

## **General Purchase Terms of ALLOD Werkstoff GmbH & Co. KG**

### **1. Scope of Application, Deviating Agreements**

- 1.1 The following General Purchase Terms ("**Terms**") apply to all contracts we conclude with our suppliers and contractors (hereinafter "**Supplier**") relating to their deliveries and other services.
- 1.2 Deviating terms of the Supplier that are not explicitly recognized do not apply. This also applies when we accept the Supplier's goods and services without reservation in the knowledge of terms of the Supplier that are contrary to or deviate from our Terms.
- 1.3 These Terms also apply to all future transactions between the Supplier and us in ongoing business relationships.
- 1.4 Any individually negotiated agreements with the Supplier (including side agreements, amendments and changes) as well as any conflicting terms in our orders shall always take precedence over these Terms.
- 1.5 The Terms only apply if the Supplier is an entrepreneur and enters into the Agreement in pursuance of a commercial or a self-employed professional activity within the meaning of § 14 BGB (German Civil Code).

### **2. Orders, Acceptance Confirmations**

- 2.1 Our orders or acceptance confirmations as well as their respective amendments, supplements or any other ancillary agreements, are only binding if expressly set forth in writing.
- 2.2 We are bound by our orders for a period of two weeks from the date of order. The contract is concluded through receipt of the Supplier's order confirmation or by our acceptance of the delivery of the ordered goods as according to contract. If the Supplier's order confirmation deviates from the content of our order or is received after expiry of said two week period, this order confirmation constitutes a new, independent offer by the Supplier which requires our express acceptance. The Supplier has to expressly and separately notify us about any deviations in his order confirmation. In case of call orders our delivery call-off becomes binding once the Supplier failed to object within one week after receipt; we have to notify the Supplier about this consequence in our delivery call-off.

- 2.3 The Supplier shall alert us to any contradictory, incorrect or incomplete information about the goods or services in the order and await written clarification from us before dispatching the order confirmation or starting to perform the contractually agreed services.
- 2.4 Without our prior consent, the Supplier will not make any modifications, for example to the design, the composition, the method of dispatch or the packaging of the goods.

### **3. Prices, Invoices, Terms of Payment**

- 3.1 The prices indicated on our orders are fixed prices. Unless agreed otherwise, the prices are “DDP place of fulfilment” (INCOTERMS 2010) as set out in section 5.3 and inclusive of all expenditures in connection with the deliveries and services owed by the Supplier, in particular but not limited to the cost of any inspection, acceptance, documentation, preparation of technical documents, packaging, shipping, customs and border clearance charges, and insurance. Where “DDP place of fulfilment” has not been agreed and the Supplier is obliged to dispatch the goods, the Supplier shall choose the most economic shipping method. Where the agreed price is not “inclusive of packaging”, the packaging shall be billed at cost.
- 3.2 Invoices must be submitted in a single copy at least, separate from the goods when goods are delivered, and be verifiable. Invoices must at least indicate the product number and product name, the full order reference or our order number, the date of the order, the shipping note number and the date of the delivery or service. Invoices are to be structured in the same way as the order and have to be consistent with the order’s diction.
- 3.3 Payment shall be made within 30 days after delivery or (for work results) acceptance according to section 4 and receipt of a contractual invoice. In case of delivery of raw material, the period of payment does not begin prior to the receipt of a valid Certificate of Analysis (CoA). Payments (including discountable payments) will be deemed in time if we undertake the necessary transaction within the payment period. Any invoice failing to meet the criteria of section 3.2 above or any other deviating agreements by the parties may be rejected by us, in which case the beginning of the above periods for payment shall be determined by the date of receipt of the new, duly prepared invoice. In the event of early delivery or services the agreed date of delivery or service shall take the place of delivery or service for the calculation.

#### **4. Time of Delivery, Consequences of Delay in Delivery**

- 4.1 Unless agreed otherwise, all dates, times and deadlines for deliveries and services (hereinafter "**Dates**" and "**Deadlines**") as indicated by us and/or as agreed are binding. Deliveries and services will be deemed in time for a Date or Deadline upon satisfying the following section 4.
- 4.2 The Supplier is not entitled to pre-schedule deliveries and services or deliveries and services by instalments without our consent. Pre-schedule deliveries and services or deliveries and services by instalments have to be identified accordingly in the dispatch documents.
- 4.3 The Supplier shall advise us in writing without delay of any foreseeable delay in deliveries and services, indicating the reasons and the anticipated duration of the delay. In case of the Supplier's default and unless agreed otherwise, we are entitled to the uncurtailed corresponding statutory claims. A caveat of self-delivery on the Supplier's part is excluded.
- 4.4 In case of the Supplier's default, which he is responsible for, and after prior written menace we are entitled to claim a contractual penalty of 0.5% of the respective order value per each completed week of default, not exceeding 5%; nothing in this shall prejudice any further statutory rights and remedies we may have for reason of the default. Contractual penalty payments will be credited against any claims for damages as may exist. The Supplier is entitled to prove that we suffered a substantially lower or no damage due to his default.
- 4.5 The Supplier's delivery before the agreed date entitles us to reject the delivery until falling due.
- 4.6 Excess deliveries without respective agreement entitle us to either accept the excess goods, provided the invoice's corresponding value, or to store the excess goods at the Supplier's expense until his collection thereof or to ship the excess goods to the Supplier at his expense. In case of storing the goods we are entitled to (a) charge storage costs reflecting the local customary rates pursuant to § 354 HGB (German Commercial Code) or (b) charge the factual extra expenses of storage.

## **5. Labelling, Packaging, Delivery of Goods**

- 5.1 All goods must be duly and properly packaged and labelled in accordance with our instructions. Where the Supplier is obligated to take back transport packaging in accordance with the German Packaging Ordinance (Verpackungsverordnung) or foreign legislation the Supplier must retrieve the packaging from the place of fulfilment at the Supplier's expense.
- 5.2 Every delivery of goods must include a shipping note indicating our order number and describing the content of the delivery by our product number(s) (if stated on the order), the nature and the quantity of the goods. In case of delivery of raw material, a valid Certificate of Analysis (CoA) is to be included.
- 5.3 The place of fulfilment for all deliveries and services shall be the place of delivery indicated on the order, unless agreed otherwise. If no place of delivery is indicated on the order, the place of fulfilment shall be at our registered office.
- 5.4 Deliveries are carried out as per "DDP place of fulfilment" (INCOTERMS 2010), subsequent to section 5.3.

## **6. Supplier's Retention and Offset**

The Supplier has a right of retention with respect to deliveries of goods or work results only on the basis of claims from the same contractual relationship that are undisputed, ready for decision or have been established by final enforceable judgment. Any offset by the Supplier shall only be permitted on the basis of the Supplier's counterclaims that are undisputed, ready for decision or have been established by final enforceable judgment.

## **7. Performance by Third Party, Prohibition of Assignment**

- 7.1 The Supplier is not entitled to have a third party (e.g. a subcontractor) perform the Supplier's contractual obligations without our prior express consent.
- 7.2 The Supplier shall have no right to assign its claims against us or have them collected by a third party without our written consent, unless the Supplier has granted its supplier an extended reservation of title in the ordinary course of business. Nothing in this shall prejudice § 354a HGB (German Commercial Code).

## **8. Passage of Title, Processing of Goods**

Where a reservation of title has been agreed for delivered goods, the title passes to us at the latest upon payment of such goods. We have the right to process, sell or otherwise dispose of delivered goods in the ordinary course of business, including before the passing of the title.

## **9. Quality Requirements, Compliance with Statutory Provisions, Safety Regulations**

- 9.1 The Supplier in its deliveries and other services is responsible for observing the current state of the art and the agreed technical data and specifications, without prejudice to further duties as may exist.
- 9.2 The Supplier, at its expense, is responsible to ensure compliance of its deliveries and other services with all applicable requirements of international, European and national law in their respective current version, particularly but not limited to provisions regarding environmental protection, health and work safety (including any laws on minimum wages), product safety, anti-corruption, anti-terrorism and data protection. In particular, the Supplier, at his own expense, ensures compliance of its deliveries and other services with all applicable requirements of European and national law on the restriction of the use of certain hazardous substances, including but not limited to the Directive 2011/65/EU (RoHS) and its national transposition measures as well as Regulation 2006/1907/EG ("REACH") in their respective current version. The Supplier is to ensure his goods' marketability under REACH. He is to promptly notify us of any relevant information and documentation (e.g. safety data sheets).
- 9.3 The Supplier is to comply with any additional security provisions coming into question, particularly demands by the Trade Supervisory Board (Gewerbeaufsichtsamt), standards of the Association for Electrical Technologies (Verband der Elektrotechnik - VDE) regarding electrical equipment and of other expert bodies or associations, applicable DIN standards as well as accident prevention regulations of trade associations. Relevant certificates, test reports and verifications are to be proactively supplied at the Supplier's expense.
- 9.4 We have the right to request access to the manufacturing sites of the Supplier and, if applicable, of the Supplier's sub-suppliers in order to inspect the goods and work results on site for flawlessness, subject to reasonable prior notice and during normal operating hours; this includes inspections for the use of suitable materials and appropriate professionals.

The Supplier shall provide any information necessary for this purpose and submit the relevant documents for viewing. Where necessary to protect trade or business secrets of the Supplier or a sub-supplier, and requested by the Supplier for that reason, any such inspection shall be carried out by a third party sworn to secrecy, who must not forward any information about trade and business secrets to us. Inspections shall be without legal effect on any formal acceptance of the deliveries and services.

9.5 The Supplier shall provide and maintain a quality management system so that all products delivered to us conform to the requirements of the purchase order. A certification in accordance with DIN EN ISO 9001 is suggested. The Supplier shall maintain adequate records of all inspections, tests and corrective actions taken by the Supplier for all products and on request share this information.

9.6 The Supplier shall inform us of alternative, energetically favourable products. A certification in accordance with DIN EN ISO 14001 is suggested.

## **10. Defects, Warranty, Statute of Limitations**

10.1 The Supplier guarantees his deliveries and services to satisfy the agreed quality and to serve the contractually intended purpose. The Supplier has sole responsibility for the deliverables and work results, whether or not we have approved any drawings, calculations and other documents or attended technical or official inspections, tests and acceptance tests. This also includes proposals, recommendations and other contributions on our part.

10.2 Our warranty rights are governed by the applicable laws, as amended by the terms of this section 10 and section 11.2.

10.3 For deliveries of goods, we must report any obvious defects to the Supplier within 10 days after delivery according to section 4 and any hidden defects within 10 days after their discovery. This term is maintained via timely submittance of the report.

10.4 The Supplier will bear all expenditures incurred in connection with determining and removing defects, including expenditures incurred by us.

10.5 Any payment towards the agreed price or acceptance of the goods by an agent of us from the Supplier prior to the determination of a defect shall not constitute an acknowledgment that the goods are free of defects or release the Supplier of its liability for defects.

- 10.6 In case of delivery of defective goods or goods not conforming to the contractual standards, we may in our discretion choose between the removal of a defect or delivery of a replacement within a set and reasonable deadline. Where, due to particular urgency of the matter, it is not appropriate to set a deadline for the Supplier to take remedial action we, without prejudice to our legal remedies, have the right to undertake or arrange for substitute performance and claim reimbursement of the necessary expenditures from the Supplier. We will give the Supplier advance notice of any such substitute performance, where possible.
- 10.7 Our warranty claims shall become time-barred 36 months after the beginning of the statutory limitation; nothing in this shall prejudice any suspension or interruption of the limitation period as may be provided by law. The statutory limitation pursuant to §§ 478, 479 BGB (German Civil Code) remains unaffected.

## 11. Intellectual Property Rights

- 11.1 The Supplier grants us non-exclusive, perpetual, worldwide, irrevocable and assignable rights of use in all deliveries or work results eligible for intellectual property protection in order to integrate them in other products, distribute them and make them available to the public on the internet. In particular but without limitation, this includes the right to modify, edit or otherwise redesign the deliverables or work results for purposes of integration and to distribute the deliverables or work results in the original or in a modified, edited or redesigned form.
- 11.2 The Supplier shall indemnify us against any and all claims of third parties resulting from any infringement of patents, copyrights, design rights, trademark rights, name rights and other intellectual property rights and applications for intellectual property rights ("**IP Rights**") through the contractually agreed use of the deliverables or work results, unless the Supplier is not responsible for the infringement of rights. This applies equally to all necessary expenditures incurred by us in connection with any such third party claims, in particular the costs of legal defence. Furthermore, according to his choice and at his expense, the Supplier has to modify or replace the delivery or work result to render it non-infringing but essentially and to a reasonable extend conforming to the functional and performance-related characteristics agreed or, to a reasonable extend, has to indemnify us from any licensing fees towards the IP Right's holder based on the delivery's or work product's usage. Where the Supplier may be held liable under this section 11.2, the Supplier further will be liable for all consequential losses incurred by us, particularly as a

result of shortage of supplies and disruptions of production. Nothing in this shall prejudice any further rights and claims of the Supplier based on an infringement of IP Rights.

- 11.3 The Supplier may use any goods manufactured, services rendered or other work results made with knowledge or resources from us (such as designs, drawings, specifications), which incorporate IP Rights or secret technical knowhow or manufacturing methods of us, only to fulfil the contract with us.

## **12. Supplier's liability for Product Damage, Recalls, Insurance**

- 12.1 In the event of any product damage the Supplier will indemnify us against any third party claims, provided the cause of the damage falls within the Supplier's sphere of control and organisation and the Supplier is liable in relation to third parties.
- 12.2 In the event of any necessary recall and/or recall ordered by the authorities or other actions required to avert danger to individuals or property of third parties, the Supplier is liable for all expenditures, costs and losses incurred by us as a result of such recall or other action and will indemnify us against any such third party claims where the cause of the recall or other action is lack of conformity of the deliverables and/or packaging or services with the contract, particularly lack of conformity with the agreed specifications or contractual representations or a product defect, unless the Supplier is not responsible. Nothing in this shall prejudice any further rights or remedies as may exist.
- 12.3 Without prejudice to any further duties, the Supplier shall notify us without delay if the Supplier becomes aware of any specific circumstances with a view to the goods delivered or services rendered that necessitate a recall or other action according to section 12.2 above by us or by the Supplier and/or establish a relevant risk of product liability. The contracting parties shall seek to coordinate the further steps while we will have the right to take the final decision on a voluntary recall campaign. Nothing in this shall prejudice any statutory reporting duties of the contracting parties.
- 12.4 The Supplier shall at his own expense and at least for the duration of the business relationship maintain liability insurance, including product liability and recall insurance, providing for adequate coverage for the Supplier's deliveries and services; the product liability insurance shall provide a minimum cover of EUR 5 million per claim for personal injuries and property damage (including exclusive pecuniary losses) and a maximum annual indemnity limit of no less than EUR 10 million, while the recall insurance shall

provide a minimum of EUR 5 million per claim and per insurance year. Copies of the insurance policies shall be submitted to us upon request.

### **13. Confidentiality, Advertising**

- 13.1 The Supplier shall treat as a business secret and keep confidential any and all commercial and technical information that is not publicly known and which is disclosed to the Supplier in connection with the business relationship with us. This confidentiality undertaking shall survive and remain in effect after the termination of the contract. The confidentiality undertaking does not extend to information which (i) is or becomes public domain other than by a breach of rights, (ii) is known to the Supplier at conclusion of the contract, or (iii) is disclosed to the Supplier by a third party without breaching any nondisclosure obligation.
- 13.2 The Supplier may not advertise the business relationship with us or use it for reference purposes, except with our prior written consent.

### **14. Governing Law, Forum**

- 14.1 The business relationship between the Supplier and us and all claims deriving thereof shall exclusively be governed by German law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.2 The exclusive place of jurisdiction for all disputes arising between the Supplier and us, regardless of their respective legal basis, shall be at our registered office if the Supplier is a trader or if the Supplier has no general place of jurisdiction in Germany. We have the right, however, to sue the Supplier in any other court having legal jurisdiction. Nothing in this shall prejudice the validity of any legal provisions on exclusive jurisdiction.

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