, drawings, calculations and other documents; third parties may not be granted access to them without our express written consent. They are to be used exclusively for production on the basis of our order; after execution of our order they must be returned to us unbidden. They must be kept confidential vis-à-vis third parties; to this extent the rules from § 8 sub. (4) shall apply supplementally.

§ 3 Prices – Terms of payment

- (1) The price shown in our order is binding. Where there is no written agreement deviating herefrom, the price includes delivery free purchaser's address, including packaging. Return of packaging shall be subject to separate agreement.
- (2) The prices stated are in all cases net of the legal rate of VAT.
- (3) We are only able to process invoices where they reference the order number shown in our order, in accordance with the instructions stated in our order; the Supplier shall bear responsibility for all consequences of failure to comply with this obligation, to the extent Supplier does not prove that Supplier does not bear responsibility therefor.
- (1) Where not otherwise agreed in writing, we shall pay the purchase price within 8 days, as calculated from the date of delivery and receipt of the invoice and applying a 3% discount, within 30 days, as calculated from the date of delivery and receipt of the invoice and applying a 2% discount, or within 90 days net from the date we receive the invoice.
- (2) We shall be entitled to rights of set-off and retention [*Aufrechnungs- und Zurückbehaltungsrechte*] within the scope provided by law.

§ 4 Time of delivery

- (1) The time for delivery stated in the order is binding.

- (2) The Supplier shall be obliged to inform us without delay in writing where circumstances arise or become discernible to the Supplier from which it appears likely that the time of delivery cannot be complied with.
- 3) In the event of delay in delivery, we shall be entitled to raise claims pursuant to law. In particular, we shall be entitled, after a reasonable time has passed without delivery, to demand compensatory damages instead of contractual performance. Where we claim damages, the Supplier shall be entitled to furnish evidence to us that it does not bear responsibility for the breach.

§ 5

Passage of risk – Documents

- (1) To the extent not otherwise agreed in writing, deliveries shall be free purchaser's address.
- (2) The Supplier shall be obliged to state our order number exactly on all shipping papers and delivery notes; if Supplier fails to do so, then we shall bear no responsibility for any delays in processing.

§ 6

Inspection for defects – Liability for defects

- (1) We shall be obliged to inspect the goods within a reasonable time for any deviations in respect of quality and quantity; objections shall be deemed to have been timely made if they are received by the Supplier within a period of 5 working days, calculated from the date the goods were received or, in the case of latent defects, from the time of discovery.
- (2) We are entitled without limitation or restriction to assert legal warranty claims; in any event we shall be entitled to demand, at our option, that the Supplier eliminate the defect or deliver new goods. The right to demand damages, in particular the right to demand compensatory damages instead of performance, is hereby expressly reserved.
- (3) If due to particular urgency it should be impossible to inform the Supplier of the defect and the potential damage and to set a reasonable time for the Supplier to eliminate the defect, we shall be entitled to effect elimination of the defect ourselves. The foregoing shall apply in particular in cases of imminent danger, where the level of damage anticipated is particularly high.
- (4) The prescription period shall be 36 months, calculated from the date of passage of risk.

§ 7

Intellectual property rights

- (1) If claims are made against us by a third party in connection with the delivery due to an infringement of that third party's rights, then the Supplier shall be obliged to indemnify us upon our first written demand against such claims; we are not entitled to make any agreements or arrangements with third parties, in particular not to enter into any settlements, without the consent of the Supplier.
- (2) The duty of indemnification of the Supplier shall apply with respect to all expenses necessarily incurred by us as a result of or in connection with the claim by a third party.
- 3) The prescription period for these claims shall be 3 years, calculated from the date of delivery.

§ 8

Reservation of title [Eigentumsvorbehalt] – Provision of parts – Tools – Confidentiality

- (1) To the extent we provide parts to the Supplier, we reserve title thereto. Processing or alteration by the Supplier is undertaken by the Supplier for our benefit. If our reservation of title goods are processed together with other objects not belonging to us, then we shall acquire co-ownership of the new item of property pro rata in the

- proportion of the value of our property (purchase price plus VAT) to the other processed objects at the time of processing.
- (2) If the property furnished by us is inseparably blended or commingled with other objects not belonging to us, then we shall acquire co-ownership to the new item of property pro rata in the proportion of the value of the reservation of title property (purchase price plus VAT) to the other blended or commingled items. If the blending/commingling occurs in such a way that the property of the Supplier is to be regarded as the main item of property, then the Parties are deemed to have agreed that the Supplier shall assign pro rata co-ownership to us; the Supplier shall safeguard the sole ownership property or co-ownership property for us.
 - (3) We reserve title to tools; the Supplier shall be obliged to utilise the tools exclusively for manufacturing the goods ordered by us. The Supplier shall be obliged to insure the tools belonging to us at Supplier's own cost and expense for their replacement value against loss by fire, water and theft. At the same time, the Supplier now already assigns to us all of its compensation claims under that policy of insurance; we hereby accept the assignment. The Supplier shall be obliged timely to perform any upkeep and inspection works to our tools as well as all maintenance and repair works at Supplier's own expense and cost. The Supplier must notify us at once of any faults that may arise; if the Supplier culpably fails to do so, then our damage claims shall remain unaffected.
 - (4) The Supplier shall be obliged to maintain strict confidentiality with respect to all images, drawings, calculations and other documents and information. They may only be disclosed to third parties with our express consent. This duty of confidentiality shall also apply after complete performance of this contract; it shall cease when and to the extent the manufacturing knowledge contained in the images, drawings, calculations and other documents and information we have furnished becomes generally known.
 - (5) To the extent the security interests to which we are entitled pursuant to sub. (1) and/or sub. (2) hereof exceed the purchase price of all of the reservation of title goods for which payment has not yet been made by more than 10%, we shall be obliged to release our security interest at our option upon demand of the Supplier.

§ 9

Court with jurisdiction for disputes – Place of performance

- (1) Where the Supplier is a merchant, the courts having geographical jurisdiction over our registered office shall have jurisdiction for disputes; however, we shall also be entitled to bring an action against the Supplier at the court at Supplier's domicile.
- (2) Where the order does not otherwise indicate, the place of performance shall be our registered office.

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