

# General Terms and Conditions of Purchase



## ■ § 1 Contractual basis

- (1) Our Terms and Conditions of Purchase apply exclusively. Any conflicting or deviating terms and conditions of the supplier are not recognized; this also applies upon an unconditional acceptance of the delivery. We do not accept conflicting terms and conditions even if we do not expressly object to them, or if we refer to letters from the contracting party in which its terms and conditions are referred to. Our Terms and Conditions of Purchase also apply to all future transactions with the supplier, even if they are not expressly included once again.
- (2) The statutory provisions (in particular, the German Civil Code (*Bürgerliches Gesetzbuch*, "BGB") and the German Commercial Code (*Handelsgesetzbuch*, "HGB")) and INCOTERMS in their most recent version apply as supplements. The regulations and guidelines that we cite apply in their current version. At any time, the supplier may request our factory standards and guidelines, which form the basis of contracts and which apply in their most recent version, if they are not available.
- (3) We assume that the supplier (just like us) does not work with the technology of L. Ron Hubbard and is not a member of the International Association of Scientologists (IAS), a member of the Worldwide Institute of Scientology Enterprises (WISE) or a member of the Church of Scientology and related groups. We further assume that the contracting party is not acting on behalf of other sects or political groups. If this is nevertheless the case, the supplier shall inform us of this prior to concluding the contract. A breach of this duty shall constitute a serious breach of trust; statutory claims remain reserved.

## ■ § 2 Offer and contractual documents

- (1) Our orders are non-binding (subject to change), to the extent that other commitment periods are not agreed in individual cases.
- (2) All documents must provide the complete order number, order date and our signature.
- (3) If an order is generated by machine, it shall be effective if it contains the following addition: "This order was generated by machine. The handwritten signature is replaced by the system print-out of the name of the authorized employee."
- (4) Design drawings and similar corporate documents remain our property and must always be kept strictly confidential. They may not be made accessible to third parties without our consent. The supplier is also obligated to impose such duties of confidentiality on its personnel and its subcontractors. Upon request, the documents must be given to us. The supplier must submit all records, documents and files that are of importance for the delivery item no later than the time of delivery, without being requested to do so. Molds, models, tools, films, etc. produced by the supplier to carry out the order shall become our property upon manufacture, even if they remain in the supplier's possession (the supplier shall store them for us free of charge). They may not be passed on to third parties without our consent and must be delivered upon request. Upon a violation of these duties, the supplier shall be fully liable to us in accordance with the statutory provisions.

## ■ § 3 Prices and payment terms

- (1) The price indicated in an order is binding.
- (2) Unless otherwise agreed, it contains the statutory value-added tax. A delivery according to INCOTERMS 2010 - "DAP, specified unloading point," including loading, packing and unloading, is also included.
- (3) We are entitled to rights to set-off and retention within the statutory scope.
- (4) With the payment of an invoice, the delivery item shall become our property. We settle invoices within 14 days with the deduction of a 3% discount, and otherwise without a discount; the payment and discount periods run from the receipt of the invoice, but not prior to the delivery of the goods or the provision and acceptance of the service or prior to the complete handover of contractually agreed documentation or other records. If the payment terms of the supplier are more favorable, they shall apply without its general terms and conditions being recognized in any other respect.
- (5) Payments can be made by check or bank transfer. A payment is timely if the check was sent by mail on the due date, or the bank transfer was ordered from the bank or post office on the due date.

## ■ § 4 Delivery time, delivery delay, shipping instructions

- (1) The delivery time specified in the order is binding. The supplier shall inform us immediately as soon as it concludes that it will not meet the delivery deadlines or will not meet them on a timely basis; the notification shall include the reason and expected duration of the delay in delivery. If the supplier violates this obligation, it may not invoke the obstacle.
- (2) In the event of a delay in delivery, we shall be entitled to demand flat-rate damages based on delay in the amount of 0.2% of the delivery value per day of delay (business day); however, we may only assert a maximum of 5% as a flat rate. In this regard, the supplier shall have the right to prove to us that no damages or significantly less damages arose. Any further statutory or contractual claims (in particular, damages based on violations of duties) remain reserved.
- (3) Delivery or service deadlines and delivery or service periods must be stated in writing; they are complied with if we have received the delivery item by the deadline. The supplier must always choose the most favorable and most suitable manner of shipping and transport for us. Each delivery must contain a delivery note and a packing slip (with any transport by ship, the name and address of the shipping company and the ship must be stated). The order numbers and details of the unloading point that we have specified must be listed in full in all documents (in particular, on invoices and delivery notes, in dispatch notices, on packing slips and in consignment notes, and on the outer packaging). Hazardous substances and dangerous goods must be packed, marked and shipped in accordance with national and international regulations. The information in the accompanying documents must comply with the respective national regulations. The supplier is responsible for compliance with such duties, including the compliance of its subcontractors. It is liable for all damages and necessary expenses as a result of any violation of its duties. Shipments that cannot be accepted due to a violation of such obligations shall be stored at the expense and risk of the supplier. We may verify the content and condition of such shipments.

## ■ § 5 Examination of defects

- (1) An obligation to provide notification of defects on our part for non-obvious defects according to § 377 of the HGB is barred. We are obligated to engage in a minimum inspection based on the delivery note and to check for damages caused by transport; the supplier is obligated to carry out a final inspection of the goods and shall conclude a quality assurance agreement with us.
- (2) In the event that there is no quality assurance agreement or that obvious defects are present, our objection shall in any event be deemed timely if it is received by the supplier within 7 business days (excluding Saturdays), calculated from receipt of the goods or, in the case of concealed defects, 7 business days from their discovery. If, in individual cases, the "immediate period" arising from § 377 of the HGB is longer than 7 business days, this longer period shall apply.

## ■ § 6 Liability for defects of quality and title

- (1) We are entitled to all statutory rights for defects of quality and title to the full extent. In particular, the supplier is responsible for the fact that the delivery item complies with the contractual and statutory requirements and has no other defects. The delivery item must comply with the current rules of science and technology along with the applicable environmental, occupational safety and accident prevention regulations. In the event of a defect, we shall be entitled to, in particular and at our selection, the remedy of the defect or the delivery of a defect-free item (supplementary performance); the supplier must bear the costs required for this in the full extent. We shall also be entitled to the statutory claims for damages, unconditionally and without limitation. Any acceptance of goods or a sample or a test specimen shall not automatically release the supplier from its liability for defects.
- (2) A period of limitations of three years from the date of delivery applies, unless longer periods are provided by law. To the extent that the delivery item is re-delivered as part of the supplementary performance, the period of limitations shall begin to run anew if an acknowledgment of the duty of supplementary performance can be seen therein. The same shall apply in the event of the subsequent improvement of the repaired part of the delivery item.
- (3) If there are defects in the delivery / service to which there are objections during the warranty period, which also include the non-achievement of guaranteed data and the absence of warranted characteristics, upon request, you must remedy them (including all ancillary costs), immediately and without any charges, at our selection, by the subsequent improvement or replacement of the defective parts or new delivery / new production. In particular, you shall bear all expenses incurred in connection with the determination and remedy of the defects, even to the extent that we incur them; such expenses include, in particular, examination costs, removal and replacement costs, labor and material costs along with transport and other costs for the replacement of defective parts. This shall also apply if the expenses increase as a result of the fact that the delivery item was brought to a place other than the place of performance, but not if this results in disproportionate costs. The type of supplementary performance that we request may not be denied on the grounds that this is only possible with disproportionate costs, provided that the costs of the chosen supplementary performance do not exceed three times the original purchase price of the defective goods.
- (4) In urgent cases (danger in delay or special urgency), we shall be entitled to carry out the remedy of the defect ourselves at the expense of the supplier. An urgent case exists if it is no longer possible to inform the supplier and give it an (albeit short) period of time for supplementary performance.

## ■ § 7 Retention of title

- (1) If we provide parts to the supplier, we reserve ownership in them.
- (2) The retention of title also extends to the full value of the products resulting from the processing or transformation of our goods, where such operations are carried out for us, such that we are deemed to be the manufacturer. If, upon a processing or transformation with goods of a third party, its ownership rights continue to exist, we shall acquire co-ownership in proportion to the objective values of such goods. If our items are mixed or combined with other objects, we shall also acquire co-ownership in the proportion just described. If the transaction is carried out in such a manner that the supplier's item is to be regarded as the main item, it is agreed that the supplier shall transfer co-ownership to us on a *pro rata* basis. The manufacturer shall keep our property with the degree of care that is customary in the trade.

## ■ § 8 Recourse

- (1) If a claim is made against us based on a defect of an item delivered by the supplier arising from manufacturer liability or product liability or based on any other basis for liability, the supplier must indemnify us from the liability resulting from the defect, to the extent that it is responsible for the defect. The indemnity must be provided when first demanded.
- (2) Within this framework, the supplier shall also be obligated to provide reimbursement for any expenses pursuant to § 683, § 670 of the BGB or § 830, § 840, § 426 of the BGB resulting from or in connection with a recall. Within the scope of what is reasonable and possible, we shall inform the supplier immediately of the content and scope of the recall. Further statutory claims remain reserved.

- (3) If a claim is otherwise made against us based on a defect of an item delivered by the supplier, we shall be entitled in full to the claim for recourse against the supplier under § 478 of the BGB; an exception to this only exists if we have previously been granted equivalent compensation for the claim for recourse.
- (4) In order to safeguard these claims, the supplier must maintain appropriate liability insurance to an reasonable extent. Upon request, it must provide us with proof of taking out the policy and the timely payment of the premium.

#### ■ § 9 Protective rights

- (1) The supplier warrants that it will not culpably infringe any third-party rights in connection with its delivery.
- (2) If a third party makes a claim against us based on this, the supplier shall be obligated to indemnify us from such claims. The indemnity must be provided when first demanded. Without the consent of the supplier, we are not authorized to make any agreements (in particular, settlements) with the third party.
- (3) This obligation to indemnify also applies to all expenses that we necessarily incur from or in connection with claims by a third party.
- (4) Unless a longer period is stipulated by law, the period of limitations for such claims amounts to three years and begins with the delivery of the delivery item.

#### ■ § 10 Withdrawal from the contract and liability of InfraServ Gendorf Technik GmbH

- (1) The statutory right of withdrawal of the supplier shall neither be barred nor limited. Likewise, statutory or contractual rights and claims to which we are entitled shall neither be barred nor limited.
- (2) We shall be liable without limitation only for intentional acts and gross negligence (including our statutory representatives and vicarious agents) and for injuries to life, limb and health. Likewise, we shall be liable without limitation for the delivery of guarantees, if a defect covered by this specifically triggers our liability. Further, there shall be no limit to liability resulting from hazardous circumstances.
- (3) In the case of any other culpable violation of material contractual duties (cardinal duties), our remaining liability shall be limited to foreseeable damages that are typical for contracts.
- (4) In all other respects, our liability shall be – regardless of the legal grounds (in particular, claims arising from the violation of contractual principal and ancillary duties, tortious actions and other liability in tort) – barred.
- (5) The same (exclusions, limitations and exceptions) shall apply to claims arising from culpability upon the conclusion of a contract.
- (6) This § 10 shall apply accordingly for any reimbursement of expenses.
- (7) An exclusion or limitation of our liability shall also cover our statutory representatives and vicarious agents.
- (8) A reversal of the burden of proof is not intended here. Cardinal duties are material contractual duties; that is, such duties that give the contract its character and on which the supplier may rely.

#### ■ § 11 Place of performance, area of jurisdiction, applicable law, insurance and allocation of the burden of proof

- (1) The place of performance for our duties (in particular for our payments) is our place of business.
- (2) The area of jurisdiction for all complaints is Munich. Other permissible general or special areas of jurisdiction are also available to us.
- (3) With regard to all claims and rights arising from this contract, the non-standardized law of the Federal Republic of Germany (the BGB, the HGB) shall apply. The validity of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the conflict-of-law rules of the Introductory Act to the German Civil Code (*Einführungsgesetz zum Bürgerlichen Gesetzbuch*) are expressly barred. The contract language is German.
- (4) The supplier must take out sufficient liability insurance for damages caused by its services, its staff and/or its subcontractors at its own expense, the existence of which must be proven to us upon request.  
We exclusively cover transport insurance.  
We shall insure any machines, devices, etc. lent to us against the customary risks. We shall be liable for loss or damages beyond this only within the limits of § 10.
- (5) None of the clauses agreed in these terms and conditions shall change the allocation of the burden of proof under statutes or case law.

#### ■ § 12 Miscellaneous provisions

- (1) Any amendment to a contract can be effective only if we agree to it.
- (2) If an individual provision of these terms and conditions is ineffective or null and void in whole or in part, this shall not affect the remaining provisions. The contracting parties are obligated to agree to a provision through which the meaning and purpose pursued by the invalid or null and void provision in the economic area is largely achieved.
- (3) We handle all data of the supplier exclusively for purposes of the business transaction and according to the specifications of the valid data protection regulations. Upon written request, the supplier also has a right to access regarding its collected, processed and used personal data.
- (4) All terminology and provisions are gender-neutral and otherwise non-discriminatory within the meaning of the German General Equal Treatment Act (*Allgemeine Gleichbehandlungsgesetz*).

#### ■ § 13 Corporate social responsibility

- (1) As a company of the InfraServ Gendorf corporate group, we have joined the compliance initiative of Bundesverband Materialwirtschaft, Einkauf und Logistik e.V. (BME). An essential element of the BME Compliance Initiative is comprised of Codes of Conduct, which, among other things, contain rules to combat corruption, to prevent arrangements in violation of competition law and to comply with statutory provisions, and to promote actions that comply with fair, sustainable, responsible and ethical principles. We urge our suppliers to read, observe and obey the BME Codes of Conduct. The BME Codes of Conduct can be found on BME's website at [www.bme.de](http://www.bme.de); upon request, we shall send the BME Codes of Conduct to the supplier. We expect our suppliers to urge their subcontractors and suppliers to follow the BME Codes of Conduct.

- (2) We reserve the right to assess the performance of the supplier, in particular in the areas of quality, environmental protection and occupational safety along with energy efficiency, energy use and energy consumption. We expect the supplier to be willing to cooperate in a suitable and reasonable manner (for example, by responding to questionnaires or participating in audits that we conduct). We further expect the supplier to be willing to cooperate with us, in a proper and reasonable manner, in countering violations of the BME Codes of Conduct within the framework of the business relationship with us, and in clarifying suspected violations.
- (3) In the event of a violation of the BME Codes of Conduct, we reserve the right to withdraw from the contract in accordance with the statutory provisions, or to terminate the contract for good cause without observing a period of notice.
- (4) Within the framework of the performance of a service contract, the contractor shall be obligated to comply with all statutory provisions, in particular the German Minimum Wage Act of 8/11/2014 (*Mindestlohngesetz*, "MiLoG") in the currently applicable version, and shall pay its employees a salary at least equal to the respective statutory minimum wage. Within the framework of a service contract, the contractor shall indemnify the client from all claims in connection with § 13 of the MiLoG. This also applies to any necessary costs incurred by the client based on the assertion of claims by employees or third parties (for example, social insurance institutions). This also includes legal fees in accordance with the German Attorneys' Compensation Act (*Rechtsanwaltsvergütungsgesetz*) for any required judicial defense, both in-court and out-of-court.