

## **General Terms and Conditions of Purchasing of Grammer AG**

### **1. Applicability, Protective Clause**

These general terms and conditions of purchasing are applicable to all purchase orders of Grammer AG. Supplier terms of business differing therefrom are not accepted and shall only apply if we have expressly recognized them in writing.

### **2. Conclusion of Contract**

2.1 Orders, amendments or extensions thereof and other agreements made in connection with concluding a contract are only binding if placed or confirmed by us in writing.

2.2 We expect confirmation of orders within fourteen days of our order date.

### **3. Drawings, Plans and Other Documents**

3.1 All drawings, plans, samples, tools, gauges or other documents provided by us to the supplier for the execution of orders will remain our property and must not be disclosed to third parties without our explicit permission in writing. The products manufactured on the basis of these documents shall only be delivered to us and not to third parties. Documents shall be returned to us free of cost promptly after execution of the contract.

3.2 Any objections against our specification, the desired way of execution, the condition of tools, gauges or materials provided by us or against any other documents forming part of the purchase order must be raised by the supplier in writing before starting to execute our order, but at the latest immediately after their discovery during the execution. Our agreement to drawings, calculations or other technical documents created by the supplier does not affect the rights which we are entitled to in the case of deficiencies.

### **4. Impermissible Advertising**

The use of the contents of our requests for quotations, purchase orders and the related correspondence for reference or advertising purposes is not allowed without our permission in writing.

### **5. Subcontracting**

Subcontracting of the production of essential primary material is not allowed unless we have given our permission in writing. We will not refuse such permission for undue reasons.

### **6. Observance of Terms and Dates, Penalty**

6.1 If the terms and dates stated in our purchase orders and confirmed by the supplier cannot be met, the supplier is required to notify us thereof immediately, stating the reason for the delay and its expected duration. Our legal claims for default shall not be affected by this.

6.2 Relevant for the observance of the delivery date is receipt of the goods at the place of receipt or usage determined by us, or, in the case of delivery together with setting up or assembly, or in case of other services to be undertaken to achieve an objective, the date of successful acceptance of the performance.

6.3 Supplies and services in advance of due date need our consent.

6.4 If a penalty for the non-observance of deadlines or dates has been agreed and incurred, we shall be entitled to set off such penalty against the final invoice.

6.5 If the supplier under contract for the performance of a continuing obligation falls repeatedly behind deadlines, we shall be entitled to prematurely terminate the contract, and demand compensation for damages thereby incurred, after fruitless expiration of a period fixed by us in writing to remedy the situation.

### **7. Postponement of Acceptance**

In cases of force majeure and of strike, lockout, disruption of operations and any other events beyond our control, we shall be entitled to postpone acceptance until elimination of the disruption, without any claims of the supplier arising from this. If such events persist without interruption for more than three months, each party to the contract shall be entitled to terminate the contract.

### **8. Partial Deliveries, Over- and Underdeliveries**

8.1 Partial deliveries or partial services require our prior written approval, unless they are permitted by applicable law.

8.2 We reserve the right to accept overdeliveries and underdeliveries in individual cases.

### **9. Prices**

Prices are fixed prices, excluding V.A.T., including packaging, free place of receipt.

### **10. Shipment, Packaging**

10.1 Shipment shall be free of shipping and packaging costs and other fees to the place of receipt determined by us. A separate shipping note shall be sent on the day of dispatch of freight shipments.

10.2 If a separate charge for packaging has been agreed, we shall be entitled to return packaging in reusable condition to the supplier, carriage paid, against refund of two thirds of the value charged.

### **11. Invoicing, Payment**

11.1 Invoices are to be submitted in duplicate, after full delivery or, where applicable, after acceptance thereof, separately for each order with quotation of the order number and order date.

11.2 Terms of payment and discount start running three work days after receipt of invoice, not however, before complete delivery free of defects, completion of services, or before the acceptance of services, respectively.

## **12. Assignment of Claims, Retention of Title**

12.1 The supplier cannot assign his claims against us to third parties unless we have given our permission in writing. We will not refuse such permission for undue reasons.

12.2 We explicitly object to all retention of title regulations which exceed simple retentions of title. They shall only be applicable if they are individually agreed between us and the supplier.

## **13. Passing of Risk, Complaint**

13.1 The risk of deliveries passes to us on arrival of the goods at the place of receipt determined by us. On delivery together with setting up or assembly, or, in the case of other services to be undertaken to achieve an objective, the risk passes to us after acceptance.

13.2 Superficially visible deficiencies are to be drawn to the attention of the supplier by us within 14 days at the latest after delivery and other deficiencies without delay after discovery thereof.

## **14. Grammar-Provided Material, Retention of Title**

14.1 Any processing or transformation of material provided by us shall be effected for us as manufacturer in accordance with paragraph 950 of the German Civil Code. The supplier shall store the processed goods with due diligence free of charge for us. Material provided by us and goods processed for us shall be stored separately and in such a way that our ownership thereof is evident also to third parties.

14.2 Destruction or deterioration of Grammar-provided material for reasons for which the supplier can be held responsible do not entitle the supplier to claims for expenses incurred for processing and transformation. This is also applicable for accidental destruction or accidental deterioration on the supplier's premises.

## **15. Liability for Defects**

15.1 The supplier warrants that the supplies and services are free from defects, the presence of guaranteed attributes, and that they are state of the art, that they meet generally accepted technical and industrial medical safety regulations of authorities and trade bodies, are in compliance with current environmental regulations and all other requirements mandated by the applicable legal provisions, and that they do not infringe the rights of third parties.

15.2 When deficiencies occur, we have the right to assert our claims against the supplier within the periods of limitation. At our option we have the right to demand subsequent fulfillment by correction, substitute delivery or new production in accordance with legal regulations. The supplier must also reimburse damages to us plus the expenses required for subsequent fulfillment. If subsequent fulfillment has not taken place within a reasonable period of time, or is not successful, or the time limit was dispensable, we can claim damage withdrawal from the contract, compensation instead of service for wasted expenses or reduction of purchase price in accordance with legal regulations. Any guarantee claims due to us are not affected by this.

15.3 If the supplier does not meet its warranty obligations within a reasonable period of time set by us, we can take the necessary measures ourselves at the cost of the supplier, unless the supplier has the right to refuse the warranty obligations in accordance with legal regulations.

15.4 The limitation for claims from deficiencies shall be 24 months after initial registration of the vehicle or installation of the spare parts, but at the latest 30 months after delivery to us.

## **16. Right of Utilization, Infringement upon Protective Rights of Third Parties**

16.1 The supplier shall ensure all rights of utilization necessary to achieve the contractually agreed purpose.

16.2 The supplier guarantees that we do not infringe upon patents or other industrial property rights of third parties by utilization of the supplies or services owed under the contract, and indemnifies us against all claims which may be made against us due to infringement upon a domestic industrial property right. Moreover, the supplier shall undertake all reasonable efforts to enable us to use supplies and services in accordance with the contract without infringement upon the rights of third parties.

## **17. Product Liability, Insurance**

17.1 The supplier indemnifies us from all claims arising from external contract product liability caused by a deficiency of the product supplied by it. Under the same prerequisites, it is also liable for damages to us created by reasonable precautionary measures (in type and scope) against claims from external contract product liability (e.g., due to public warnings). Our rights to claim our own damages against the supplier remain unaffected by this.

17.2 The supplier shall take out adequate insurance coverage against potential claims based on product liability, or costs for potential recall actions, and provide proof of such insurance coverage to us upon request.

## **18. Place of Fulfillment, Jurisdiction, Applicable Law**

18.1 Place of fulfillment for deliveries and services is the place of receipt / place of usage determined by us.

18.2 Court of jurisdiction is Amberg/Oberpfalz if the supplier is a registered merchant of the German Code of Commercial Law.

18.3 In addition to the terms and conditions of the contract, the applicable law is that of the Federal Republic of Germany. The application of the United Nations agreement on contracts of international merchandise of April 11, 1980 is hereby excluded.

Effective: July 1st, 2007