

# General Terms and Conditions of Purchase for Neumüller Elektronik GmbH

## I. General

### (1) Material and personal scope of application

The following terms and conditions shall apply to the legal relationship between us and the supplier arising from all current orders, orders not yet fully processed by both parties and all future orders and services assignments, irrespective of whether the supplier manufactures the goods himself or purchases them from suppliers. The following terms and conditions shall apply only if the supplier is an entrepreneur within the meaning of section 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.

### (2) Exclusion of third-party terms and conditions of sale

Our General Terms and Conditions of Purchase apply exclusively. Any deviating, conflicting or supplementary terms and conditions of the supplier, in particular general terms and conditions of sale, delivery and payment, are hereby rejected. We shall not be bound by such terms and conditions even if we do not expressly object to them each time after receiving delivery or if we accept deliveries without reservation even in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase. Our terms and conditions shall be considered recognised when our order is accepted, but at the latest when deliveries are dispatched to us.

### (3) Effectiveness

Should any individual provision be or become invalid, this shall not prejudice the validity of the remaining provisions of these General Terms and Conditions of Purchase. In the event of a provision being valid, a valid provision that comes as close as possible to the economic intention of the original shall be considered agreed.

### (4) Written form

All legally relevant declarations and notifications by the supplier regarding the contract shall be made in writing, i.e. in written or text form. This provision shall not prejudice legal requirements regarding form or further proof, in particular in the case of doubts about the legitimacy of the person making the declaration.

### (5) Statutory provisions

This above shall not prejudice statutory provisions which are not directly amended or expressly excluded by these General Terms and Conditions of Purchase.

## II. Order

### (1) Written confirmation of order

Our orders must be confirmed in writing by the supplier within 3 working days of receipt at the latest. Otherwise, we may revoke our order without giving reasons.

### (2) Deviation, change and addition

A deviation from, modification of and/or addition to our order is not permissible. Any deviation, modification of and/or addition to the order confirmation in relation to our order shall be binding on us only if we have agreed to this change in writing. The acceptance of deliveries or services, or payments by us, does not constitute consent.

### (3) Warranted characteristics

The technical data and information provided in the data sheets, specifications, offers, drawings and illustrations of the supplier are binding. All public statements by the supplier, in particular in data sheets, specifications, catalogues, operating instructions, manuals or in advertising, constitute an offer by the supplier to conclude a warranty contract, which is deemed accepted by us by our order. Cost estimates are also binding and are not subject to a charge.

### **III. Delivery periods / delivery dates**

#### **(1) Binding time specifications**

All delivery dates and delivery periods specified in our order are binding and are considered guaranteed by the supplier. The time of delivery of the goods to the place of receipt specified by us shall be decisive for compliance with the delivery dates or delivery periods. The supplier is obliged to notify us in writing immediately if he is unlikely to be able to meet agreed delivery times – irrespective of the reason. If, in such a case, accelerated transport of the goods is necessary in order to meet the agreed delivery dates, the supplier shall bear the additional expenses thereby incurred if he is responsible for the delay.

#### **(2) Delay in delivery**

If the supplier does not perform or does not perform within the agreed delivery period or if he is in default of delivery, we shall be entitled to the statutory claims. This entitlement shall, however, not prejudice the following provision. If the supplier is in default, we shall be entitled – irrespective of other statutory claims – to demand a lump-sum compensation for damages incurred due to this default of an amount equivalent to 1% of the net price for every completed calendar week, but not more than a total of 5% of the net price of the goods delivered late. We reserve the right to prove that higher damages have been incurred. The supplier reserves the right to prove that no damage at all or only a significantly lower damage has been incurred.

#### **(3) Terms of delivery**

Unless otherwise agreed, all deliveries shall be made „carriage paid“ to the Neumüller warehouse (DDP according to Incoterms 2020), including packaging. In the event of pricing ex works or ex supplier's sales warehouse, shipment shall be effected at the lowest cost in each case, insofar as no specific mode of transport is specified by us. Any additional costs arising from failure to comply with shipping instructions shall always be borne by the supplier. In the case of pricing free consignee, we may also determine the mode of transport. Additional costs for an accelerated transport necessary in order to meet a delivery date shall be borne by the supplier. The supplier shall insure the consignment against transport risks at his own expense.

#### **(4) Delivery documents**

All delivery documents (shipping notifications, delivery notes, packing slips, waybills, invoices) and the external packaging etc. must show the order references, barcode details, reference numbers and other information that we require in connection with the processing of the order and that we specify in our order. Delivery notes or packing slips must be enclosed with each delivery.

#### **(5) Transfer of risk upon receipt or acceptance**

In the case of deliveries without installation or assembly, the risk shall pass to us on receipt at the place of delivery that we have specified; in the case of deliveries with installation or assembly and in the case of services, when these are accepted.

### **IV. Prices**

#### **(1) General price regulations**

Unless otherwise agreed in writing, the prices in the order shall be considered binding and including statutory value added tax, unless this tax amount is shown separately. Any price increases in deviation from the prices shown in the order shall require our express written consent. Should the market situation allow a price reduction, the agreed price shall be reduced accordingly.

#### **(2) Packaging and packing material**

The costs of packaging and packing material shall be borne by the supplier. The supplier shall also take back packaging and packing material and shall bear the costs of return transport. At our discretion, we are entitled to dispose of transport packaging and other packing material and to deduct the costs of disposal from the supplier's invoices.

## **V. Payment**

### **(1) Due date**

Unless otherwise agreed, invoices are due for payment as follows:

- Within 30 days from receipt of invoice or delivery with 3% discount.
- Within 60 days from receipt of invoice or delivery with 2% discount.
- Within 90 days from receipt of invoice or delivery net without deduction.

If we do not receive the invoice and the delivery at the same time, the payment period shall commence at the earliest on the day on which both the invoice and the delivery are in our possession.

In the case of services, the payment period shall commence at the point in time at which the service has been rendered in full. We are not liable for any interest from the due date. Default in payment shall be regulated by the statutory provisions.

### **(2) Invoice formalities**

Invoices shall be issued separately for each order immediately after the consignment has been dispatched, showing the order reference, the individual articles with our article numbers and quantities, the unit prices and total prices, as well as the order number and the tax number. Value added tax shall be shown separately in the invoice. Invoices that are not issued properly shall be considered not issued.

### **(3) Set-off or retention**

We are entitled to set-off and retention in relation to the Supplier's claims to the extent provided by law. A discount deduction is also permissible in the event of offsetting or assertion of a right of retention. Payment of invoices does not constitute an acknowledgement of a legal obligation and does not constitute a waiver of warranty or guarantee claims due to defects of the contractual performance or other rights.

## **VI. Confidentiality, retention of title and provision of materials**

### **(1) Confidentiality**

The models, moulds, samples, tools, printing templates, drawings, standard sheets or other documents that we have provided to the supplier as well as the objects manufactured on the basis thereof may not be used for purposes other than execution of the contract and may not be made available to any third party without our prior written consent. Such materials must be secured against unauthorised access or use. If the supplier fails to comply with this obligation, we may demand surrender of the materials in question at any time. Upon request or after termination of the order or the business relationship, these materials, including all copies thereof, as well as moulds, models and tools must be returned to us without delay. The obligation to maintain confidentiality shall expire only if and to the extent that the knowledge contained in the materials provided to the supplier has become generally known. This provision shall not prejudice any special non-disclosure agreements or statutory regulations regarding the protection of secrets. All rights, in particular property rights and copyrights to such information, documents and objects, shall remain with us. We also reserve the right to assert further claims for any unauthorised disclosure.

### **(2) Retention of title to ordered goods**

The delivered goods shall become our property when delivered to the place of receipt that we have specified. We hereby expressly dispute any agreement of a reservation of title. In the event that we have expressly agreed with the supplier on the applicability of a retention of title, this agreement shall expire at the latest when the purchase price of the delivered goods has been paid. We shall remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively applicability of the simple reservation of title extended to the resale). This excludes all other forms of retention of title, in particular extended retention of title, passed-on retention of title and retention of title extended to further processing.

### **(3) Obligation to surrender**

In the event that we are in default with settlement of our liabilities, the supplier shall be entitled, in the event that a retention of title has been agreed, to demand the return of the unpaid goods subject to retention of title. This shall, however, require a further dunning notice with additional period of fulfilment of at least 2 weeks. Any assertion by the supplier of retention of title rights is simultaneously deemed to be a withdrawal from the contract in question.

### **(4) Client's contribution**

Insofar as we provide parts to the supplier, we reserve unrestricted ownership of these items. Any processing, mixing or combination (further processing) by the supplier of items that we provide shall be carried out on our behalf. The same shall apply in the event of further processing of the goods that we supply, so that we shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest at the time of further processing in accordance with the statutory provisions. We retain ownership of tools for which we have paid. The supplier is obliged to use the tools exclusively for the manufacture of the goods that we order. The supplier is also obliged to insure the tools belonging to us at replacement value against fire, water and theft damage at his own expense and to carry out any necessary maintenance and inspection work in good time at his own expense. He must notify us immediately of any malfunctions; if he culpably fails to do so, we reserve the right to assert claims for damages.

## **VII. Warranty**

### **(1) Definition of defect**

The supplier guarantees that the delivered products are of the agreed quality and properties at the time of transfer of risk, that they are suitable for normal use as is customary for products of the same type, and that they have the properties which can be expected on the basis of the manufacturer's data sheet, the public statements by the supplier, the manufacturer or his assistants, in particular in advertising or in labelling, regarding certain properties of the product. The product descriptions which are or were included in the contract in question, in particular by designation or reference in our order, shall also be deemed to constitute an agreement on quality and properties.

Any delivery by the supplier of a wrong item or an insufficient quantity shall be considered equivalent to a material defect.

### **(2) No obligation to inspect and give notice of defects**

We are not obliged to inspect the goods or to make special enquiries regarding any defects when the contract is concluded. In deviation from section 442 (1) sentence 2 BGB (German Civil Code), we shall accordingly also be entitled without restriction to claims for defects if the defect remained unknown to us at the time the contract was concluded as a result of gross negligence.

In deviation from section 377 HGB (German Civil Code), we are obliged only to inspect the goods after delivery in the ordinary course of business and within a reasonable period of time in the context of an incoming goods inspection for identity, compliance of content between the order and the delivery – exclusively on the basis of the delivery documents and the marking on the external packaging of the goods – as well as for obvious and externally recognisable transport damage. We have no further obligation to carry out a technical inspection of incoming goods. The above does not prejudice our obligation to give notice of defects discovered subsequently.

### **(3) Complaint processing / 8D report**

Notifications of defects and fault reports are processed via debit notes to the supplier. This is done by offsetting or asserting a right of retention against the supplier's outstanding claims. The supplier is obliged to provide us with an explanation of the cause of the defect, its investigation of the defect and the planned corrective measures within 10 working days after receipt of our notification of defect. A statement in the form of an 8D report shall be required in the case of a manufacturing defect that is not merely a single defect and in the case of defects attributable to a core process.

Without prejudice to our further statutory warranty claims, we shall be entitled to claim reimbursement from the supplier for the processing, testing and sorting costs that we incur – including the costs of test reports prepared or initiated in the course of the defect investigation, insofar as we are not demonstrably responsible for the identified defect.

#### **(4) Liability for material defects**

The supplier shall, at our discretion and at its own expense, remedy any defects that occur or provide a new delivery or performance free of defects. Subsequent performance shall also include the removal of the defective goods and installation of the new items, if the goods were installed in some other item or attached to some other item in accordance with their nature and intended use before the defect became apparent. If the supplier fails to remedy the defect or provide a replacement delivery or service within a reasonable period to be set by us, we shall be entitled to withdraw from the contract in whole or in part without compensation or to demand a reduction in the agreed price, to carry out or arrange for rectification of the defect or new delivery ourselves at the supplier's expense or to demand compensation in lieu of performance. The same shall apply if the supplier declares himself unable to remedy the defect or make a replacement delivery or to provide a replacement service within a reasonable period of time. To the extent provided by law, these claims shall also exist without a deadline being set. The supplier shall bear all expenses necessary for the purpose of discovering defects and rectifying faults, in particular personnel, transport, travel, labour and material expenses, as well as costs of dismantling and installation, where applicable, even if it is subsequently established that actually no defect existed. We are furthermore entitled to demand compensation from the supplier for the costs incurred, for damages and proven unnecessary effort and expenses as well as all expenses necessary for the purpose of rectifying the defect or obtaining a new delivery.

#### **(5) Warranty period**

Unless a longer warranty period is determined by law, all contractual claims for defects shall become statute-barred within 36 months from the transfer of risk. The warranty period shall be extended in the event of a notice of defect served by us by the period of time between the notice of defect and complete rectification of the defect. In the event of delivery of replacement goods, the warranty period for the replacement delivery shall begin anew when it is received at the place of delivery. In the case of non-contractual claims for damages, the regular statutory limitation period (sections 95, 199 BGB) shall apply, unless application of the limitation periods provided for by the law on sales leads to a longer limitation period in individual cases.

#### **(6) Recourse claims**

In addition to the claims for defects, we shall be entitled to all claims for expenses and recourse within a supply chain as provided by law (supplier recourse pursuant to sections 478, 445a, 445b BGB) without limitation. We are specifically entitled to demand precisely the type of supplementary performance from the seller that we owe our customer in the individual case, without this limiting our statutory right of choice (section 439 (1) BGB). Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to section 445a (1), 439 (2), (3), (4), sentence 2, section 475 (1) BGB), we shall notify the supplier, setting out the facts of the case and requesting a written statement. If we do not receive a substantiated statement within a reasonable period of time and if no amicable agreement is reached, the claim for defects actually granted by us shall be deemed to be owed to our customer. In this case, the supplier shall have the burden of proof to the contrary. Our claims from supplier recourse shall also apply if the defective goods have been combined with another product or further processed in any other way by us, our customer or a third party, e.g. by installation, attachment or installation

#### **(7) Return of defective products**

The costs and risk of returning defective delivery items shall be borne by the supplier.

## **VIII. Liability, product liability, liability insurance**

### **(1) Liability and product liability**

The supplier shall be liable for all damage caused by him, his legal representatives or his vicarious agents in connection with fulfilment of his contractual obligations. If the supplier is responsible for product damage within the meaning of the ProdHaftG or according to section 823 ff. BGB, the supplier shall indemnify us against claims of third parties to the extent that the cause lies within its sphere of control and organisation and insofar as it is liable itself in relation to third parties. In the event of recall actions being carried out, the supplier undertakes to reimburse us for any proven necessary expenses arising from or in connection with this recall. As far as is possible and reasonable, we shall notify the supplier of the content and scope of recall measures and give him the opportunity to comment. This shall not prejudice our right to assert further legal claims.

### **(2) Insurance**

The supplier shall take out commercial and product liability insurance to cover any claims for compensation in the amount of at least EUR 5,000,000.00 as a fixed rate for personal injury and property damage and shall maintain this insurance until the warranty period of the last order confirmed by the supplier has expired.

## **IX. Defects of title, industrial property rights, copyrights**

### **(1) Defects of title/third-party property rights**

The supplier warrants that his delivery is free from defects of title, in particular free from industrial property rights, copyrights or other rights belonging to third parties. In this respect, we shall be indemnified by the supplier against all claims which may be filed by third parties on the basis of defects of title or some infringement of industrial property rights. If performance of the contract in relation to our customers is opposed by some third-party rights, the supplier shall, at its own discretion and at its own expense, either obtain a right of use for the deliveries concerned or modify or replace them in such a way that the property right is no longer infringed.

If this is not possible for the supplier under reasonable conditions, we shall be entitled to the statutory rights of rescission or reduction in price as well as the right to claim damages instead of performance.

### **(2) Defence measures**

The supplier shall immediately coordinate with us all measures necessary for legal defence against defects of title and industrial property right claims and shall immediately take appropriate measures at its own expense. We are not entitled to make any agreements with the third party without the supplier's consent, in particular to conclude an agreed settlement.

### **(3) Further claims**

All further claims due to other defects of title remain unaffected and cannot be excluded by the supplier. The supplier's liability is excluded if and to the extent that the infringement of rights, in particular the infringement of third-party industrial property rights, results from specific specifications on our part or if the infringement of rights is caused by a service provided by us.

### **(4) Assignment of industrial property rights to the products**

If the supplier has industrial property rights, copyrights, patents, trademarks, utility models, registered designs and the like which are relevant to the delivery items, he shall grant us a right to use these rights free of charge with worldwide and non-exclusive effect for the life of the delivery items, along with the right to transfer these rights to our customers and their customers in turn, insofar as the marketing, construction, manufacture and use of the delivery items are affected. The supplier undertakes to oblige his sub-suppliers to grant the same rights in our favour.

## **WX. Compliance, social responsibility and sustainability**

### **(1) Social responsibility**

The supplier shall comply with the requirements of the code of conduct (<https://www.neumueller.com/de/downloads/broschueren>) and ensure that its subcontractors also comply accordingly.

### **(2) Material Compliance and Sustainability**

The supplier undertakes to deliver the items for delivery in compliance with the provisions of Regulation (EU) 2017/821 of 17 May 2017 on establishing supply chain due diligence obligations for EU importers of tin, tantalum, tungsten, their ores and gold from conflict and high risk areas and Section 1502 of the US Dodd-Frank Act. The supplier further undertakes to identify the use of the so-called „Conflict Minerals“ (tin, gold, tantalum, tungsten) in its supply chain and to take appropriate measures to ensure that the delivery item does not contain any such Conflict Minerals pursuant to Regulation (EU) 2017/821 of 17 May 2017 and Section 1502 of the US Dodd-Frank Act.

The Supplier warrants that its supplies comply with the provisions of Regulation (EC) No 1907/2006 (the REACH Regulation) concerning the registration, evaluation, authorisation and restriction of chemicals. The substances contained in the supplier's products are, to the extent required under the provisions of the REACH Regulation, to be pre-registered or registered after expiry of the transitional periods, unless the respective substance is exempt from registration. In accordance with the provisions of the REACH Regulation, the Supplier shall provide us with safety data sheets or the information required in accordance with Art. 32 and Art. 33 of the REACH Regulation immediately and without being requested to do so. All corresponding information is to be sent to [info@neumueller.com](mailto:info@neumueller.com). The requirements of Annexes XIV and XVII of the REACH Regulation shall be observed. Furthermore, the supplier shall on its own initiative ensure that it provides us with the relevant SCIP numbers and other SCIP information (primary identifier of the component, component category, information on the place of manufacture, concentration of the substance in the component, information on the identification of the material category or mixture category and customs tariff number) with regard to all products, parts and materials which are supplied to us now and in the future. The supplier shall be responsible for ensuring that the products or parts thereof to be supplied comply without limits with the requirements of Directive 2011/65/EU (RoHS) in the most current version and the respective national regulations issued within the European Union in implementation of this Directive (ElektroStoffV). The supplier shall notify us in good time regarding the RoHS status of the products and the exemptions being exercised at the earliest possible time when the contractual products are available for delivery. Insofar as contractual products cannot be demonstrably delivered in compliance with the above-mentioned directives and national regulations, we reserve the right to withdraw from the respective framework or individual contract without incurring any charge. The supplier is furthermore obliged to comply with the requirements of other framework conditions relevant under environmental law within the European Union, as well as with the provisions of environmental law applicable in Germany. This applies in particular, but is not limited to, conformity of the products supplied with the ChemVerbotsV, the BattG, the VerpackV, as well as the European Ozone Regulation (EC No. 1005/2009), CLP Regulation (EC No. 1272/2008) and the POP Regulation (EC No. 850/2004) in the respective applicable versions.

## **XI. Miscellaneous**

### **(1) Export control**

The supplier is responsible for ensuring that the products or parts thereof to be supplied are not subject to national or international export restrictions. If a product or part thereof is subject to an export restriction, the supplier shall procure the necessary export licences for worldwide export at its own expense. In the event of proven violations of export restrictions for which the supplier is responsible, the supplier shall expressly release us from any liability and responsibility in our external relationships, irrespective of the legal grounds, and shall bear the costs of all damages that we may incur as a result of such violation.

## (2) Purchaser's right of withdrawal

Exercise of our statutory right of withdrawal does not require any fault on the part of the supplier.

## (3) Assignment

The supplier may assign any claims against us only with our written consent.

## (4) Subcontracting of orders

The subcontracting of orders to third parties without our written consent is inadmissible and entitles us to demand compensation or to withdraw from the contract in whole or in part at our discretion.

## (5) Advertising

The naming of our company in promotional literature of any kind or in any other manner suitable for advertising purposes is permitted only with our express written consent.

## **XII. Place of performance and jurisdiction / applicable law**

### (1) Place of performance

The place of performance for the mutual services to be provided pursuant to the contract is the place of our registered head office.

### (2) Place of jurisdiction

If the supplier is an entrepreneur pursuant to section 310 (1) BGB, the exclusive – including international – place of jurisdiction for all disputes arising from the contractual relationship shall be the place of our registered head office. We shall, however, also be entitled to take legal action at the supplier's place of business. The above shall not affect overriding statutory provisions, in particular relating to exclusive jurisdiction.

### (3) Applicable law

The legal relationship between us and the supplier shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980.

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