

## General Terms and Conditions of Purchase

Fa. TubroTec GmbH & Co. KG, D-Kirchheimbolanden  
- for use in business transactions with other companies -

### §1 Scope of application

- (1) The legal relationship between supplier and Combicore GmbH – hereinafter referred to as Purchaser – shall be determined by these general terms and conditions. Changes and supplements must be in writing in order to be effective. Other general terms and conditions of purchase by the supplier shall be expressly rejected. They shall not be applied.
- (2) In any event, solely the order text of the purchaser shall be the base for any contracts.
- (3) Our general terms and conditions of purchase shall be also valid, if we implicitly accept the delivery with knowledge of opposing or deviating terms of the supplier.

### §2 Offers and orders

- (1) The elaboration of offers, preliminary studies etc. shall be free of charge for the purchaser in any case. This shall not oblige the purchaser to the placing of an order.
- (2) Delivery contracts (order and acceptance) and call-offs as well as their changes and supplements must be in writing in order to be effective.
- (3) If the supplier shall not accept the order within three weeks upon receipt, the purchaser shall be entitled to cancel the order. Call-offs shall be at the latest binding, if the supplier does not object within two working days upon receipt.
- (4) Within the limits of reasonableness for the supplier, the purchaser shall be able to ask for changes of the delivery item in construction and design. Thereby the effects, especially regarding additional costs and cost reduction as well as delivery dates, shall be appropriately, mutually regulated.
- (5) The supplier shall undertake to point towards and offer unrequested possible existing equivalent alternatives with less hazardous/harmful components in the event of orders of goods and products containing hazardous and/or environmentally unfriendly substances. This shall also apply regarding the consumption of energy and natural resources as well as the emergence of wastes and emissions on manufacturing, packaging and delivery.
- (6) We expect from our suppliers, that they shall also apply management systems for a continuous improvement of their performance regarding quality, environmental protection and occupational health and safety. Therefore, we prefer suppliers with corresponding certified and validated systems.

### §3 Prices, invoices and payment

- (1) Agreed prices are basically fixed prices, including all additional costs. Prices subject to confirmation shall not be accepted. If in doubt, our order or order confirmation shall be valid.
- (2) If not otherwise stipulated, payments shall be settled in EURO free domestic banking account of the supplier.
- (3) In case of incurred value added tax, this shall be reported separately.
- (4) We request invoices in duplicate marking the original and the copy as well as specifying our order number and, if denoted in our order, the purchaser and the reason for ordering.
- (5) Payment shall be settled within 14 days with a cash discount of 3 per cent, within 60 days net. In the event of acceptance of early deliveries the due date shall be based upon the date agreed for delivery. Besides, the cash discount deadline shall begin with invoice receipt at the purchaser, however on receipt of goods at the earliest.
- (6) Payment shall take place by bank transfer or by using checks.
- (7) In the event of defective delivery, the purchaser shall be entitled to retain payment of the value share until duly delivery.
- (8) The supplier shall be not entitled without prior written agreement of the purchaser, which must not be unreasonably withheld, to assign its claim against the purchaser or to collect it by a third party. At a breach of the aforesaid agreement the purchaser however shall perform of its own choice to the supplier or a third party with releasing action.
- (9) The purchaser shall be fully entitled to the legal right of set-off and retention. These rights unrestrictedly apply to all our counterclaims of the entire business relationship with the supplier. We shall be entitled to assign all and any claim of the supplier contract without the supplier's acceptance.

### §4 Notice of defects

- (1) By the implementation of customary quality systems regulations such as DIN EN ISO 9001 as well as by the exercise general due diligence, the supplier shall ensure that delivered products to the purchaser are free from defects. Therefore the purchaser shall limit its incoming goods inspection to the following characteristics in order to avoid a needless double inspection:
  - a) Identity and quantity; the purchaser shall check the information on the delivery note against the content of the packaging regarding wrong delivery or quantity faults. If the requested quantities of goods in the transport packaging be packed in subunits, the purchaser shall only check the information on the delivery not against the information on the corresponding packaging unit. These packaging units shall be labeled with data on content, quantity and order number.
  - b) External condition, especially with regard to visible transport damages; these are only transport damages, that are externally identifiable at the packaging and lead to the conclusion of a damage of the packaging's content.
- (2) Deliveries with existing defects not immediately identifiable due to the criteria of the limited incoming goods inspection or where its contractual condition and/or usability cannot immediately

be assessed upon delivery, the right for the notice of defects shall be reserved pending the complete treatment and processing. Insofar the supplier shall waive the objection of a delayed notice of defects in accordance with §377 of the German Commercial Code (HGB).

- (3) Delayed notice of defects for forwarded goods: If the goods delivered to the purchaser by the supplier shall be intended for the immediate forwarding to its customer and the supplier was aware of or could recognize this, the supplier shall renounce the right to reject the notice of defects as delayed in accordance to §377 of the German Commercial Code (HGB), if the purchaser checks the goods and in doing so indicate a detected defect to the supplier within a term of ten working days upon receipt at its customer. The purchaser shall by no means be obliged to check deliveries packed for further transport for any faults prior to the delivery of these items at the customer's.
- (4) The waiver of an objection of a delayed notice of defects shall be limited explicitly to the inspection of incoming goods and associated reproofs. For all additional reproofs as defined in §377 of the German Commercial Code (HGB) which emerge later, the legal regulations shall apply unrestrictedly.
- (5) In the event of costs incurring due to bad delivery of the contractual item, especially transportation-, commuting-, labor-, material costs or costs for an inspection of incoming goods exceeding the common extent, the supplier shall bear these costs.

## §5 Non-disclosure

- (1) The contractual partners shall be obliged to keep all unapparent commercial and technical details they become acquainted with due to the business relationship in confidence.
- (2) Drawings, prototypes, templates, samples and similar items shall not be allowed to be relinquished or otherwise made available to unauthorized third parties. The duplication of such items shall only be permissible within the limits of operational requirements and intellectual property rights.
- (3) Sub-suppliers shall be obligated correspondingly.
- (4) The contractual partners shall only be allowed to advertise with their business relationship on prior written agreement.

## §6 Delivery date and deadline

- (1) Delivery dates shall be binding. Agreed delivery deadlines shall basically start on conclusion of a contract.
- (2) If no delivery date is stipulated, our orders always apply for prompt delivery.
- (3) Unless explicitly requested by us, the supplier shall not be entitled to a partial delivery.
- (4) If a missing of deadline is foreseeable, the supplier shall immediately inform us on the reason and expected term of delivery delay. In spite of that, the exceeding of delivery time will cause corresponding consequences of default.

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- (5) In the event of so-called short selling we will exercise our entitled right in case of delayed delivery without granting a grace period.
- (6) In the event of repeated non-compliance with specified delivery dates, we shall be entitled to defeat further fulfilment of a contract without prior setting of a deadline, claim damages for non-performance or withdraw from a contract.

## §7 Delayed delivery

- (1) After the expiration of a delivery deadline, the purchaser shall be entitled to grant a grace period according to the circumstances. After its ineffective expiration the purchaser shall be entitled to withdraw from the contract.
- (2) The supplier shall be obliged to recompense the damage caused by delay (additional freight costs, upgrading costs, additional expenditures for covering purchases, additional internal handling expenses etc.) towards the purchaser.

## §8 Force majeure

Force majeure, industrial actions, turmoil, regulatory actions and other unforeseeable, inevitable and serious events shall release the contractual partners from their duty to perform for the duration of the disturbance and to the extent of their impact. This shall also apply if these events occur at a point in time, when the contractual partner is already in default. The contractual partners shall be obliged to immediately provide the necessary information and to adjust its liabilities to the changed conditions according to good faith within the limits of reasonableness.

## §9 Quality and documentation

- (1) For its deliveries or services, the supplier shall comply with the accepted regulations of technology, safety rules and the agreed technical data. Changes of the delivery item shall require a prior written agreement by the purchaser. The supplier shall constantly check the quality of the delivery items and the attached purchasing specifications to the any order by us. The contractual partners shall inform each other on the possibilities of a continual quality improvement.
- a) In the event of deliveries the supplier shall comply with current legal regulations of the European Union and the Federal Republic of Germany, e.g. the REACH-regulation (Regulation EC No. 1907/2006), the Electrical and Electronic Equipment Act on the return and environmentally sound disposal of electrical and electronic equipment (ElektroG) as national implementation of the directive 2002/95/EG (RoHS) and the directive 2002/96/EG (WEEE) and the End-of-life

Vehicles Act as national implementation of the EU directive 2000/52/EG. The supplier shall inform us about relevant, caused by legal regulations, especially due to the REACH-regulation, changes of the goods, its delivery capacity, possible use or quality at short notice and shall bring appropriate measures into agreement with us in a given case. This shall apply as soon as the supplier recognizes that such changes will take place.

- (2) If way and amount of inspection as well as testing instruments and test methods shall not be bindingly agreed between the supplier and the purchaser, the purchaser shall be willing to discuss the inspections according to its knowledge, experience and possibilities in order to ascertain the required state of test engineering. Furthermore, the purchaser shall inform the supplier about the relevant safety instructions on request.

## §10 Liability for defects

- (1) In the event of the delivery of defective goods, the purchaser may demand the following if the respective legal and below-listed requirements shall be given and unless otherwise agreed:
- a) Before the beginning of manufacturing (processing or assembly) the purchaser shall first of all give the supplier the opportunity for sorting out as well as for the elimination of defects, subsequent or compensation delivery, unless this shall be unreasonable for the purchaser. If the supplier shall be unable to perform or if it shall not immediately fulfill this, the purchaser may withdraw from the contract insofar without fixing a time limit as well as return the goods at supplier's risk and expense. In urgent cases the purchaser may perform the elimination of defects by itself or by a third party by arrangement with the supplier. Resulting costs shall be beard by the supplier. If the same goods shall be delivered defective repeatedly, thus the purchaser shall be entitled to withdraw also for the unfulfilled scope of delivery after written warning in case of further defective delivery.
- b) If the defect is only noticed after the beginning of manufacturing despite the attention of obligation in accordance with §4 (notice of defects), the purchaser may demand – according to §439 section 1, 3 and 4 of the German Civil Code (BGB) – supplementary performance and reimbursement of transportation costs for the purpose of supplementary performance (without towage costs) as well as disassembly and assembly costs (labor costs; material costs if agreed) or abate the purchasing price.
- c) In case of culpable breach of duty beyond the delivery of defective goods (e.g. in case of duty to inform, advice and inspect), the purchaser may claim compensations for the consequential damage resulting from the defect and the consequential damage compensated in line with law by the purchaser to its customer in accordance with §11. Consequential damage resulting from defects is the damage, which the purchaser incurred by the delivery of defective goods on other legally protected interests than on the goods itself. Further claims for expenses and damages due to the delivery of defective goods according to §437 of the German Civil Code (BGB) or indirectly by the regulations mentioned there, the purchaser shall only have if this is contractually agreed. In the event of agreements that will be newly concluded, §18 shall be regarded.
- (2) The purchaser shall immediately make goods to be replaced available on request of the supplier and at its expense.
- (3) Claims from liability for defects shall lapse at the end of 24 months. Claims from liability for defects shall however lapse at the end of 30 months from the delivery to the purchaser at the latest.
- (4) In the event of defective deliveries claims by the purchaser due to product liability law, tortuous acts and agency without authority of §10 shall remain unaffected. Guarantees of quality and durability shall explicitly be designated as such in detail and in writing.

## §11 Liability

- (1) Unless a different liability regulation is stated elsewhere in these terms and conditions, the supplier shall only be obliged for the compensation of damages affecting the purchaser indirectly or directly due to defective delivery, non-compliance with regulatory safety instructions or for any legal reasons attributed to the supplier, in the following way.
- (2) The liability for damages shall principally only be assumed, if the supplier is to be blamed for its damage caused.
- (3) If the purchaser shall be claimed towards a third party due to no-fault liability according to non-negotiable law, the supplier shall assume liability to the extent to which he would also be directly liable. For the loss adjustment between purchaser and supplier the principles of §254 of the German Civil Code (BGB) shall apply accordingly. This shall also be valid in case of direct claims against the supplier.
- (4) Duty of replacement shall be excluded, if the purchaser on his part limited the liability towards its customers effectively. Hereby the purchaser shall endeavor to agree on limitations of liability in a legally permitted extent also in favor of the supplier.
- (5) The supplier shall be liable defensive measures by the purchaser (e.g. product recall) where legally responsible.
- (6) The purchaser shall immediately and comprehensively inform and consult the supplier, if the purchaser wants to claim him according to the aforesaid regulations. The purchaser shall afford the supplier an opportunity to examine the damage event. The contractual partners shall come to an agreement on measures to be taken, especially in the event of arrangement proceedings.
- (7) The principles drawn up in §7 section 1 shall be applied accordingly, unless no or no sufficient insurance on the part of the supplier exists.

## §12 Industrial property rights

- (1) In the event of a claim against the purchaser by a third party due to the fact that the supplier's delivery violated an industrial property right of a third party, the supplier shall be obliged to dispense the purchaser from these claims on first request including all necessary expenses caused to the purchaser in connection with the claims of the third party and their defense.

We shall not be entitled to admit claims of the third party and/or to conclude agreements with the third party concerning these claims without written agreement of the supplier.

The limitation for this dispensation of claims will take three years as from the purchaser's knowledge of claims by a third party, however after ten years from the object's delivery at the latest.

- (2) This shall not apply if the supplier manufactured the delivered items according to drawings, prototypes or corresponding other descriptions or information by the supplier and is not aware of or should know in relation to the developed products, that industrial property rights are violated thereby.



- (3) The contractual partners shall be obliged to instruct each other immediately about known risks of injury and alleged cases of injury and to give each other the opportunity to counteract to corresponding claims.
- (4) On request of the purchaser, the supplier shall communicate the use of published and unpublished own and licensed industrial property rights and registrations of industrial property rights for the delivery items.
- (5) The principles for the limitation of liability drawn up in §7 section 1 shall be applied accordingly.

### **§13 Use of manufacturing means and confidential data of the purchaser**

Prototypes, matrices, templates, samples tools and other manufacturing means as well as confidential information provided for the supplier by the purchaser or fully paid by him, shall only be allowed to be used for deliveries to a third party on prior written agreement by the purchaser.

### **§14 Retention of title**

- (1) In the event of existing retention of title rights by the supplier, the property in the goods shall be transferred to the purchaser on payment. Other forms of title retention shall not apply.
- (2) The right according to §449 section 2 of the German Civil Code shall remain.

### **§15 Operations in our factories**

- (1) People entering the plants of the purchaser in fulfilment of a delivery contract or ensuing obligations, shall be subject to the regulations of the purchaser's site rules.
- (2) The purchaser shall only assume liability for any accidents or damages in the event of deliberate action or gross negligence.

### **§16 Supplies**

- (1) If the purchaser provides material to the supplier, the purchaser shall reserve the property in the materials. Processing or remodelling by the supplier shall be performed for the purchaser. In the event of processing or mingling the purchaser shall acquire a joint ownership in the new object in relation to the value of its object to the other processed items at the time of processing.
- (2) Materials provided by the purchaser shall be labelled and stored separately. They shall be sufficiently insured against fire, water, theft and other damage events at the expense of the supplier.
- (3) The materials provided by the purchaser shall only be used as intended.

## §17 Shipment, packaging, transfer of risk

- (1) The purchaser's shipping instruction as well as general forwarding instructions must be strictly adhered to in any case. The supplier shall be liable for all damages caused to the purchaser due to non-compliance.
- (2) The supplier shall be obliged to inform us via dispatch note and identification of our order number, the quantity and the exact description of goods on the day of the goods issue and to completely provide all necessary accompanying documents, especially customs documents. In case of non-compliance all related risks and/or costs shall be demised to the supplier.
- (3) Additional- or short deliveries shall not be allowed without our prior written agreement.
- (4) In the event of free deliveries to the plants of the purchaser the risk shall be transferred to the purchaser, if the goods are unloaded by the supplier or carrier. This shall also apply, if the purchaser's personnel are assisting the unloading.
- (5) The ascertained weight on calibrated scales in our company shall prevail.
- (6) The receipt of goods shall only take place during the purchaser's normal business hours. The purchaser shall be entitled to give the supplier limited time slots within which the delivery can take place.
- (7) The supplier shall gather a written confirmation for the delivery at the specified receiving office.

## §18 International business

All trades based on an international business shall apply subject to the approval of the German authorities. In the event of subsequent introduction and/or increase of customs, taxes, freightage, energy costs etc. we shall be entitled to pass them on to the supplier.

## §19 Written release for construction works

Each provider of construction works shall submit a valid written release in accordance to §48b 1 of the German Income Tax Act (EStG) to the user without being asked. The supplier of the construction work shall be liable for its correctness and effectiveness. In the event of a temporary written release or if it expires during the conclusion of the contract, the supplier shall be obliged to submit a current release. The failing to reach the minimum limit shall not acquit of the obligation to submit a written release.

## §20 General terms and conditions

- (1) In the event of stipulation of the amount of claims for compensation by the supplier in accordance with §§7, 10, 11 and 12, the economic conditions of the supplier, type, scope and duration of the business relationship, any causation- and/or fault contributions by the purchaser according to §254 of the German Civil Code (BGB) and particularly adverse installation circumstances of the supplied parts shall be considered appropriately in favor of the supplier.

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The compensations, costs and expenditures the supplier shall pay for, particularly have to be in reasonable proportion to the value of delivered goods or the services rendered.

- (2) If a contractual partner shall suspend its payments or if insolvency proceedings on its assets or extrajudicial settlement proceedings shall be filed, the other partner shall be entitled to withdraw from the unfulfilled parts of the contract.
- (3) If a regulation of these terms and conditions and further reached agreements shall be proved or become ineffective, the validity of the contract shall remain unaffected thereby. The contractual partners shall be obliged to substitute the ineffective regulation by one which is as equal as possible concerning its economic success.
- (4) Unless otherwise agreed, the law of the Federal Republic of Germany shall exclusively be applied. The application of the United Nations Vienna Convention on the Law of Treaties adopted on 11 April 1980 on contracts for the international sale of goods shall be excluded.
- (5) The place of performance shall be the place of the purchaser. For the delivery it may be agreed otherwise.
- (6) Place of jurisdiction for all kinds of proceedings shall be only the place of the purchaser.

Kirchheimbolanden, November 2017

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