

LEMKEN GmbH & Co. KG

GENERAL TERMS AND CONDITIONS OF PURCHASE

As of: November 2023

Section 1 General scope of application

1. Our General Terms and Conditions of Purchase shall apply exclusively; we do not recognise general terms and conditions of the supplier or contracting partner which are contrary to or differ from our General Terms and Conditions of Purchase, in particular in the form of general terms and conditions of delivery and sale, unless we have expressly approved their validity; otherwise they shall be rejected. Our General Terms and Conditions of Purchase shall also apply exclusively if we accept the supplier's delivery and/or performance without reservation in the knowledge of terms and conditions of the supplier which are contrary to or differ from our General Terms and Conditions of Purchase. Silence in response to an order confirmation of the supplier shall not be deemed to constitute consent.
2. With the supplier's initial delivery or performance on the basis of these General Terms and Conditions of Purchase, these General Terms and Conditions of Purchase shall also apply to all further deliveries by the supplier to us, even if we do not expressly point this fact out to the supplier in the future.
3. If framework contracts or individual contracts are concluded between us and the supplier, they shall have priority over the General Terms and Conditions of Purchase. Unless otherwise agreed in special provisions, they shall be supplemented by the present General Terms and Conditions of Purchase.
4. All agreements that are concluded between us and the supplier for the purpose of implementation of the contract shall be stipulated in the contract in writing or text form. This shall not affect Section 305b of the German Civil Code (BGB – priority of individually agreed terms) in respect of individual agreements of whatever kind.
5. Our General Terms and Conditions of Purchase shall apply solely to companies as defined in Section 14 of the German Civil Code (BGB), i.e. to a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of their or its trade, business or profession.
6. Only the German version of these General Terms and Conditions of Purchase is legally binding. If the content of the English translation or a translation in another language differ from that of the original German version, the German version shall always prevail.

Section 2 Transmitted data, illustrations, formulas, drawings, calculations, photographs, tools, forms, cylinders; printing templates

1. We reserve sole title to and copyright in illustrations, formulas, recipes/information on production or use, drawings, layouts, calculations and other documentation and data on our part; the supplier may not make them accessible to third parties without our explicit consent. In addition, they shall be used solely for processing our order or for processing the contractual relationship entered into with us and after processing of the order and, in the case of long-term commitments, on their termination, shall be returned to us including all copies without request or be destroyed upon our request. The supplier shall keep them secret with regard to third parties, insofar as there is no official or statutory disclosure obligation in respect of them. If these illustrations, formulas, drawings, calculations and other documentation are embodied in data, they shall be deleted completely at any time upon our request by overwriting them and the supplier shall confirm deletion without delay in writing or in text form.
2. Products that are made by the supplier or its vicarious agents using documentation and/or recipes and/or data drafted by us and/or our vicarious agents (e.g. drawings, samples or models, etc.) or on the basis of information designated or marked by the latter as confidential or with features and/or characteristics of a product that are unknown to the public or their tools or copied tools, may not be used by the supplier outside our order or offered or supplied to third parties. The supplier shall agree to this, including at the cost of its vicarious agents and in our favour as a genuine contract benefiting third parties, and shall provide evidence of this to us upon first request by us.

This obligation shall also apply after expiry of this contract; it shall expire when and insofar as the information contained in the provided documents has become publicly known. However, it shall end no later than 4 years after the end of the contract and, in the event of failed contract negotiations, 4 years after the information/data/documents were handed over.

3. The supplier and its vicarious agents are prohibited from taking photographs on our premises.

4. Tools, moulds, cylinders, printing templates, technical drawings, etc. which are produced on our behalf by or through the supplier shall become our property at the time of completion. They are to be designated by the supplier as the "property of LEMKEN", to be insured free of charge, stored separately and to be maintained and repaired. Unless otherwise explicitly agreed, we shall bear no costs for tools, cylinders, templates and similar for existing items/size units. Note that our property may only be used to produce items for us.
5. Our property is to be surrendered by the supplier to us at any time upon our request. Any rights of retention in this regard are excluded. Insofar as manufacturing costs relating to the property items have not yet been settled (amortisation), surrender shall take place concurrently against settlement of the outstanding residual claim. Tools, templates, printing plates and similar items may only be destroyed following prior consultation with us.

Section 3 Offers of the supplier / travel expenses / highly personal performance

1. Offers of the supplier shall be made in writing or in text form. They are non-binding and free of charge for us. All costs shall be specified in an offer. Estimated prices (e.g. travel expenses) shall be specified separately and, as far as possible, accompanied with daily rates. We do not accept surcharges, such as service fees, agency commissions, handling fees, charges, etc. Expenses of this kind are to be explicitly reflected as cost items in the offer.
2. Unless otherwise contractually agreed, the supplier shall be reimbursed for travel expenses in accordance with the following provisions and upon receipt: car 0.30 €/km, train 2nd class; in the case of flights, the cheapest option is to be chosen. In the case of overnight accommodation at our locations, hotels which are bound by framework agreements on our part are to be used. In the case of rental cars, our existing contracts are also to be taken into account.
3. Offers from the supplier must describe the delivery/performance item in full and show a complete list and all additional products and/or performances required for safe and economically efficient use by us of the delivery/performance item and factor them into the supplier's offer.
4. Unless otherwise agreed, goods or components of goods and/or performances or components of performances that are not shown in the supplier's offer but are essential for safe operation or appropriate use of the goods and/or performance in accordance with the agreed properties, are – unless otherwise agreed – regarded as components of the delivery and/or performance item and are to be provided by the supplier together with this.
5. The supplier shall indicate risks and environmental hazards or the possible infringement of third-party rights connected with the supplied goods or provision of the agreed performance, as well as the necessity of special handling of the goods (in particular with regard to storage), together with its offer, and, in the event of new findings by the supplier after preparation of the offer, immediately after knowledge thereof explicitly in writing or emphasised in text form.
6. Unless otherwise agreed, the supplier must provide the performance as a "highly personal" performance, i.e., in the case of legal persons, exclusively with their own employees.

Section 4 Order processing, orders, documents, passing of risk

1. To enable us to execute the contract in an orderly manner, only orders placed by us in writing and in text form with our sender identification shall be valid.
2. Amendments and additions to our order and the concluded contract must be made in writing or in text form. This shall also apply to the actual waiver of the written form agreement, wherein priority of the individual agreement pursuant to Section 305b of the German Civil Code (BGB) for individual agreements of any form shall remain unaffected. Silence on our part in response to offers, requests or other declarations by the supplier shall only be deemed to constitute consent if this has been expressly agreed. The content of the order shall be exclusively decisive for the order.
3. The supplier shall be obliged within the context of the business relationship to handle each individual order separately in all business correspondence.
4. The supplier shall be obliged to confirm the order in writing or in text form within 5 working days (at its registered office) of receipt of the order, or within 3 working days at the supplier's registered office if the order is placed by us on an electronic ordering platform of the supplier, wherein the receipt of confirmation by us shall be decisive. After expiry of this period, we shall be entitled to revoke our order unless otherwise explicitly agreed. Claims of the supplier based on a therefore effected and effective revocation shall be excluded.
5. Unless otherwise explicitly agreed, delivery shall be made DDP (Incoterms 2020) and shall be at the supplier's risk until the time of complete delivery and, in the case of services under a contract for work and services, acceptance

by us at the contractually agreed place of performance. If ex-works delivery has been agreed, the freight/customs/loading documents and package list must be prepared by the supplier and sent to us without delay.

6. The supplier is obliged to indicate the following mandatory information on all shipping documents:
 - a. LEMKEN order number
 - b. For framework agreements, the call-off number (framework agreement number alone is not sufficient)
 - c. LEMKEN item number
 - d. LEMKEN parts number and LEMKEN item designation
 - e. Sender / Supplier
 - f. Supplier number
 - g. Delivery note number
 - h. Quantity per order item
 - i. Weight per item
 - j. Country of origin in accordance with relevant commercial law (see also exporting under Section 8)
7. In the case of triangular transactions, only the delivery note of LEMKEN's direct contractor shall be enclosed and not that of the third-party service provider. The shipping documents must be enclosed with each consignment and must always be attached to the goods. A goods tag that can be read with a barcode scanner must be provided with the delivery. The specifications for the barcode can be requested by the supplier, if required. If the supplier fails to provide any of the aforesaid, we shall not be responsible for delays in processing and payment.
8. We request that the order confirmation be sent in digital form to the following email address ab-einkauf@lemken.com. The supplier is obliged to indicate the following mandatory information on its order confirmation:
 - a. LEMKEN order number
 - b. LEMKEN item number
 - c. LEMKEN parts number and LEMKEN item designation
 - d. Order confirmation number
 - e. Quantity
 - f. Price
 - g. Binding delivery date
 - h. Supplier number
 - i. Delivery address
 - j. Country of origin in accordance with relevant commercial law (see also exporting under Section 8)

If the supplier fails to provide any of the aforesaid, we shall not be responsible for delays in processing.

9. Unless otherwise explicitly agreed and subject to proof to the contrary, official values, or in the absence of such values, values determined by us following receipt of the goods shall be authoritative for quantities, weights and measures as well as delivery quantities. For all consignments, the weights and number of pieces shall be stated in the accompanying documents, insofar as this is customary in the trade or has been agreed with us, or the remuneration is calculated according to weight.
10. Insofar as our order or the documents or data on which an order is based contains obvious errors, mistakes, clerical errors and miscalculations or errors recognised by the supplier, we shall not be bound in this respect. In such cases, the supplier shall rather be obliged to inform us of the relevant errors in writing or in text form without delay so that we are able to correct and renew our order. If recognisably required documents have not been sent along with the order, this obligation shall apply accordingly.
11. Should the supplier only accept our order with deviations, the supplier must clearly highlight these deviations in its order confirmation. The supplier must check its offer on the basis of our enquiry/contract award documents. The supplier shall also notify us in writing or in text form of any deviations, changes or additions to its offer in relation to the enquiry/contract award documents.
12. If the supplier has reservations about the type of execution as requested by our order, for example since the supplier cannot or is unlikely to be able to fulfil them due to desired specifications, or since there are conflicting legal requirements, the supplier must communicate these reservations clearly before placing the order in writing or in text form and propose changes to remedy the situation.
13. The supplier shall also notify us in writing or in text form of any changes to contractual terms or order details and/or order conditions. The supplier shall notify us immediately in writing or in text form of any amendments/supplements to the scope of the contract whose necessity only becomes apparent during performance of the contract. Amendments/Supplements shall only become legally effective with our written consent. The priority of the individual agreement in accordance with Section 305b of the German Civil Code (BGB) in any form remains unaffected.

14. Unless otherwise explicitly agreed, the supplier shall be obliged, when commissioning assembly, repair or construction services, to sufficiently inform themselves of the local conditions relevant to the service to be rendered by inspecting the plans available to us regarding the type of execution and scope of the service as well as by inspecting the construction site and/or the assembly site or the site of other services to be rendered by the supplier at the place of performance and, if necessary, by questioning us before rendering the service.
15. The supplier shall provide us with complete information on the documents to be provided by us in writing or in text form in good time prior to performance of the service and request them from us in writing or in text form.
16. Insofar as the supplier has to provide us with material samples, test protocols, quality documents or other documents in accordance with the contract or as a secondary obligation, the completeness of the delivery and/or service also presupposes the complete acceptance of these samples, protocols and documents in German or in English.
17. Insofar as waste arises in the course of the supplier's performance of the contract, the supplier shall remove and dispose of such waste itself and, unless otherwise explicitly agreed, at its own expense in accordance with the relevant provisions of waste legislation. Ownership, risk and responsibility under waste law shall pass to the supplier at the time the waste is generated.
18. We shall be entitled to withdraw from the contract in the event of the following alternative circumstances and, in the case of a continuing obligation concluded with the supplier, to terminate the contract without notice for exceptional reasons if
 - a. the supplier, in the case of a quote price with a unilateral price increase option, increases the price for the goods sold or performance to be provided by it, and/or
 - b. the supplier applies for insolvency or ceases its payments, or an application for the opening of insolvency proceedings against the assets of the supplier is rejected due to lack of assets, if in the aforesaid cases at the time of the withdrawal the supplier culpably breaches an obligation under the contract concluded with us or we cannot reasonably be expected to adhere to the contract.

In the aforesaid cases, the supplier shall not be entitled to any claims against us due to our withdrawal or termination, in particular for damages or reimbursement of expenses.

19. A self-delivery reservation by the supplier is not accepted by us, nor is a suspension of the supplier's obligation to perform in the event of changed circumstances if these were abstractly or concretely foreseeable for the supplier at the time the contract was concluded (e.g. through so-called hardship clauses and e.g. in the event of acts of war, breaking supply chains, logistics problems, embargoes, political developments).
20. In addition, good cause for extraordinary termination on the part of the Supplier or a right of the Supplier to dissolve the contract or a right of the Supplier to refuse performance shall not exist if (i) there is a price increase for raw materials required for the fulfilment of the contract or services procured from subcontractors, and/or (ii) the procurement of raw materials or services from sources other than the Supplier's previous contractual suppliers becomes necessary for the fulfilment of the contract.
21. During the term of this agreement, the supplier undertakes to maintain suitable material and personnel resources as well as contractual relationships with suppliers and sources of raw materials in order to continuously fulfil its delivery obligation under the agreement concluded with us.

Section 5 Prices, payment, invoice, assignment, setting off, retention, packaging, waste disposal

1. Unless otherwise explicitly agreed, the agreed prices are fixed prices and, unless otherwise agreed in writing, include all the costs of packaging, transport to the agreed receiving or shipping point (delivery DDP – Incoterms 2020) and for customs formalities and duty. Unless otherwise explicitly agreed, the place of delivery shall be our registered office. Additional quantities shall not be remunerated. Short quantities are to be credited to us immediately.

In the case of orders with price reservation on the part of the supplier, we shall be entitled to withdraw from the contract and, in the case of continuing obligations, to terminate the contract without notice if the price stated in the confirmation does not meet with our approval.

The price risk, in particular the calculation risk and the risk of raw material price changes and/or changes in purchase costs for required services shall be borne exclusively by the Supplier. It is noted that, in the absence of express agreements to the contrary, such changes in the purchase costs and/or changes in the raw material costs do not constitute a claim for price adjustment and a right to stop delivery on the part of the Supplier, nor do they constitute a case of force majeure and/or disturbance of the basis of the business.

2. Unless otherwise explicitly agreed with the supplier, all payments shall be made by bank transfer in euros after complete and due delivery of the goods and surrender of the documentation. If a customer bill or promissory note is given in payment we shall pay the stamp duty and discount in an amount to be agreed.
3. The applicable VAT is included in the price, unless the price was stated and agreed explicitly as a net price.
4. We can only process due invoices if they comply with the legal requirements, in particular the accounting provisions of the German Value Added Tax Act (UStG) and contain the order number shown in our order as well as the details and/or documents agreed with the order; the supplier is responsible for all consequences arising from non-compliance with this obligation. In the absence of the aforesaid information and/or documents, which is based on a culpable breach of duty on the part of the supplier, the supplier shall not be entitled to assert the claim in question against LEMKEN.
5. Unless otherwise explicitly agreed or more favourable conditions granted to us, the purchase price is due and payable within 30 calendar days after handover and acquisition of title to the delivery of goods, receipt of an invoice that meets the criteria pursuant to 10.4, within 14 days with a 3% discount or net within 30 calendar days.

Payment and cash discount periods shall commence from the receipt of invoice, but not before receipt of the goods or, for performance, not before their acceptance and, insofar as documentation, inspection documents (e.g. factory certification) or similar documents are included in the scope of performance, not before their handover to us in accordance with the contract.

6. Payments by us shall not be regarded as acceptance or waiver of possible defect rights and do not represent any recognition of performance of the contract.
7. Unless otherwise explicitly agreed, in the event of acceptance of early delivery and/or performance, the payment term shall be based on the originally agreed delivery date.
8. In the event of incomplete or defective delivery and/or performance, we shall have the right to retain payment until due performance in whole or pro rata in the ratio between the due and pro rata defective delivery/performance.
9. If advance payments have been agreed, these shall not be due until the supplier issues us with a directly enforceable guarantee (according to German law) from a German bank or Sparkasse bank that is a member of a deposit protection fund to secure the advance payment.
10. The supplier shall only be entitled to rights of retention and setting off with regard to claims by us for such claims that we have recognised or that have been upheld by a court of law. Setting off shall also be valid if the counter claim that is to be set off is synallagmatic with our claim (i.e. two performances in the contract concluded with us are reciprocal) and relates to the breach of a main performance obligation.
11. Assignment by the supplier of claims against us shall require our prior consent, unless this involves pecuniary claims in the course of trade (Section 354a of the German Commercial Code (HGB)).
12. Upon request and with the aim of joint cost reduction and competitiveness, the supplier shall fully disclose its price calculation to us and, within the scope of the "open book" calculation, communicate all costs for raw materials, processing costs, direct and indirect labor and overhead costs, amortization of investments, sales overheads and profit against conclusion of a non-disclosure agreement. Any calculation errors shall be borne solely by the supplier.
13. The supplier shall pack the items/substances to be delivered exclusively in environmentally friendly packaging material or environmentally friendly containers in such a way that transport and storage damage is prevented during normal handling. The packaging of the delivery items is included in the price, unless we have explicitly agreed this otherwise with the supplier. Waste generated by the supplier during delivery or assembly shall be disposed of free of charge. Insofar as the supplier is entitled to a return of the packaging needed for the delivery/performance, this shall be clearly marked on the delivery/performance documents. In the absence of any marking, we shall dispose of the packaging at the expense of the supplier; in this case, the supplier's claim to a return of the packaging shall lapse.
14. In the exceptional case that different agreements were concluded between the supplier and us, the supplier shall charge packaging at the cost price. In this case, the supplier shall select the packaging that we stipulate and request us in good time in text form to make this selection. If the packaging we selected is not suitable for secure and adequate packaging of the delivery item, the supplier shall inform us of this without delay in writing or in text form.

15. If the packaging used to ship the goods is invoiced separately on the basis of an agreement, unless otherwise explicitly agreed with the supplier, we remain free to make this packaging available again in a usable condition carriage paid in return for a credit note for at least 2/3 of the invoiced net price. The supplier has the right to show proof that the returned packaging is worth considerably less (at least 10% less). In this case, the reimbursement shall be adjusted accordingly.
16. In the case of the above Clause 14, we shall have the right to send the packaging to the supplier at its expense.

Section 6 Sub-contracts

The supplier is entitled to award sub-contracts if and to the extent that no strictly personal service has been agreed by it. If, however, the supplier is authorised to award sub-contracts in this case, we are entitled to object to the award of sub-contracts by the supplier for good cause. In this case, the supplier shall execute the order itself or through another sub-contractor. Good cause exists, in particular if, on objective consideration, the sub-contractor does not provide a guarantee of proper fulfilment of the contract concluded by us with the supplier or completion of the work undertaken by the sub-contractor in this respect

The supplier shall inform us of the sub-contractor's deployment in writing or in text form in good time, stating all relevant information (e.g. company name, address, qualifications, references), to ensure that we can check before the planned deployment for performance of services whether there is good cause to object in the aforesaid sense and still inform the supplier of the result of the check.

Section 7 Delivery, delivery time; environmental protection and energy efficiency; right to information

1. The agreed delivery and/or service dates and deadlines shall be observed. In the case of an agreed delivery obligation, compliance includes the receipt of goods at our facility or at the agreed place of delivery.
2. If the goods ordered from the supplier are delivered by a carrier commissioned by the supplier, the carrier or the driver of the carrier is responsible for the correct and complete unloading of the goods intended for us. Responsibility does not pass to our personnel who unload the goods as vicarious agents of the driver of the carrier for the driver of the carrier. If our personnel unload goods which are not intended for us from the vehicle of the carrier on the basis of instructions of the driver of the carrier, the supplier shall bear the additional costs resulting from any incorrect delivery/unloading.
3. The supplier is obliged to inform us immediately in writing or in text form, stating the reasons and the expected duration, if circumstances occur or become apparent to it, from which it is apparent that agreed delivery or service dates cannot be met. This also applies if the supplier is not responsible for the delivery delays. In the event of a culpable breach of this obligation, we shall be entitled to claim compensation from the supplier for the resulting damage.
4. In the case of earlier delivery or performance than agreed, we reserve the right to make a return at the expense of the supplier or to refuse performance of the service or delivery. If there is no return in the case of early delivery, the goods shall be stored at the risk and expense of the supplier until the agreed delivery time.
5. Partial deliveries or services of the supplier are only permitted after explicit agreement with us. In the case of agreed partial deliveries, the remaining quantity shall be clearly stated.

The supplier must have the receipt of consignments confirmed in writing by the receiving authority specified by us prior to delivery as proof of delivery.

6. Protective equipment required for loading and unloading shall be provided by the supplier. Safety shoes must be worn when loading and unloading trucks and silo vehicles on our premises.
7. For hazardous substances, the safety data sheets must be handed over with the first delivery at the latest.
8. Safety defects in delivery vehicles and in the supplier's delivery equipment during the delivery process shall always entitle us to refuse acceptance.
9. In addition to optimal logistics planning for the delivery, the supplier shall also optimally take into account the recycling of products, packaging and contractual assets.
10. Energy consumption and energy efficiency is an important evaluation criterion for the procurement of products and equipment by us. The supplier shall use the most energy-efficient technology for contractual items, taking into account the contractually agreed requirements as well as economic efficiency and what is technically feasible.

Section 8 Foreign trade law, export and customs regulations, supplier declarations

1. As an essential contractual obligation, the supplier shall be obliged to provide us with the certificates of origin and quality relating to the delivery items in German or in English, together with the delivery of the goods.
2. The supplier undertakes to issue a supplier's declaration confirming the preferential origin of all delivery items in accordance with the current EU implementing regulation. To do so, the supplier shall issue a long-term supplier's declaration for the delivery of goods within the European Union (EU) within a period of 21 calendar days – after being requested to do so by us (in the case of existing delivery relationships) or after order confirmation (in the case of an initial order), the legal framework for which can be found in the Union Customs Code (UCC), Articles 64 ff. and must be complied with.
3. The supplier undertakes to issue a supplier's declaration confirming the trade origin based on commercial law of all the delivery items in accordance with the current EU implementing regulation. To do so, the supplier shall issue a long-term supplier's declaration for the delivery of goods within a period of 21 calendar days – after being requested to do so by us (in the case of existing delivery relationships) or after order confirmation (in the case of an initial order), the legal basis for which can be found in the Union Customs Code (UCC), Articles 59 ff. and must be complied with.
4. Further, the supplier shall be obliged to provide us with all the necessary information on the composition of the respective delivery item, in writing or in text form prior to delivery, insofar as this is necessary for the fulfilment of official requirements (including export control requirements) at home and abroad and we have informed the supplier in advance of the country of use. The supplier shall be liable for damages resulting at our expense due to the culpable omission of such information. Section 254 of the German Civil Code (BGB) (Contributory negligence) shall remain unaffected.
5. The supplier shall be obliged to inform us about any applicable export and re-export licence requirements or restrictions for the goods under German, European or U.S. export control law and customs regulations as well as the export control law and customs regulations of the country of origin of the goods in its business documents and to send the following information on goods subject to licence requirements to zoll@lemken.com in good time prior to the first delivery and immediately in the case of changes/amendments (technical changes, legal amendments or official determinations):
 - a. LEMKEN material number
 - b. Goods description
 - c. Commercial origin of goods
 - d. Statistical commodity code (HS code)
 - e. Export control information and export control codes
 - f. A contact person in its organisation to resolve any questions
6. Upon request the supplier is obliged to prove the country of origin of the goods pursuant to Council Regulation (EU) No. 1207/2001, by means of long-term/supplier declarations or corresponding certificates of origin. They must be provided free of charge and stating the GdB material number concerned. We must be notified of any changes to the origin of goods immediately in writing or in text form. The supplier shall be liable for the correctness of this information. If we do not receive a necessary export licence through no fault of our own, we shall be entitled to withdraw from the contract.
7. The supplier shall also expressly inform us in writing or in text form, along with the order confirmation, if the delivery items are dual-use goods pursuant to the EU Dual-Use Regulation (EU) No. 2021/821 of the Council dated 20 May 2021 (i.e. goods with a dual purpose; items, technologies and knowledge that generally serve civilian purposes but can also be used for military purposes), the U.S. re-export laws and/or the German Foreign Trade and Payments Act (AWG) and the German Foreign Trade and Payments Ordinance (AWV).
8. The supplier shall agree, upon our request, to grant authorities and professional associations responsible for quality and environmental management, the prevention of health hazards or the approval of our products and/or services, production safety and social security matters at our registered office, at the place of delivery and/or performance and/or at the supplier's registered office access to its production facilities and to provide us with all technical, economic or logistical support that is reasonable for the supplier in this context, economically or logistically reasonable for the supplier in this connection, should the authorities examine one of the products or substances delivered to us by the supplier and/or one of the services rendered to us by the supplier or should they make representations due to alleged infringements of the law by such products and/or services in which the supplier has participated with a delivery or sub-contractor services or has thereby made the production or our service possible. We also undertake to perform the same for the benefit of the supplier.

Section 9 Delay

1. In the event of delay in delivery and/or performance on the part of the supplier, we shall be entitled to the full statutory rights. We shall, in particular, be entitled following expiry of a suitable period of grace of at least 3 calendar days (except Saturdays, Sundays and public holidays) to demand damages instead of performance
2. In the event of delay in delivery and/or performance on the part of the supplier, we shall be entitled to demand a contractual penalty to the amount of 0.5% of the net payment for the delayed delivery or performance per complete week of delay, but not more than a total of 5% of the net payment for the delayed delivery or performance; we reserve further statutory rights, in particular claims for damages, but taking the contractual penalty into full account. We may claim the contractual penalty within 3 months after becoming aware of the delay.
3. In the case of a threatened delay in delivery and/or performance, or one that has already occurred, the supplier shall on demand allow us to inspect its complete relevant documents in connection with the legal relationship on which the delivery or performance with regard to its component suppliers and/or sub-contractors is based and designate us with regard to all relevant component suppliers and suppliers as contractors with the right to inspect. However, the supplier shall be obliged to disclose operational or trade secrets as defined in Section 2 of the German Act on the Protection of Trade Secrets (GeschGehG). In other words, information and/or data that are known only to a narrow group or persons, refer to our company, have a financial value and are identifiable, only after it is in possession of an offer from us regarding a confidentiality agreement that binds us with regard to the information to be disclosed for the benefit of the supplier.
4. If in the case of a delay in delivery and/or performance on the part of the supplier there is an objective reason for this for our benefit, the supplier shall grant us the rights to contact all relevant sub-contractors and suppliers directly on its part in the framework of order processing for us, in order to avert a delay in delivery and/or performance resulting from this or to shorten it as far as possible. The supplier shall provide us with the contact details for this purpose free of charge.
5. The supplier shall remain fully responsible for the order in the event of circumstances in accordance with the aforesaid Clauses 3 and 4.
6. Acceptance of a delayed delivery shall not comprise a waiver of claims for damages and a contractual penalty agreed for our benefit.

Section 10 Change management

1. The necessity of changes to the order content cannot always be avoided because of demands for change by our end customers. We shall therefore have the right to demand changes to the delivery item even after conclusion of the contract, with regard to design, execution, quantity and delivery time, in accordance with the following rules, if the modifications are objectively technically and logistically reasonable for the supplier, taking into account its object of business, its production and performance skills and its order books. The supplier shall check the demand for change without delay and notify us of its effect on the contract structure without delay in writing. This obligation to notify shall include a statement on whether the desired changes are technically and/or logistically possible and expedient in the first place, as well as a statement on the effects of the requested changes on the previously agreed contract structure, for example, concept, deadlines, dates, acceptance modalities and payment, in the form of an offer. We shall then decide without delay on implementation of the changes with respect to the supplier.
2. The change shall become a component of the contract with the positive decision and agreement on the changes to the terms of the contract.
3. A change to the contract terms by the supplier may not be demanded in the case of technical changes that are financially insignificant for the supplier.

Section 11 Acceptance

1. All performances by the supplier for which acceptance is possible are subject to formal acceptance. If the check of the supplier's performances requires commissioning of a system or machinery, the acceptance will not take place until after successful conclusion of the functional tests. In other cases, unless otherwise explicitly agreed, the test time limit for us shall be 12 calendar days after receipt of the completion notice. The supplier insofar waives the defence of late notice of defect.
2. If the supplier has to provide a performance that requires acceptance by us, the supplier shall be obliged to notify us in writing or in text form of its request for acceptance no less than 14 calendar days before the date to be agreed for the acceptance.
3. If defects are detected during the acceptance inspection, a partial acceptance of performances free of defects is possible after consultation with us, without the supplier having a legal right to this. However, this partial acceptance shall not be regarded as final acceptance as defined in Section 640 of the German Civil Code (BGB).

4. Acceptances require an acceptance record in writing or in text form that is signed by both parties. Acceptance fictions are explicitly excluded, if we do not use the results of the work commercially for the intended purpose other than for test purposes for more than 30 calendar days continuously.

Section 12 Warranty, liability for defects, period of limitation for claims under material defects and defects of title, administration costs, defects investigation

1. The supplier warrants and, in the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), guarantees that (i) all deliveries/performances conform fully to the agreed specifications and/or recipes and fully to the requirements stipulated in Section 434 of the German Civil Code (BGB), are free from impurities and pesticides, in the case of technical items conform to the state of the art at the time the contract was concluded, the relevant legal provisions and the regulations and directives of authorities, trade associations and professional associations of the Federal Republic of Germany and the European Union, in particular, where relevant, the EU Machinery Directive, and the country of use that was notified before the conclusion of the contract, and (ii) conform to the agreed specifications and (iii) are suitable for the intended purpose that we notified, and (iv) have those properties that delivery items or performances of the type commissioned commonly possess.

In addition, the supplier warrants and, in the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), guarantees the environmental compatibility of the delivered products and the packaging materials. The relevant statutory DIN and accident prevention regulations must be complied with for items and this must be proven by test certificates insofar as this is customary in the market.

The supplier shall be obliged to comply with all relevant statutory provisions and directives regarding the delivery item and/or the contractual performances. If compliance with technical regulations and standards is agreed for the products or their components, such as CE, CSA, or UL and EAC specifications, the supplier shall provide us with proof of this and shall make the proof available to us with the invoice as a prerequisite for payment for the demand for payment. Together with the supplier's contractual obligation these specifications must be conformed to in particular so that customs regulations can be complied with.

2. The supplier shall transfer ownership of all technical documents (also for sub-contractors) as well as other documents required for production, maintenance and operation. These technical documents must be in German and in accordance with the International System of Units (SI).
3. We shall be entitled without restriction to the statutory claims based on defects and in the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) to the rights resulting from this in cases of defective delivery and/or performance.
4. We shall have the right in any case to demand at our option remedy of the defect or delivery of a new item.
5. If the products delivered do not conform to the warranty provided by the supplier or, in the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), the guarantee, the supplier shall be liable for all resulting damage including consequential damage to the statutory extent.
6. In the case of a warranty claim (breach of duty based on defective performance) the supplier shall be obliged to pay all expenses that are required for the purpose of remedying the defect or the substitute delivery. These shall also include sorting and dismantling and reinstalling costs for the delivery item. The supplier shall also pay costs that arise or increase through the delivery item being brought to a location other than our branch office. The reworking location is the place at which the delivery item is located in accordance with the terms of the contract at the time of the notice of defect.

Within the scope of subsequent performance, rectification by the supplier shall be deemed to have failed after the second unsuccessful attempt. If the supplier does not comply with its obligation of subsequent performance within an appropriate period set by us, we may remedy the defect ourselves and demand reimbursement for the relevant necessary expenses. We are entitled to demand a corresponding advance when remedying the defect ourselves.

7. We shall be entitled to check quality or quantity deviations of the goods by taking representative random samples, if this conforms to due and proper business operations and the type and scope of the delivery.
8. If the supplier is in default with the remedy of a defect, we shall be entitled to demand flat-rate compensation for delay in remedying the defect to the amount of 0.5% of the agreed net payment, but not exceeding 5% of the agreed net payment, for the defective delivery and/or performance for each full period of 7 calendar days of delay for the defective delivery or performance without further evidence of damage. However, the supplier shall have an opportunity to prove to us that we did not suffer any damage or suffered considerably less (= at least 10% less) damage. This shall not affect further statutory and contractual rights and, in the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG), rights on our part that result

from this. The aforesaid contractual penalty shall be set off in full against any claim for damages. We may claim the contractual penalty within 3 months after becoming aware of the delay by the supplier in remedying the defect.

9. In the case of defects of title based on a culpable breach of duty by the supplier or its vicarious agents, the supplier shall indemnify us and our buyers against claims in this regard by third parties, including the costs of a legal defence and our administrative costs. Section 254 of the German Civil Code (BGB) (Contributory negligence) shall remain unaffected. The aforesaid indemnification obligation shall not apply if the supplier produced its delivery or performance on the basis of documentation we handed over, for example models or drawings, or on the basis of our explicit order, and could not know that this resulted in infringements of third-party proprietary rights.
10. If we take back products we made and/or sold as a result of the defectiveness of the delivery item delivered by the supplier or if claims are asserted against us in any other way, we shall be entitled to unrestricted recourse against the supplier, where the otherwise necessary setting of a time limit is no longer required for the exercise of our defect rights.
11. Claims by us against the supplier based on material defects shall become time-barred in the case of purchase contracts 36 months after transfer of risk, and 36 months after acceptance in the case of contracts for work and performance, unless a longer period of limitation in respect of warranty applies under law, in which case the latter shall apply.
12. The period of limitation for defects in title is 5 years, calculated from acceptance; if acceptance is not provided for, from delivery of the results of the performance owed under the contract.
13. If the supplier is subjected with our agreement to a test of the existence of a defect or the remedy of the defect, the period of limitation is suspended until the supplier has notified us of the finding of the test in writing or in text form, or declares to us in the aforesaid form that the defect has been remedied, or it refuses to continue with the remedy or refuses the actual remedy in writing or in text form.
14. In the event of justified complaints regarding defects, we shall be entitled to an administrative staff allowance of €50.00. The supplier shall retain the right to prove that we have not incurred any expenses or that they are significantly lower (i.e. more than 10% lower).
15. We do not bear the risk of the internal forwarding of a notice of defects within the supplier's organisation. Therefore, the filing of a notice of defect by us to the generally known postal, fax or email address of the supplier shall be deemed to have been lawfully and timely transmitted. Further, the postal, fax or email addresses used during ordinary and ongoing business between the parties, as well as those used among individual persons of the respective party, shall also be deemed to be lawful addresses. The supplier shall ensure in its internal organisation that our notifications of defects are forwarded to the competent employees. The complaint can be shared informally and also orally.
16. If we establish a justified defectiveness of the goods delivered by the supplier, we shall comply with our storage obligation pursuant to Section 379 of the German Commercial Code (HGB) and temporarily store the defective goods. The obligation to store the goods shall only apply if we have taken possession of the goods. A storage period of 1 week shall apply after informing the supplier of the defect. Within the storage period, the supplier shall be obliged to collect the defective goods or have them collected by a third party. If the defective goods are not collected by the supplier within the storage period, we have the right to return the goods to the supplier at the expense of the supplier. If acceptance of the goods is justifiably rejected by us, we shall not be obliged to store the goods. In this case, the supplier shall be obliged to collect the rejected goods immediately or have them collected by a third party. If the supplier does not immediately collect the rejected goods or arrange for them to be collected by a third party, we reserve the right to store the goods at the expense of the supplier; if necessary, we shall legitimately use an external storage facility for this purpose.

If the defective goods are goods which are subject to spoilage and there is an imminent danger, the statutory rules of the right of distress sale shall apply.

Section 13 Force majeure

Unless we have assumed warranty liability, force majeure, industrial disputes, interruptions of operations for which we are not responsible, riots and other unavoidable incidents shall entitle us to withdraw from the contract wholly or in part, without prejudice to our other rights, insofar as they are not of insignificant duration (i.e. do not last less than 4 weeks) and result in a considerable reduction of our demand and we notify the supplier of the hindrance without delay.

Section 14 Product liability, indemnity, liability insurance cover

1. Insofar as the supplier is culpably responsible for product damage we suffer, or a third party that we supplied suffers, unless otherwise explicitly agreed the supplier shall be obliged to indemnify us and our buyers against all

claims by third parties for damages and reimbursement of expenses where the cause is found in its area of control and organisation. Together with payment of damages to third parties, the supplier's obligation to indemnify shall also include the usual and necessary costs of a legal defence (up to an hourly rate of €375.00 plus any VAT that may be due), recall costs, costs of testing, installation and dismantling costs.

2. In the framework of its liability for cases of damage as defined in Clause 1, the supplier is also liable to reimburse any expenses that arise from or in connection with a recall action we carried out. Where possible and reasonable in terms of time, we shall inform the supplier in advance of the content and scope of the recall measures that are to be carried out and give it an opportunity to make a statement. This shall not affect other statutory or contractual rights. Section 254 of the German Civil Code (BGB) (Contributory negligence) shall remain unaffected.
3. The supplier shall be obliged from the date of the first conclusion of the contract with us to maintain public liability insurance with minimum cover of €5,000,000.00 per case of personal injury/damage to property and €1,000,000.00 for financial losses, flat rate, for a period up to 38 months after the last delivery to us and/or performance; if we have further claims for damages, these shall not be affected by this. The supplier shall provide us with evidence upon first request of the above-mentioned insurance and of payment of the premiums. If evidence of the insurance and of payment of the premiums is not provided to us within 7 calendar days following our demand, we shall be entitled to withdraw wholly or partly from contracts that have not yet been performed (with regard to the part that has not been performed).

Section 15 Rights of use, inventions

1. Insofar as recipes, drawings, individual electronic data processing programs, photo and print material and layouts for print media or other documents and/or data are created during the deliveries or performances that the supplier has to implement for us, we shall receive an exclusive assignable right to use these in all types of use, unlimited as to time, location and contents, which is paid in full with the agreed price.
2. The supplier shall grant to us the non-exclusive and irrevocable right to use all deliveries/performances which are capable of being protected by industrial property rights in all known and unknown types of use, without any limitation as to territory, time or content; in particular, we shall be entitled without limitation to reproduce, process, distribute the deliveries/performances in unmodified and modified form, reproduce them publicly by wire or wireless means, and transfer all contractually granted rights of use to third parties against payment or free of charge.
3. The supplier shall grant exclusive rights of use and exploitation to the extent described above to the deliveries/performances, which it creates individually for us.
4. The supplier guarantees that it strictly observes the regulations of the German Employee Inventions Act (ArbnErfG) and claims the respective inventions – to the extent necessary to grant the agreed rights to us – in due time. This shall also apply insofar as the supplier does not employ its own employees/workers, but has employed third parties within the scope of employing temporary workers.
5. We have the unrestricted authority to carry out repairs to the received delivery/performance and changes thereto or have them performed by third parties, furthermore to produce spare parts or have them produced by third parties
6. Insofar as we apply for a property right for the invention we shall pay the costs arising for the application for and maintenance of the property right.
7. If we decide against applying for inventions/work results, or if we are no longer interested in an existing property right, the supplier may pursue the application or maintenance of the property right at its own expense. However, in this case we shall retain free of charge a non-exclusive and assignable right to use.
8. Insofar as the use of property rights of the supplier that the supplier already had before providing the delivery or performance is necessary in the framework of exploitation by us of the deliveries or performances, the supplier shall provide us with a non-exclusive and assignable right to use these property rights, which is paid in full with the agreed price.

Section 16 Spare parts and readiness for delivery

1. Unless a different spare part availability was explicitly agreed with us, the supplier guarantees that delivery of spare parts is ensured by it for a period corresponding to the usual technical availability period of the delivery item, but not less than 10 years after delivery to us of the last delivery of the relevant delivery item. The supplier shall be obliged to supply us during this period with these parts under customary economic and legal terms and conditions.
2. If the supplier intends to discontinue delivery of spare parts that are the subject of the contract for the delivery item after expiry of the aforesaid time limit, we shall be given an opportunity with advance notice of not less than

90 calendar days to submit a final order, which must be able to correspond at least to the last average order quantities for the product concerned in the previous 3 years. This shall also apply in the case of discontinuance before expiry of the time limit, wherein we shall not lose our claims for damages through the repeat order.

Section 17 Provision, co-ownership, retention of title

1. Raw materials, tools, materials, parts, containers and packaging that we supply may only be used by the supplier for the intended purpose for implementation of the order we issued to the supplier. If they are passed to sub-contractors, the supplier shall ensure this on the part of the sub-contractors as a contract for our benefit and show proof to us without request.
2. Tools and recipes we provide shall remain our property.
3. If we provide parts to the supplier, we shall retain title to them (reserved goods). Processing or restructuring by the supplier shall be done for us. If our reserved goods are processed with other items that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the gross value of our object (purchase price plus VAT) to the other processed items at the time of processing.
4. If the object we provided is inseparably mixed with other items that do not belong to us, we shall acquire co-ownership of the new object in the ratio of the gross value of the reserved goods (purchase price plus VAT) to the other mixed items at the time of mixing. If mixing is carried out in such a way that the supplier's object is to be regarded as the principal object, it is deemed to be agreed that the supplier assigns us pro rata co-ownership in the aforesaid ratio; the supplier shall safeguard ownership or co-ownership for us.
5. The supplier shall be obliged to insure raw materials and tools that belong to us and that we make available to it against damage by fire, water and theft at a replacement value at its own expense. At the same time, the supplier hereby assigns to us all claims for compensation under this insurance; we hereby accept the assignment.
6. The supplier shall also be obliged to carry out necessary maintenance and inspection work for our tools and all servicing and repairs at its own expense in good time and to show us proof of the implementation. It shall notify us without delay in writing of any malfunctions of the machinery and/or tools that were handed over; if it culpably fails to do this, we shall be entitled to a claim for damages in the event of damage.
7. Insofar as the security rights to which we are entitled in accordance with Clauses 1 to 6 exceed the purchase price of all our reserved goods that have not yet been paid by more than 10%, we shall be obliged on demand by the supplier to release security rights at our option.

Section 18 Third party property rights

1. The supplier guarantees that no rights of third parties within the Federal Republic of Germany and the European Union and the country of delivery and/or use of the delivery item and/or the performance that is made known to us with the order are infringed in connection with its delivery and/or performance. Liability shall be excluded outside the warranty liability given under the United Nations Convention on Contracts for the International Sale of Goods (CISG) if the supplier proves that it neither knew nor could know of the existence or the future creation of such rights when delivering the delivery item or providing the performance or that the infringement of rights is based on our specifications.
2. If claims are asserted against us by a third party because of a culpable infringement (culpable outside the scope of application of the United Nations Convention on Contracts for the International Sale of Goods (CISG)) of rights under Clause 1 by the supplier, the supplier shall be obliged to indemnify us against these claims on first written demand insofar as the infringement is not based on our specification (e.g. a recipe specified by us); we shall not be entitled to conclude agreements of any kind with the third party, in particular to conclude a settlement with the owner of the rights, without the consent of the supplier.
3. The supplier's indemnification obligation refers to all customary, reasonable and proven expenses that necessarily arise for us from or in connection with the claim by a third party. Section 254 of the German Civil Code (BGB) (Contributory negligence) shall remain unaffected.
4. The period of limitation for liability arising from infringement of property rights shall commence as soon as the claim comes into being and we acquire knowledge of the circumstances establishing the claim or should have acquired without gross negligence. The period of limitation for claims of this nature on our part is 5 years.

Section 19 Documents and non-disclosure

1. All business or technical or product-related information, calculation data, manufacturing instructions, recipes, production and other internal company information and data made available to the supplier by us, irrespective of the type, including other development or manufacturing features manifested in writing, as samples, properties or as data, which may have been handed over to the supplier by us or our vicarious agents, documents or data handed

over to the supplier by us or our vicarious agents and other knowledge or experience on our part or on the part of our customers disclosed to the supplier, as long as and insofar as they are not demonstrably public knowledge or a legal or official obligation to disclose exists, are to be kept secret from third parties and may only be made available in the supplier's own company to those persons who must necessarily be involved in their use for the purpose of the delivery or service to us and who are also obliged in writing to maintain secrecy; they shall remain exclusively our property. This shall apply irrespective of whether they constitute trade secrets within the meaning of Section 2 of the German Act on the Protection of Trade Secrets (GeschGehG) or not. The provisions of the German Act on the Protection of Trade Secrets (GeschGehG) shall remain unaffected.

2. With the exception of deliveries to us, such information may not be reproduced or used commercially without our prior explicit agreement. The above non-disclosure agreement shall continue to apply after the end of the delivery or performance relationship until it lawfully enters the public domain, but for no longer than 5 years after the end of the contract processing between us and the supplier in relation to the contract in the context of which the relevant information was disclosed or handed to the supplier. The above obligation of non-disclosure shall not exist if the supplier can prove that it developed the transmitted information itself legally before disclosure, or was already aware of it (whereby the supplier shall inform us of this in writing or in text form without delay after transmission of the information, but no later than within 14 calendar days after this; if this is not done, it may no longer have recourse to this exception), or this entered the public domain by means of a written statement on our part, or there is a statutory or official obligation to disclose.
3. All information and data that originate from us (where applicable including copies or records that were made) and items handed over as loans shall be returned on demand by us without delay and in full or destroyed and destruction confirmed in writing or in text form. If the information that was passed to the supplier is embodied in data, it shall be deleted in full by being overwritten at any time on first demand by us and deletion shall be confirmed without delay in writing or in text form.
4. In addition, in the case of data we transmitted to the supplier, we have the right to submission to us by the supplier of a declaration of discontinuance under penalty that contains a contractual penalty for each culpable incident of contravention of the declaration of discontinuance of further use of data that we transmitted or copies thereof, their return or deletion by the supplier, which we may stipulate at our reasonably exercised discretion (Section 315 of the German Civil Code (BGB)) relative to the payment of the supplier and the tendency to cause damage of the breach of duty. This may be reviewed by the courts and reduced on application by the supplier (Section 315 III of the German Civil Code (BGB)). The supplier shall not be obliged to discontinue if it is subject to a statutory duty to disclose or use data.
5. We reserve all rights to such information and data (including copyright and the right to apply for industrial property rights such as patents, utility models, trademark protection, etc.). Insofar as these were made available to us by third parties, this reservation of rights shall apply as well for the benefit of these third parties.
6. Licences or warranties are not connected to samples, models, information and/or data passed to the supplier.
7. The supplier may not use, offer or supply to third parties any products that are produced using materials we drafted, e.g. recipes, drawings, samples or models, etc., or based on our confidential information or with our formulas that are not in the public domain or our tools or recreated tools.

Section 20 Safety regulations, other requirements for deliveries and performances

1. The supplier shall comply for its deliveries with safety regulations applicable in the Federal Republic of Germany and the European Union and in the country of delivery and/or use for the delivery item and/or the performance that was made known to it on conclusion of the contract and shall conform with its delivery/performance to the technical data or limit values corresponding to the state of the art on conclusion of the contract or the agreed more stringent technical data or limit values and our supplier code, as may be amended from time to time.
2. The supplier shall be obliged to use only materials that conform to statutory safety requirements and regulations, as amended from time to time, in the European Union, in particular for toxic and hazardous substances and – where relevant – the REACH Regulation of the EU (Regulation (EC) 1907/2006). This also applies to safeguards to protect the environment and regulations in connection with electricity and electromagnetic fields. The above obligation comprises all regulations that are applicable with regard to the contractual delivery and/or performance in the Federal Republic of Germany, the European Union and the country of use made known to the supplier on conclusion of the contract, and, if deviating from these, including regulations in the buyer countries of which the supplier was notified before or with the order. The supplier shall show us proof of compliance with these regulations on first demand and shall cooperate in providing appropriate verifications for the respective competent authorities.
3. We shall have the right to withdraw from the contract if the supplier's products do not conform to the requirements specified in Clauses 1 to 2. This shall not affect further claims for damages by us.

4. Intended changes to the delivery and performance item must be notified to us in writing or in text form. They require our prior written approval.
5. We would like to point out that all persons from outside the company who enter our company or our premises are also subject to the rules of conduct of our company regulations / building site regulations. In the event of violations of these regulations, we reserve the right to expel persons from the premises. When working at our premises on our behalf, the supplier shall, in order to prevent accidents at work, make all arrangements and take all precautions and measures which comply with the provisions of the relevant accident prevention regulations and the other generally recognised safety and occupational medical rules and regulations. The working guidelines of our employers' liability insurance association must be observed when working on our premises.

Section 21 Quality and documentation; code of conduct

1. The supplier shall be obliged to carry out an outgoing inspection according to the specifically assured properties in accordance with standard DIN ISO 9001 - 9004 or with the applicable relevant standards as amended from time to time.

Unless otherwise explicitly agreed, the supplier shall pay the costs of conformity declarations, certificates of origin and other proof of certification (e.g. where relevant ISO 9001, ISO 13485, CE, CSA, or UL specifications). Conformity declarations shall be submitted to us without delay with each delivery both in German and in English.

2. Regardless of this, the supplier shall comply with the quality of the delivery item and check it continuously until delivery. The supplier shall point out noticeable errors in specifications and foreseeable complications to us without delay in writing or in text form. This shall be ensured and documented by means of suitable testing and measuring methods. We shall have the right to demand publication in written form of the findings of this review at any time and without additional costs.
3. The scope of delivery includes the product-specific and/or technical documentation, the certificates of conformity (at our discretion in German and/or in English) as well as other documents and certificates and operating instructions required for the ordered item or its use, product labels, warnings and other user information at our discretion in German and/or in English, as well as the labelling of the parts and the product and/or its packaging required by law within the European Union and the country of destination notified to the supplier before conclusion of the contract.
4. The supplier shall ensure that exact traceability of the delivery item is guaranteed via batches or serial numbers.
5. Our understanding of sustainability requires us, our suppliers and their sub-contractors to manage their respective companies in an ecologically compatible, economically successful and socially beneficial manner for the benefit of current and future generations. For this purpose, the respective processes are to be continuously checked for improvement.
6. The supplier shall comply with the laws of the applicable jurisdiction(s). In particular, the supplier shall not participate actively or passively, directly or indirectly, in any form of bribery, violation of the fundamental rights of its employees or child labour. The supplier shall also assume responsibility for the health and safety of its employees in the workplace, observe environmental protection laws and promote and demand compliance with this code of conduct from its sub-contractors to the best of its ability. As a result, the supplier shall apply and comply with the applicable ILO (International Labour Organisation) standards and the ETI Base Code (Ethical Trading Initiative).

Should the supplier culpably violate one of these obligations, we shall be entitled to withdraw from the contract or, in the case of continuing obligations, terminate the contract, without prejudice to further claims. Section 314 of the German Civil Code (BGB) (Termination, for a compelling reason, of contracts for the performance of a continuing obligation) shall remain unaffected.

Section 22 Software

1. If the delivery item contains software created for us, we shall without further payment acquire the source code and the right to use the software as well in companies affiliated with us pursuant to Section 15 of the German Stock Corporation Act (AktG) or otherwise pursuant to company law, to reproduce it optionally, to amend it and to consign it jointly with the delivery item to third parties globally against payment or free of charge.
2. We shall have the right to reverse translation of software for the purposes of maintenance and further development. If the supplier develops individualised software for us, we shall be entitled to unrestricted use and exploitation of the source code at our option.
3. Payment for software shall not be due until after implementation of a formal acceptance procedure with a written declaration of acceptance on our part.

4. In the case of the delivery of software, subsequent performance through new program versions is permissible only following our prior explicit approval. If our approval is granted, the supplier shall be obliged to instruct our employees in the new program version at its own expense.

Section 23 Auditing

1. We – and as a genuine contract for the benefit of a third party as defined in Section 328 of the German Civil Code (BGB), our customers (authorised to audit) as well – shall have the right, including with regard to our own possible certification, but are not obliged, to carry out an audit of the supplier ourselves or to have this done by an expert and/or consultant at our option. This comprises a review of the supplier's operations and quality assurance system and a subsequent assessment. The supplier shall ensure in the framework of its legal possibilities that its component suppliers grant us and our customers the same right to audit. The knowledge acquired in this way will be used as the basis of further awards of contracts and for the internal rating of the operations by us.
2. We, and those referred to in Clause 1 as authorised to audit, shall have the right to inspect the supplier's current operations with prior notice and to monitor quality assurance methods during the usual hours of business and following prior notice.
3. If we provide evidence of a legitimate interest, we have the right to inspect the supplier's relevant documents. A legitimate interest of this kind is found, in particular, if findings could be acquired in this way that enable an assessment of the necessity and scope of a recall.
4. In the framework of the exercise of our rights in accordance with the above Clauses 1 to 3, the supplier is not obliged to disclose trade secrets as defined in Section 2 of the German Act on the Protection of Trade Secrets (GeschGehG) (see Section 9 Clause 3), unless those authorised to audit who are exercising the right to audit have offered in writing to conclude a non-disclosure agreement with regard to the aforesaid trade secrets as defined in Section 2 of the German Act on the Protection of Trade Secrets (GeschGehG).

Section 24 Minimum Wage Act

1. The supplier shall be obliged to comply fully with the requirements of the Minimum Wage Act (MWA) with regard to its employees and shall guarantee compliance with the provisions of the Minimum Wage Act (MWA) by any sub-contractors it employs.
2. If the supplier culpably breaches an obligation under the above Clause 1, it shall be obliged to indemnify us against all claims by third parties in this respect. In addition, we shall have the right in this case to withdraw from all contracts with the supplier in respect of the part that is not yet performed. Claims by the supplier based on the withdrawal are excluded.
3. The supplier shall be obliged without delay upon first request to provide us with evidence of compliance with the provisions of the Minimum Wage Act (MWA) in respect of its employees or the employees of sub-contractors it employs by means of appropriate evidence of wage payment. If the supplier is in default with this for longer than 30 calendar days, the above Clause 2, Sentence 2 shall apply accordingly.

Section 25 Sustainability and occupational health and safety

1. The supplier undertakes to comply with all applicable legal provisions and internationally recognised human rights at its production facilities. It shall ensure that the production and working conditions at its production facilities are strictly in line with the ILO Conventions, the UN Global Compact, the OECD Guidelines as well as the Universal Declaration of Human Rights adopted by the United Nations and the UN Conventions on the rights of children. If various regulations apply, the one which provides the highest level of protection and safety for the employees shall be applied.
2. If the products to be supplied to us through the supplier or their preliminary products are manufactured outside the European Economic Area (EEA), the supplier must additionally provide us with evidence of a valid social standard certificate issued by a recognised and independent certification institute – at least in accordance with the SA 8000 standard or a comparable standard (in particular BSCI or Sedex) – for itself and for all locations upstream of it in the supply and production chain for the locations outside the European Economic Area (EEA).
3. We shall not accept the use of any child labour as defined by ILO and UN conventions and/or relevant nationally applicable laws. The minimum age for the employment of minors is set at 15 years and must be observed by the supplier, unless ILO exceptions apply. All other regulations regarding the protection of children and young people at work must also be complied with in full. All forms of forced labour, slave labour and prison labour by the supplier are strictly banned. Nobody may be forced to work, either directly or indirectly, by force or coercion.
4. The supplier shall refrain from discrimination. This includes discrimination on the basis of race, religion, age, nationality, social or ethnic origin, sexual orientation, gender, disability, political opinion, membership of a workers'

organisation or trade union or other personal characteristics (e.g. skin colour). Further, the supplier shall respect the equal opportunities of its employees.

5. All employees must have been provided with a written employment contract. The minimum requirements for this are: Name, date and place of birth, home address, start date of employment, duration of employment contract, hours worked, content of performance debt, remuneration, holiday entitlement, conditions of termination, signature of both the employee and the employer. When employing temporary workers, the supplier must ensure that its contractual partner complies with these requirements.
6. Wages paid by the supplier must under no circumstances fall below local minimum wage rates. All employees are entitled to and must receive the statutory social security benefits. Illegal and unauthorised deductions from wages, especially when applied as disciplinary measures, are not permitted.
7. The supplier shall not make employees work beyond the maximum working hours prescribed by law.
8. The supplier shall, in particular, ensure safe and healthy working conditions. Work safety exercises and measures are to be performed regularly by the supplier to help prevent accidents and occupational illnesses.
9. Any kind of physical punishment, threat of violence as well as harassment, intimidation or abuse of employees by the supplier, in particular in the forms of physical, sexual, psychological or verbal abuse, is strictly prohibited. Disciplinary measures may only be taken in accordance with national laws and internationally recognised human rights.
10. Suppliers shall ensure the establishment of effective grievance mechanisms for employee complaints about any negative impacts arising from work situations in its facilities and at plant level throughout the applied supply and production chain. Employees who lodge a complaint based on the principles to be complied with in Clause 25 of these General Terms and Conditions of Purchase and/or applicable national/international law must not be subject to any form of disciplinary or retaliatory measures by the supplier.
11. The supplier shall comply with the environmental standards applicable to it in each case and, in addition, in accordance with the principles for sustainable development as proclaimed by the Rio Declaration of 1992, while endeavouring to continuously reduce and avoid environmental pollution and to continuously improve environmental protection measures.
12. The supplier's waste management, handling and disposal of chemicals and other hazardous substances, emissions and wastewater treatment shall at least comply with the respective applicable legal regulations and standards. The supplier is obliged to promote environmentally and socially responsible production.
13. The supplier shall submit to us a current environmental certificate at least in accordance with standard DIN ISO EN 14001 or a comparable standard – in each case issued by a recognised and independent certification institute – for itself as well as for all upstream suppliers in its supply and production chain relating to the delivery to us for locations outside the European Economic Area (EEA), insofar as the products to be delivered or their preliminary products are manufactured outside the European Economic Area (EEA).
14. The supplier shall be obliged to carry out appropriate checks on a regular basis throughout its entire supply and production chain at the respective production facilities to ensure full compliance with the requirements of Section 24 of these General Terms and Conditions of Purchase.
15. We only conclude contracts with suppliers who comply with minimum social and ecological standards in accordance with the German Supply Chain Act (LkSG). The supplier guarantees to set up a risk management system within the meaning of the German Supply Chain Act (LkSG), to carry out regular risk analyses for this purpose, to implement preventive measures in its own business area with direct suppliers, to take remedial measures without delay if they become necessary and to set up a suitable complaints procedure for this purpose and to comply with the due diligence obligations of the German Supply Chain Act (LkSG), also with regard to indirect suppliers, as well as to properly document the aforesaid measures and to provide us with evidence of them in a suitable form upon first request.
16. In the event of violation of the obligations under Section 26, the supplier shall immediately take suitable remedial measures, document them and immediately provide evidence thereof to us.
17. If the supplier culpably breaches an obligation arising from the above Clauses 1 to 16, it shall indemnify and hold us harmless from all damages, costs and expenses (in respect of costs and expenses insofar as these are customary, reasonable and proven). The objection of contributory negligence (Section 254 of the German Civil Code (BGB)) remains unaffected.

18. If the supplier culpably breaches an obligation from the aforesaid Clause 1 to 16, the supplier shall be deemed to owe us a contractual penalty, the amount of which shall be determined by us at our reasonable discretion (Section 315 of the German Civil Code (BGB)) relative to the remuneration of the supplier and the propensity of the breach of obligation to cause damage. This contractual penalty may be reviewed and reduced in court upon request of the supplier (Section 315 III of the German Civil Code (BGB)). The assertion of further or different rights, in particular for reimbursement of expenses and damages (with full crediting of the contractual penalty) shall remain unaffected. The contractual penalty may not exceed €30,000 in any individual case and €300,000 for all conceivable cases in which it is incurred.

Section 26 Advertising reference, general terms and conditions, severability clause, venue, choice of law, data storage

1. Reference to the business relationship with us may only be made to third parties for advertising purposes or as a reference with our explicit approval.
2. The statutory regulations shall apply if a provision of this contract is or becomes wholly or partly invalid/void or infeasible as a result of the provisions governing standard business terms in Sections 305 to 310 of the German Civil Code (BGB).

If the invalidity of a provision of this contract is based exclusively on another reason, the following shall apply:

If any provision of this agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this agreement which shall remain in full force and effect. The same applies if the agreement does not contain a provision that is necessary in itself. In such a case, the contractual partners shall enter into negotiations with the aim and mutual claim of replacing invalid or unenforceable provisions with valid and enforceable provisions which reflect as closely as possible the intended sense and purpose of the invalid or unenforceable provisions of this agreement according to the understanding of both parties. The legal concept of Section 139 of the German Civil Code (BGB) shall not apply – not even in the sense of a burden of proof rule.

3. The laws of the Federal Republic of Germany shall apply exclusively. If the preconditions of Article 1, 3 of the United Nations Convention on Contracts for the International Sale of Goods (CISG) are met, the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall apply.
4. If court proceedings are held in the Federal Republic of Germany the contract, procedural and court language is German.
5. Only the German version of this GTC of Purchase shall be legally binding, this English translation serves information purposes only.
6. The place of performance is the agreed delivery/performance location, and in the absence of such agreement, the site of our registered office.
7. Unless otherwise agreed below, the exclusive place of jurisdiction shall be the competent court for the registered office of LEMKEN GmbH & Co. KG. However, we also have the right at our option to sue the supplier at the location of its registered office or at the location of the provision of performance.
8. We store data from the contractual relationship pursuant to Section 26 of the German Federal Data Protection Act (BDSG) and the EU General Data Protection Regulation (GDPR) for the purpose of data processing. Detailed information on the handling of personal data is provided in the data protection information on the LEMKEN website "LEMKEN.com".

Alpen, Germany, November 2023