

## Standard Terms and Conditions of Purchase of MAPA GmbH

### 1. General information

- 1.1 The following Terms and Conditions apply to all business relationships between the Supplier and MAPA GmbH (hereinafter referred to as Customer) provided that the Customer acts as a buyer or ordering party.
- 1.2 These Terms and Conditions apply exclusively. The Supplier's General Terms and Conditions of Business will not form part of the contract. This applies even if the Customer does not expressly oppose differing or conflicting as well as supplementary terms and conditions or order acknowledgements of the Supplier or accepts the delivery without reservation.

### 2. Written form requirement

All agreements, orders and amendments thereto must be in writing. This also applies to amendments to the written form requirement itself as well as to any confirmations and orders. Subsequent agreements, verbal collateral agreements or other amendments to the contract shall only be valid with our written acknowledgement.

### 3. Supply contract - release orders

- 3.1 When making offers the Supplier shall abide by the Customer's enquiry exactly and point out any deviations of its own accord, that is to say the Supplier is nevertheless required to give alternatives.
- 3.2 The Customer shall not give any refunds for visits or for preparing offers, projects or drafts or for trial deliveries unless otherwise expressly agreed.
- 3.3 The Customer shall be entitled to revoke its order or mandate if the Supplier does not accept the order or mandate within 2 weeks. Release orders shall become binding at the latest when the Supplier does not revoke them within 3 weeks from receipt.
- 3.4 If the Supplier accepts the order with deviations, the Supplier shall clearly advise the Customer thereof. A contract shall come about if the Customer has approved these deviations in writing.
- 3.5 The Supplier is not entitled to subcontract the order in whole or in substantial parts to third parties without the Customer's prior written approval. If the Customer grants approval, the Supplier shall continue to be responsible for the implementation of the contract.

### 4. Delivery dates and deadlines, delay

- 4.1 Agreed delivery dates and deadlines are binding. They run from the order date and are fixed times. Compliance with delivery dates and deadlines shall be determined by the receipt of the goods by the Customer unless otherwise agreed in writing.
- 4.2 If stipulated by the Customer, deliveries must be notified by telephone or in writing. Deliveries shall be effected at the delivery times specified on the orders. The Supplier is responsible for any costs incurred through non-compliance with these specifications.
- 4.3 If delivery is effected earlier than agreed, the Customer reserves the right to return the goods at the Supplier's expense. Should goods not be returned where delivery is effected prematurely, the goods shall be stored at the Customer's premises at the Supplier's expense and risk until the agreed delivery date.
- 4.4 The Supplier shall be obliged to inform the Customer without delay in writing if circumstances arise or become apparent which show that the delivery dates or deadlines cannot be met.
- 4.5 If one of the contracting parties is unable to render its performance on time, through no fault of its own, due to force majeure (e.g. industrial action, riots, administrative measures, war, natural disasters, etc.), it shall be released from its duties to perform for the duration of the force majeure and the extent of its impact. This also applies if these events occur at a time when the relevant contracting party is in the state of default. The Customer shall be entitled to withdraw from the contract if the outstanding delivery is no longer of use to it due to the force majeure.
- 4.6 The Supplier may only cite the absence of the necessary documents to be provided by the Customer if the Supplier sent a written warning about the documents and did not receive them within a reasonable period of time.
- 4.7 In the event of delivery default, the Customer shall be entitled to its statutory rights. In particular, the Customer shall be entitled to demand compensation instead of performance after a grace period of 10 days has elapsed fruitlessly. In addition, the Customer shall be entitled, at its discretion, to demand as compensation either reimbursement of the actually incurred damage or, without proof, a sum of 0.5% of the value of the delayed delivery for each week of delay, but a maximum of 5% of the total price unless the Supplier can prove that damage was not incurred or that it is significantly less than the lump sum. Any agreed contractual penalty for delayed delivery shall not be affected thereby and may, contrary to § 341 (3) of the German Civil Code (BGB), be demanded even if it is asserted at the latest by the time the final payment has been effected by the Customer.
- 4.8 The Supplier shall reimburse the Customer for any additional costs which the Customer incurs as a result of a covering purchase and these costs shall be documented by the Customer.
- 4.9 If insolvency proceedings are instituted with respect to the Supplier's assets and the Supplier has not yet met its performance obligation in full at this time, the Customer shall reserve the right to withdraw.

### 5. Packaging, dispatch, certification mark

- 5.1 Unless otherwise agreed, the goods to be supplied shall be packed properly in the manner which is customary in the trade or packed according to the Customer's instructions at its request.
- 5.2 The Customer's current general procedural requirements shall apply to dispatch.
- 5.3 As long as the goods manufactured by the Supplier for the Customer are required for export purposes, the Supplier is obliged to issue a written declaration of origin according to customs law for the delivery items using a form prescribed by the manufacturer. This declaration shall be forwarded to the Customer together with the first delivery at the latest.

- 5.4 The Customer shall be notified immediately and unprompted of the origin of the new delivery items or of a change in origin. The Supplier is liable for all disadvantages that the Customer suffers as a result of incorrect or delayed submission of the Supplier Declaration. If necessary, the Supplier shall provide evidence of its declaration of the origin of the goods in the form of an information sheet confirmed by its customs office.

## **6. Acceptance**

- 6.1 The Purchaser shall only accept part deliveries by express agreement. They shall be marked as such in the forwarding documents and the remaining residual quantity shall also be listed therein. Even if the Customer agrees to a part delivery, the agreed dates for the total delivery shall still apply, so that delivery shall only be deemed rendered when the contract has been implemented in full.
- 6.2 If the order includes the manufacture of a work or the installation or assembly of the delivery item, formal acceptance is required. It may only be carried out after the successful completion of the test phase in accordance with the Customer's separate terms and conditions. If no such terms and conditions have been agreed, the delivery item shall be deemed to have been accepted upon the signature of the acceptance protocol by the Customer subject to the elimination of the defects listed therein.

## **7. Material defects and defects in title**

- 7.1 The Customer shall inspect the delivery for defects within a reasonable time period. Defects shall be deemed to have been notified on time if they have been forwarded to the Supplier within two weeks. In the case of obvious defects, this time period shall commence upon receipt of the goods and in the case of hidden defects upon discovery of the defect. A defect shall be assumed even if the item's usefulness has only been slightly impaired or there is only a slight deviation from the agreed quality.
- 7.2 The Customer shall be entitled to its statutory warranty claims in full. If the Customer demands subsequent improvement, this shall be deemed to have failed upon the first unsuccessful attempt.
- 7.3 In urgent cases or if the Supplier is in default with subsequent improvement, the Customer shall be entitled to demand compensation without the fixing of a time limit or the opportunity for subsequent improvement being required.
- 7.4 The Supplier shall reimburse the Customer for any additional costs which the Customer incurs as a result of a covering purchase and these costs shall be documented by the Customer.
- 7.5 The limitation period for warranty claims and any other claims of the Customer, regardless of the legal basis, is 36 months unless otherwise agreed. If longer time periods are prescribed by law, they shall apply.
- 7.6 If the same goods are delivered wrongly twice within one order, the Customer shall be entitled to withdraw from the entire contract, even for the not yet executed delivery volume.

## **8. Quality and documentation**

- 8.1 As regards its deliveries, the Supplier shall comply with the recognised rules of technology, the relevant safety regulations, the Customer's specifications and agreed technical data. Insofar as the Supplier infringes these specifications, it shall be liable to the Customer and shall especially release the Customer from any claims by third parties. The Supplier shall constantly check the quality of the delivery items and notify the Customer without delay of any deviations from the agreed or typical quality.
- 8.2 The contracting parties shall inform one another of the possibilities of quality improvement.
- 8.3 With regard to products specially marked in technical documents or by separate agreement, the Supplier shall also make special recordings of when and in which form and by whom the delivery items have been checked and the results arising from the required quality tests. The Supplier shall ensure that documentation is carried out, if necessary by placing the manufacturer or its suppliers under a corresponding obligation. The test documents shall be stored for ten years and presented to the Customer upon request.

## **9. Billing and payment**

- 9.1 Prices are fixed prices and contain the remuneration for all performances to be rendered and costs to be expended in the context of implementing the contract. Cost estimates and offers are binding for the Supplier. Cost estimates and offers are free for the Customer and without obligation unless otherwise expressly agreed.
- 9.2 Invoices must be forwarded by the Supplier separately and in a simple format and must correspond to the layout of the order and specify the order number unless otherwise agreed in writing. Missing information shall entitle the Customer to reject the invoice. The statutory value added tax must be listed separately in all cases.
- 9.3 If down payments have been agreed by way of exception, they shall be furnished solely against a directly enforceable and unlimited bank guarantee.
- 9.4 In the event of a defective delivery, the Customer shall be entitled, in the event of a sale, to refuse to pay a reasonable portion of the remuneration, at least amounting to double the costs required to remedy the defect.
- 9.5 Payment shall be effected by bank transfer or cheque after the contractual receipt of the goods and a verifiable invoice. The terms of payment agreed in each case shall apply. Unless otherwise agreed in writing, a payment term of 14 days minus 3% discount or 30 days shall apply. Terms of payment shall start from the time specified in the order, but at the earliest from the date of receipt of the proper invoice, subject to receipt of the goods. In the event of the acceptance of premature deliveries, the due date shall conform to the agreed delivery date.

## **10. Industrial property rights**

- 10.1 The Supplier shall be liable for claims arising from the infringement of industrial property rights and industrial property right registrations during the contractual use of the delivery items unless the infringement is carried out at the Customer's behest.
- 10.2 If claims are made against the Customer by a third party, the Supplier shall be obliged to release the Customer from such claims upon initial written request. The Supplier's duty of release relates to all damage and expenses which the Customer might necessarily incur as a result of or in connection with claims made by other parties.
- 10.3 The contracting parties shall undertake to inform one another without delay of any risks of injury and alleged

- cases of injury that come to their notice.
- 10.4 The Supplier shall notify the Customer of its own accord of the use of its own published and unpublished as well as licensed industrial property rights and industrial property right applications relating to the delivery item.
- 11. Labelling of goods**
- 11.1 The Supplier shall label the delivery items in the manner prescribed by the Customer or, if applicable, agreed with the Customer.
- 11.2 The Supplier may only deliver to the Customer or to a third party specified by it delivery items that bear a trademark protected for the Customer or are equipped accordingly or are packed in the Customer's original packaging. If goods labelled accordingly are returned to the Supplier as defective or if they remain with the Supplier for other reasons, the Supplier shall render them unusable at its expense and prepare a report thereon for the Customer. The Supplier shall treat the type and nature of the goods together with the labelling and equipment confidentially.
- 11.3 In the event of the breach of one of the aforementioned obligations, the Customer shall be entitled to withdraw from the contract or demand the surrender of that which has been acquired from the breach or reimbursement of the damage incurred by the Customer.
- 12. Retention of title**
- 12.1 The Supplier's retention of title shall only apply as agreed if the Supplier grants the Customer the right to reprocess and sell the reserved goods in the ordinary course of business dealings and the retention of title expires upon payment of the agreed price. Any additional retentions of title shall only become a part of the contract by written agreement.
- 13. Manufacturing equipment, confidential information**
- 13.1 All models, stencils, templates, samples, tools, documents, drawings, materials and other manufacturing equipment which are made available to the Supplier by the Customer or are supplied for production as well as the documents prepared by the Supplier according to the Customer's special specifications shall remain in the Customer's ownership, be labelled as such, managed separately and protected against all dangers and may not be used for other purposes, duplicated or made accessible to third parties by the Supplier without the Customer's prior permission. The Supplier shall be obliged to pay compensation in the case of a decrease in value or loss.
- 13.2 The Customer shall reserve all the industrial property rights to all the documents and delivery items surrendered to the Supplier. They shall be returned to the Customer at the Customer's request. The Supplier shall treat the Customer's enquiries and orders and the activities and information relating thereto as a trade secret and treat them confidentially accordingly.
- 13.3 Furthermore, the Customer's corresponding special terms and conditions shall apply to the manufacture, maintenance and upkeep, use and storage of the manufacturing equipment.
- 14. Secrecy**
- 14.1 The Supplier shall be obliged to maintain strict secrecy with regard to all the data it receives, especially images, drawings, calculations and other information as well as commercial and technical details which are not public knowledge which come to its notice through the business relationship. The Supplier shall obligate its vicarious agents to maintain secrecy accordingly. Such data may only be disclosed to other third parties with the Customer's express permission. The obligation to maintain secrecy shall also apply after this Contract has been implemented; it shall expire if and insofar as the information contained in the surrendered images, drawings, calculations and other documents was generally known, without the Supplier or its vicarious agents having been responsible therefor.
- 14.2 The Customer shall be entitled to demand a contractual penalty of € 10,000.00 for each negligent breach of this obligation of secrecy, subject to the Supplier proving a smaller amount of damage. However, the Customer reserves the right to demand additional compensation from the Supplier, with the contractual penalty being offset against the additional compensation.
- 14.3 The Supplier may only advertise with the existing business relationship with the Customer's prior consent.
- 15. General provisions**
- 15.1 The place of performance is the Customer's registered office.
- 15.2 The place of jurisdiction is the Customer's registered office provided the Supplier is a merchant, whereby the Customer may also institute legal proceedings against the Supplier at its registered office.
- 15.3 The law of the Federal Republic of Germany applies. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 15.4 The Supplier shall consent to its personal data being stored with the aid of electronic data processing for the purpose of processing contracts.
- 15.5 Should one of the provisions of these Standard Terms and Conditions of Purchase be or become invalid, on whatever legal basis, the remainder of the provisions shall nevertheless continue to be valid. In this case, the valid provision that comes closest to the economic purpose of the invalid provision shall apply between the parties.