

I. General/Scope

1. The General Terms and Conditions of Purchase and Order of the Wielpütz GmbH & Co. KG (hereinafter referred to as WP) shall apply exclusively. General Terms and Conditions to the contrary shall only apply after written consent by WP. The General Terms and Conditions of Purchase and Order of WP shall prevail even if WP unconditionally accepts delivery being aware of contradictory or differing Delivery Terms.
2. Any agreement between WP and the Supplier for the purpose of formation of contract shall be recorded in writing. Amendments and additions also require written form. These Terms and Conditions of Purchase and Order shall also apply to all future orders on the basis of agreed terms.

II. Offers/Orders

1. Any preparation and mailing of offers by the Supplier to WP shall be free of charge and without engagement.
2. Supply agreements and call-offs as well as amendments require written form; call-off may also be affected by data transmission if such possibility exists.
3. Offers and call-offs by WP are to be accepted by the Supplier providing an order confirmation immediately, but within two [2] weeks at the latest. Acceptance by the Supplier and mailing of such document is mandatory. WP reserves the right to no longer be bound to its offer in case of expiry of such term of acceptance. Deviations from order particulars of WP require prior and written consent by WP.
4. In case of initial or reference samples being provided to WP, mass-production shall only commence after explicit, written release, unless otherwise agreed to the contrary, which shall also require written confirmation.
5. Orders shall only be binding for WP if submitted in writing or confirmed by its Purchasing Department. Verbal undertakings or acceptance by telephone shall not be binding.

III. Prices

1. Agreed total price or unit prices shall be fixed rates and apply until order processing is concluded. Subsequent increases shall be excluded, unless such increase is due to any subsequent change request by WP or any gross negligent dereliction of duty by WP or wilful or gross negligent dereliction of duty by a lawful representative or an agent of WP.
2. All prices shall include delivery to designated point of receipt, freight, packaging and ancillary costs. In case of "freight collect" being agreed separately WP shall accept the most favourable transport costs only, unless WP stipulated a particular type of carriage.
3. Additional costs for the compliance with delivery dates, such as express delivery, shall be borne by the Supplier.

IV. Transfer of Risk

Risk shall pass to WP upon delivery at destination stated and correct handover at appropriate receiving point.

V. Payment/Assignment of Claim

1. Invoices shall be issued to WP only after complete performance of delivery or partial delivery.
2. The term of payment shall commence upon receipt of invoice (receipt stamp for incoming mail), therefore the date of invoice may not necessarily be relevant. From invoice receipt WP shall pay within 14 days less 3 % discount, 30 days less 2 % discount or 60 days net, any other payment term requires written confirmation. Payment shall be made by bank-/postal transfer or *collection-only* cheque.
3. Terms shall commence with receipt of invoice but not before receipt of goods or in case of services not before their acceptance and not until any documentation or similar documents pertaining to the contractual performance have been handed over to WP in accordance with the Agreement.
4. In case of premarurely deliveries the due date of the payment shall conform to the agreed date of delivery.

5. If advance payments are agreed, for which no suitable trade-off is available, WP shall be entitled to request the provision of a directly enforceable guarantee to the same value concurrently (Zug um Zug) against such payment. After complete performance or acceptance of service the guarantor shall be released from the guarantee and the declaration of guarantee shall be returned. Any cost for the guarantee shall be borne by the Supplier.
6. Relevant for payment are the number of pieces, measurements and weights determined by WP.
7. In case of defective delivery WP shall be entitled to withhold an appropriate part of the remuneration until proper performance.
8. The Supplier shall not be entitled to assign its claim from the contractual relationship, except monetary claims, to third parties.

VI. Invoicing

Any invoice issued by the Supplier shall state article- and order-no. of WP.

VII. Notice of Defects

1. WP shall be liable to inspect the goods upon receipt for any deviation in quality and quantity within a reasonable time limit. For the notification of obvious defects a time limit of 14 days after receipt of goods and likewise 14 days for the notification of any hidden defect, immediately after its discovery, shall apply.
2. The return of rejected goods shall be at Supplier's expense and risk.

VIII. Warranties

The Supplier shall ensure delivery of defect free goods to WP through the application of the rules of quality management systems customary to the industry, such as, DIN EN ISO 9001, for example, as well as by exercising due diligence.

IX. Confidentiality

1. The Supplier shall be liable to keep strictly confidential all images, drawings, calculations, other documentation and information.
2. Drawings, models, templates, samples and similar objects shall not be made available or otherwise accessible to unauthorised third parties. Duplication of such objects shall only be admissible within the scope of operational requirements and copyright regulations.
3. They may only be disclosed to third parties with express consent by WP. Duplication for the processing of an order of WP shall only be admissible within the scope of operational requirements and copyright regulations.
4. Sub-suppliers shall be subject to the same obligations.
5. WP reserves all proprietary rights and copyrights to any and all material, immaterial and ideational objects stated in item 1 and 2. These shall not be made accessible to third parties without express consent by WP. They shall solely be used for the production due to the order of WP and shall be returned without express request by WP after completion of order alternatively be deleted in case a return is not possible. They shall not be disclosed to third parties.
6. The Confidentiality Agreement shall continue to apply after performance of this Agreement. It expires if the transferred manufacturing know-how becomes publicly known.
7. The Parties may only use the business relation for advertising purposes after prior written consent of the other party.

X. Delivery Dates and Times

1. Agreed delivery dates, delivery times and performance times are binding. WP shall be informed about imminent delays in delivery immediately; the Supplier shall not be exempt from possible claims for damages WP may be entitled to.
2. If "free works" delivery, meaning any delivery at named place or destination, has been agreed, the Supplier shall timely provide the goods allowing for accepted times for loading and shipping.

XI. Delay in Delivery

1. WP shall be entitled to statutory provisions in case of any delay in delivery. WP shall in particular be entitled to make a covering purchase after 6 [six] working days or 7 [seven] calendar days respectively in case of the unsuccessful expiry of an appropriate deadline.

In no case shall the acceptance of delayed supplies and services mean a waiver of any claim for damages.

2. If the Supplier anticipates difficulties with respect to production, the supply of required materials, or circumstances beyond its control occur which might interfere with the scheduled delivery in the specified quality, the Supplier shall notify WP immediately. In case of failure to provide such notification Supplier shall be liable in the same manner as in case of any delay in delivery caused by him.

3. In case of shutdown or the permanent inability to pay of customers of WP, WP shall be entitled to request, at its discretion, delivery at a later stage or rescind from Agreement. The Supplier shall be reimbursed for any expenses, necessary for the performance of contract, already incurred until time of rescission. Partial deliveries to WP by the Supplier shall be remunerated.

XII. Compliance with regulations and evidence

1. The supplier must comply with the required statutory and official provisions as well as reporting obligations for the destination importing country and the exporting country for the material to be delivered.

2. For deliveries from preferential countries, the supplier must attach the preference certificate to each delivery. The long-term supplier declaration acc. EEC Regulation 1207/2001 is to be submitted once a year by the supplier in accordance with the German customs formalities.

XIII. Force Majeure

Force Majeure, labour disputes, unrests, official measures and other unforeseeable, unavoidable and serious events shall free the Contracting Parties for the duration of the disturbance and within the scope of the effect thereof from their contractual obligations. This shall also apply if such events occur at a time at which the affected party is in default. The Contracting Parties shall be liable, using reasonable efforts, to immediately provide any and all essential information and in good faith adapt its obligations to the changed circumstances.

XIV. Supply

1. Materials, parts, containers, special packaging, tools, measuring equipment or similar provided by WP (supplies) remain our property. In processing, combining, mixing of supplies, we obtain a co-ownership of the new product in proportion to the value of the provision to the value of the whole product. A right of retention, for whatever reason, the supplier is not entitled to the supplies.

2. Supplied material must be clearly and separately stored as WP property, adequately insured against fire, water, theft and catastrophes at the expense of the supplier. WP is to be informed immediately of any access by third parties, costs of necessary interventions shall be borne by the supplier.

XV. Production Resources

1. Any cost for the production resources necessary for the manufacture of deliverables as well as maintenance and replacement shall be borne by the Supplier, unless otherwise agreed to the contrary in writing.

2. If costs for the manufacture of production resources, manufactured or procured by the Supplier, are borne by WP such production resources shall become WP property after approval of samples. Handover shall be replaced by the Supplier storing the goods for WP. Such manufacturing facilities may only be used for the delivery to WP.

3. Production resources shall be shipped to WP upon request at any time and free of charge insofar as they are not needed for the performance of supply obligations. Any risk for loss or deterioration of production resources shall be borne by the Supplier until time of handover to WP.

4. Changes to the production resources shall only be made after written agreement with WP. Such changes shall,

after bearing the cost, become property of WP.

5. Production resources and any other documentation supplied by WP, such as samples, drawings, models and the like, shall be returned to WP without express request, free of charge as soon as those are no longer needed for the performance of the order. Products on the basis of documents or according to confidential information or produced with WP-owned tools shall neither be used by the Supplier nor offered or delivered to any third party.

6. Production resources and other documentation shall be marked as property of WP on the object.

XVI. Quality and Documentation

1. In the manufacture of its deliverables the Supplier shall comply with technical data, accepted rules of technology, safety regulations and environmental concerns for its deliveries. Modification of deliverables requires prior written consent by WP. WP may request modification of deliverables in design and quality from the Supplier as far as this is reasonable. In doing so, the effect, notably in respect to additional cost and reduced cost as well as delivery dates are to be settled appropriately by mutual agreement. As a guideline, the so-called the VDA*-script - "Securing quality of deliveries - Supplier selection/production processes and product release/quality performance in series", should be referred to. The Supplier may commence mass production only after acceptance and approval of the sample by WP, unless otherwise agreed. Notwithstanding the above, the Supplier shall continually review the quality of deliverables. The Contracting Parties shall inform one another about the possibility of quality improvements. The Parties shall undertake, as far as they did not already do so, to agree a Quality Assurance Agreement for this purpose.
2. If nature and extent of review as well as test equipment and test methods are not firmly agreed between the Supplier and WP, WP is prepared to discuss such review, upon request by the Supplier, within the scope of its knowledge, experience and capabilities in order to ascertain the required level of test technology. Upon request by the Supplier WP shall inform the same about relevant safety regulations.
3. In case of specifically marked - for example with the letter "D" - automotive parts, the contractor shall be liable for the creation and maintenance of relevant records. The specific marking may be based on technical documentation or special agreements. Records shall contain information as to when, how and by whom deliverables were reviewed and which result required quality tests led to. Supplier commits to store records for ten [10] years and make them available to WP upon request. The Supplier shall oblige its sub-suppliers to the same extent permissible by law. The VDA*-script "Furnishing evidence - Guidelines for documenting and archiving quality requirements" shall be used as a basis for guidance.
4. As far as public authorities responsible for motor-vehicle safety, exhaust gas regulations etc request an insight into WPs production process and into testing documents for checking compliance with certain requirements, Supplier, at WPs request, undertakes to concede the same rights to said authorities in his company and to lend any assistance which may reasonably be expected.

[*VDA: Verband der Automobilindustrie = German Automobile Industry Association]

XVII. Liability for Defects

1. WP shall be entitled to statutory defect claims without restriction. In case of § 439 BGB [Bürgerliches Gesetzbuch = German Civil Code] WP shall be entitled to require from the Supplier, at WP's discretion, remedy or delivery of new items. WP expressly reserves the right for damages, particularly damages instead of performance.
2. WP shall be entitled to remedy the defect itself, at Supplier's expense, or have it remedied if it is not possible, due to particular urgency, to notify the Supplier of the defect and imminent damage and to set a deadline for the Supplier, even if a short one, for remedying the defect.
3. Any claim for defect, except claims for damages from injury to life, body or damage to health becomes time-barred after expiry of 36 months after delivery to WP. In case of replacement and remedy warranty period for replaced and repaired parts recommences for the full term, unless it must be assumed by the behaviour of the Supplier, that the Supplier does not consider itself obliged to such measure, but carries out the replacement or remedy as a gesture of goodwill or similar.

XVIII. Proprietary Rights

1. The Contracting Parties shall be obliged to inform each other immediately about any risk of infringement or alleged infringements in order to provide the opportunity to mutually counteract such claims.
2. Upon request by WP the Supplier shall disclose published and unpublished own and licensed proprietary rights and applications for proprietary rights of the deliverable.

3. The Supplier shall indemnify and hold harmless WP and its customer from any claim arising from the infringement of proprietary rights and application of proprietary rights (proprietary rights). This does not apply if the Supplier has manufactured deliverables according to drawings, models or other descriptions or specifications by WP and neither knows nor needs to know, in connection with the products developed by the Supplier, that property rights thereby are infringed.

XIX. Retention of Title

1. Any retention of title of the Supplier shall be accepted with the proviso, that ownership of the object of purchase is transferred to WP upon payment for such object (simple retention).
2. WP reserves the right to tools; the Supplier shall be obliged to use such tools solely for the manufacture of goods ordered by WP. The Supplier shall be obliged to insure, bearing the cost, tools belonging to WP at original value against damage by fire, water and theft. At the same time, the Supplier shall already assign all claims for damages from such insurance to WP and WP hereby accepts such assignment. The Supplier, bearing the cost, shall be obliged to duly carry out necessary maintenance and inspection tasks as well as any repair. The Supplier shall notify WP of any incidents immediately. If the Supplier culpably fails to do so, any claim for damages remains unaffected thereby. Please refer to Tool Agreement concluded with respective Supplier.

XX. General Provisions

1. If a Contracting Party suspends payment or insolvency proceedings are opened in respect to any asset or extrajudicial proceedings for claims settlement take place the other party shall be entitled to withdraw from the defaulted part of the Agreement.
2. Insofar as nothing to the contrary arises from the order, the registered office of WP shall be the place of performance.
3. Insofar as the Supplier is a merchant, the registered office of WP shall be the place of venue; however, WP shall be entitled to also bring legal action against the Supplier at the court of its registered office.
4. If any provision of this Agreement or General Terms and Conditions is or becomes invalid the remaining provisions of the Agreement or General Terms and Conditions shall not be affected thereby.
5. The laws of the Federal Republic of Germany shall apply, unless otherwise agreed to the contrary. Application of the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 is excluded.