

**TERMS AND CONDITIONS OF PURCHASE AND DELIVERY**  
**of Paul Brüser GmbH,**  
**Hollenbocker Str. 58-60, D-57413 Finnentrop-Heggen**

**I.**  
**General – Scope**

1. Our Terms and Conditions of Purchase apply exclusively. We do not recognize any terms and conditions of the Supplier that conflict with or deviate from our Terms and Conditions of Purchase, unless their validity is expressly agreed to in writing.  
Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's delivery without reservation in the knowledge of conflicting or deviating terms and conditions of the Supplier.
2. All agreements made between us and the Supplier for the purpose of executing the contract must be set out in writing in the contract.
3. Our Terms and Conditions of Sale and Delivery shall only apply to businesses in accordance with § 310 (1) BGB (German Civil Code).
4. The material data must be made available by the Supplier in the IMDS system under our company ID 3188 at the earliest possible time, but at the latest before the first delivery.

**II.**  
**Offer – Offer documents**

1. In order to effectively accept our order, the Supplier must confirm the order in writing within a period of eight days.  
If there is no or no timely confirmation, we can withdraw from the order. The Supplier must adhere exactly to our order and expressly inform us of any deviations.
2. We reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents; they may not be made accessible to third parties without our express written consent. They are to be used exclusively for production on the basis of our order; after processing the order, they must be returned to us unsolicited. They must be kept secret from third parties, the provision of Section IX (4) shall additionally apply in this respect.
3. Offers of the Supplier are free of charge and do not constitute an obligation for us.

**III.**  
**Prices and terms of payment**

1. The price stated in the order is binding. Unless otherwise agreed in writing, the price includes delivery "free domicile" to the delivery address specified by us, including packaging. The return of the packaging requires a special agreement.
2. The statutory value added tax is included in the price.
3. Invoices must be sent to us in duplicate and must not be attached to the goods. They must include our order number, order date, item and supplier number; the Supplier is responsible for all consequences arising from non-compliance with this obligation unless he proves that he is not responsible for them.
4. Unless otherwise agreed in writing, we shall pay the purchase price net within thirty days of

receipt of the invoice. If we pay within 14 days of receipt of the invoice, we are entitled to deduct a 2% discount.

#### **IV. Delivery time**

1. The delivery time specified in the order is binding.
2. The Supplier is obliged to inform us immediately in writing if circumstances occur or become apparent to him from which it follows that the agreed delivery time cannot be met.
3. In the event of a delay in delivery, we shall be entitled to the statutory claims. In particular, we are entitled to demand damages instead of performance and withdrawal after the fruitless expiry of a reasonable period of time. If we demand damages, the supplier has the right to prove that he is not responsible for the breaches of duty.
4. If we are in default of acceptance or debtor, the Supplier's claim for reimbursement of expenses shall be limited to 0.5% of the delivery value per completed week, unless the delay is based on intent or gross negligence.
5. Partial deliveries are only permitted with our consent.

#### **V. Transfer of risk – Documents**

1. Unless otherwise agreed in writing, delivery must be made free domicile to the delivery address specified by us.
2. Damage to the ordered goods due to improper packaging shall be borne by the Supplier.
3. The Supplier is obliged to state our exact order number on all shipping documents and delivery notes; if he fails to do so, we are not responsible for delays in processing.

#### **VI. Inspection of defects, liability for defects, statute of limitations**

1. The Supplier is obliged to inspect his goods for consistent quality and safety. He must carry out an outgoing goods inspection.
2. We are not obliged to carry out an incoming goods inspection; we only check randomly. We must notify the Supplier of obvious defects within ten working days, calculated from receipt of the goods or, in the case of hidden defects, from discovery.
3. We are entitled to the statutory claims for defects in full; in any case, we are entitled to demand from the Supplier, at our discretion, remedy of the defect or delivery of a new item. The right to compensation, in particular the right to compensation instead of performance, is expressly reserved.
4. We are entitled to remedy the defect ourselves at the expense of the Supplier if there is a risk of delay or if there is a particular need for urgency.
5. The limitation period is 36 months, calculated from the transfer of risk, unless the ordered goods are used for a building in accordance with their usual use and cause its defectiveness.

Then the limitation period is five years, calculated from the transfer of risk.

## **VII.**

### **Product liability – indemnification – liability insurance cover**

1. Insofar as the Supplier is responsible for product damage, he is obliged to indemnify us from claims for damages by third parties on first request to the extent that the cause lies in his sphere of control and organizational responsibility and he himself is liable in the external relationship.
2. Within the scope of his liability for damages within the meaning of Section 1, the Supplier is also obliged to reimburse any expenses pursuant to §§ 683, 670 BGB and §§ 830, 840, 426 BGB resulting from or in connection with a recall campaign carried out by us. We will inform the Supplier about the content and scope of the recall measures to be carried out – as far as possible and reasonable – and give him the opportunity to comment. Other statutory claims remain unaffected.
3. The Supplier undertakes to maintain product liability insurance with an insured sum of € 5,000,000.00 (in words: five million euros) per instance of personal injury / property damage – as a lump sum; if we are entitled to further claims for damages, these shall remain unaffected.
4. The Supplier is obliged to keep all design and production documents relating to the delivered goods for 11 years and to make them available to us in the event we exercise a claim based on product liability.

## **VIII.**

### **Protected rights**

1. The Supplier guarantees that no rights of third parties within the Federal Republic of Germany are infringed in connection with a delivery.
2. If claims are made against us by a third party for this reason, the Supplier is obliged to indemnify us from these claims upon first written request; we are not entitled to make any agreements with the third party – without the consent of the Supplier – in particular to conclude a settlement.
3. The Supplier's indemnification obligation applies to all expenses that we necessarily incur from or in connection with the claim by a third party.
4. The above provisions of Sections 1–3 shall not apply if the Supplier has manufactured the delivered items according to drawings, models or other equivalent descriptions or information provided by us and does not know or cannot be expected to know in connection with the products developed by him that this infringes on protected rights. In this respect, we indemnify the Supplier against all claims of third parties.
5. The limitation period is 10 years, calculated from the conclusion of the contract.

## **IX.**

### **Retention of title – provision of parts – tools – confidentiality**

1. If we provide parts to the Supplier, we reserve ownership thereof. Processing or transformation by the Supplier shall be carried out on our behalf. If our reserved goods are processed with other objects not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed

items at the time of processing.

2. If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved item (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Supplier's item is to be regarded as the main item, it shall be deemed agreed that the Supplier shall transfer proportionate co-ownership to us; the Supplier shall preserve the sole ownership or co-ownership on our behalf.
3. We reserve title to tools; the Supplier is obliged to use the tools exclusively for the production of the goods ordered by us. The Supplier is obliged to insure the tools belonging to us against fire, water and theft damage at their new value at his own expense. At the same time, the Supplier hereby assigns to us all claims for compensation arising from this insurance; we hereby accept the assignment. The Supplier is obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work in good time at his own expense. Any incidents must be reported to us immediately; if the Supplier culpably fails to do so, claims for damages shall remain unaffected.
4. The Supplier is obliged to keep all illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with our express consent. The confidentiality obligation shall also apply after the execution of this contract; it expires if and when the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known.
5. Insofar as the security interests to which we are entitled in accordance with Section 1 and/or Section 2 exceed the purchase price of all our still-unpaid reserved goods by more than 10%, we are obliged to release the security rights at our discretion at the request of the Supplier.

## **X. Advertising**

The existing business relationship with us may not be referred to in information and advertising material without our prior express written consent.

## **XI. Place of performance – place of jurisdiction – applicable law**

1. The place of performance is the location of our place of business or the place of destination specified by us.
2. The place of jurisdiction for contracts with merchants and legal entities is the court responsible for our registered office.
3. German law applies to all orders, deliveries and services. The application of the UN Sales Convention is excluded.

Status of the Terms and Conditions of Purchase: May 2011