

## Standard Terms and Conditions of Purchase of Rauschert Distribution GmbH Steinbach am Wald, Business Unit Inopor

### I. Conclusion of contract

1. Rauschert Distribution GmbH Steinbach am Wald, Business Unit Inopor (here in after referred to as Inopor) shall order exclusively on the basis of its Standard Terms and Conditions of Purchase. Any other terms and conditions shall not become an integral part of the contract, even if Inopor does not expressly object to them. If Inopor accepts a delivery/work without any express objection, this cannot be interpreted under any circumstances as meaning that Inopor has accepted the supplier's terms and conditions of delivery. On submission of offers, the supplier shall declare his agreement with the Standard Terms and Conditions of Purchase of Inopor. If no such express declaration is made, the execution of the order shall at all events be considered as acceptance of the Standard Terms and Conditions of Purchase of Inopor. These Standard Terms and Conditions of Purchase shall also apply to all future contractual relationships with the supplier.
2. If the supplier submits an offer in response to an enquiry by Inopor, he shall comply exactly with the request by Inopor or expressly point out any deviations from such an enquiry.
3. If the supplier fails to accept the order within 10 working days of its receipt in writing, Inopor shall be entitled to revoke it.
4. No remuneration shall be paid for visits or the preparation of offers, projects, etc. unless such a remuneration has been expressly agreed or there is a statutory claim to it.
5. If Inopor can prove by submission of a transmission report that Inopor sent a declaration by fax or remote data transmission, it shall be assumed that the supplier received such a declaration.
6. The supplier shall treat the conclusion of the contract as confidential and may not refer to any business relationships with Inopor in its advertising materials unless it has the prior written consent of Inopor.
7. Inopor may request alterations to the subject matter of delivery even after the conclusion of the contract to the extent that this is reasonably acceptable for the supplier. In the event of such an amendment, the impact, particularly with regard to additional or lower costs and delivery deadlines, must be duly considered by the two parties.

### II. Prices, shipment, packaging

1. The agreed prices shall be deemed to be fixed prices and shall exclude any additional claims whatsoever. Costs for packaging and transport to the delivery address and/or place of use stated by Inopor as well as for any customs formalities and customs duties shall be included in these prices. Unless otherwise agreed in writing, the price for all shipments "ex works" shall include packaging. If a price has been agreed "ex works", "ex warehouse" or the like, the forwarder prescribed by Inopor has to be used. Any costs arising up to delivery to the carrier including loading and haulage shall be borne by the supplier. If no prices are stated in the order, the currently applicable list prices of the supplier shall apply with the rebates customary in the trade. The pricing shall not in any way affect the agreement on the place of performance.
2. Any delivery bills, consignment notes, invoices and all correspondence shall specify the order number of Inopor. Offers shall bear the enquiry number.
3. Inopor shall only take delivery of the quantities or numbers of items ordered. Any higher or lower deliveries shall not be admissible unless agreed upon in advance with Inopor.
4. The shipment shall be at the risk of the supplier. The risk of any deterioration, including accidental loss shall, therefore, remain with the supplier until delivery to the delivery address and/or place of use requested by Inopor.
5. The supplier's obligation to take back the packaging shall be governed by the statutory provisions. The goods shall be packaged in such a way that damage to the goods in transit is avoided. Packaging materials shall only be used to the extent necessary to meet this purpose. Only ecologically sound packaging materials may be used. If Inopor is invoiced packaging separately by way of exception, Inopor shall be entitled to return packings, which are in good condition, back to the supplier, against remuneration of two-thirds of the billed value free of carriage.

### III. Invoicing, payment, default in payment

1. To the extent necessary for their understanding, invoices shall be submitted in a proper form with all corresponding documents and data specified separately after delivery has been made. Pending the submission of a proper invoice, Inopor shall have a right to refuse payment. Payment shall be determined by the actual quantities, weights or other units on which the delivery is based as well as by the prices agreed upon.
2. Payment shall be according to normal trade practice. Unless otherwise agreed upon in writing, Inopor shall pay the purchase price, at its option, within 10 days with a 3% discount, within 30 days with a 2% discount or net within 60 days, after delivery and receipt of the invoice. Payment shall be deemed to be on time if a remittance order has been placed on the last day of the period allowed for payment.
3. Insofar as certificates on material tests have been agreed upon, they shall constitute an integral part of the delivery and shall be made available to Inopor together with the delivery. They have to, however, be available to Inopor no later than five days after receipt of the invoice. The term of payment shall not commence before the agreed certificate has been received.
4. The settlement of an invoice shall not be deemed to be a waiver in respect of a notification of defects in the invoiced goods. In the event of a defective delivery, Inopor shall be entitled to withhold payment in the proportion of the corresponding value pending proper performance.
5. In the event of advance payments, the supplier shall furnish appropriate collateral in the form of a bank guarantee of a generally recognised German big bank.
6. In the event of default in payment by Inopor, the supplier may not rescind the contract unless he has set a deadline with a threat of rejection.
7. Any assignment of receivables shall not be admissible unless with our written consent.

### IV. Dates of delivery, delay in delivery, force majeure

1. The dates of delivery agreed upon shall be binding; the supplier shall be in default if a fixed date of delivery is missed, without this requiring any reminder. In the case of obligations to be performed, compliance with the date of delivery or the delivery period shall be determined by the receipt of the goods at the place of receipt and/or use

specified by Inopor. If acceptance is necessary, the supplier shall be in default without reminder if he has not performed the work or provided the service by the date agreed upon in a way that acceptance cannot be refused. (§ 640 para 1 sentence 2 BGB [German Civil Code]).

2. If the supplier realises that a date agreed upon cannot be met for any reasons whatsoever, he shall inform Inopor without delay and state the underlying reasons as well as the probable duration of the delay in writing.
3. If the supplier defaults by exceeding the date of delivery, Inopor shall be entitled to impose a penalty of 0.1% of the amount of the order per working day and no more than 5% of the amount of the order. The reservation as to the assertion of a penalty can be made pending payment of the invoice. The penalty shall be offset against any claim to damage caused by default. The penalty shall be deemed to be merely the minimum value of damage claims.
4. The supplier may only invoke failure by Inopor to submit any necessary documents if he requested such documents by way of a reminder in writing and did not receive them within an appropriate period of time.
5. Force majeure shall exempt the contracting partners for the duration of the interference and within the scope of its impact from their obligations. The contracting partners shall be obliged to provide the necessary Information as soon as reasonably possible and adjust their obligations to the changed circumstances in accordance with the principle of good faith. Inopor shall be exempt from the obligation to accept the delivery/service ordered as a whole or in part and shall be entitled to rescind the contract in that respect if the delivery/service/work can no longer be utilised because of the delay caused to Inopor as a result of force majeure - taking into account economic aspects.
6. If the delivery is made earlier than agreed upon, Inopor reserves the right to return the shipment at the supplier's expense. If no return shipment is made in the event of premature delivery, the goods shall be stored until the date of delivery agreed upon at Inopor at the supplier's expense and risk. In the event of premature delivery, Inopor reserves the right to make payment only on the due date agreed upon.
7. Inopor shall not accept part deliveries unless expressly agreed upon. With regard to part deliveries agreed upon, the residual quantity must be specified.

### V. Liability

The supplier shall be liable for any form of contractual violations in accordance with the statutory provisions unless otherwise agreed upon in these Standard Terms and Conditions.

### VI. Liability for defects

1. The specification agreed upon shall be an integral part of the order and may not be amended without the mutual consent of the contracting partners. Any description of the scope of delivery or any drawing to be considered as binding shall also be deemed to be a specification. Deviances from the specification shall always be deemed as a fundamental breach of contract, unless Inopor is able to bring about the state of product as provided by specification by applying only totally insignificant efforts.
2. The supplier undertakes to use ecologically sound products and processes in his deliveries/services/work and also for sub-contracted work and deliveries from third parties within the framework of economic and technical possibilities. The supplier shall be liable for the environmental compatibility of the products delivered and the packaging materials as well as for all consequential damage or loss caused by a violation of his statutory disposal obligations. At the request of Inopor, the supplier shall issue a certificate of inspection for the goods delivered.
3. The supplier is required to inform Inopor of the registration numbers of all listed products according to European Union Regulation 1907/2006 (Registration, Evaluation, Authorisation and Restriction of Chemicals, „REACH“), regardless of whether these products have been supplied as a substance or as a part of a preparation. If the supplier does not notify a registration number, this means that the consignment does not contain a substance to be listed. A consignment that contains substances to be registered without a registration number having been notified is deemed to be faulty in the sense of section 434 of the German Civil Code („Bürgerliches Gesetzbuch“, „BGB“).
4. Inopor shall notify the supplier without delay in writing of any apparent defects in the delivery/service/work and transport damage as soon as they are identified in accordance with the conditions of proper ordinary business, but no later than within ten working days of receipt of the delivery by Inopor.
5. Inopor shall be obliged to inspect any incoming goods within ten working days of receipt of the delivery for transport damage.
6. The condition of an item or a work agreed upon shall also be deemed to include properties which Inopor may expect as a result of public declarations of the seller, the company, the manufacturer (§ 4 paras 1 and 2 German Product Liability Act) or any vicarious agents particularly in advertising or labelling in respect of certain properties unless they are in contradiction with properties agreed upon. This shall not apply if the contracting partner was not aware and did not need to be aware that the declaration had been corrected in an equally valid manner at the time of conclusion of the contract or that it could not influence the purchasing decision.
7. As a matter of principle, Inopor shall have the right to choose the kind of subsequent performance, even for contracts for work, unless the contracting partner has the right to refuse subsequent performance or Inopor chooses a right of subsequent performance which is unreasonable for the entrepreneur to accept.
8. If a product, service or construction is faulty and a solution is not found within an appropriate period of time Inopor has set, Inopor shall be entitled to correct the defect by itself and to claim reimbursement of the necessary costs, unless the supplier refuses supplementary performance legitimately. In this regard, the legal provision for self-action in case of a contract for work and labour (section 637 BGB) shall apply accordingly. Irrespective of the legal provision, Inopor shall be entitled to correct the defect by itself even without setting a deadline for correcting the defect on the supplier's costs in urgent cases the supplier is responsible for, in particular in order to fend off acute danger of considerable damage, if it is due to eminent urgency impossible to inform the supplier about the defect and the pending loss and to set him a deadline to correct the damage.
9. The period of limitation for any claims connected with faultiness of products shall be 36 months from passing of risk unless nothing different has been agreed upon.
10. The supplier has to conduct a state-of-the-art quality assurance adequate in form and complexity and verify this to Inopor. The supplier will conclude an accordant quality assurance agreement with Inopor, if Inopor considers this necessary.
11. The supplier will ensure against all risks of product liability including call-backs to an adequate extent and produce the insurance policy on enquiry.

#### **VII. Guarantee**

1. The supplier guarantees and assures that all deliveries/services/work correspond to the state of the art, comply with the relevant legal provisions as well as the provisions and guidelines imposed by public authorities, employers' liability insurance associations and specialised associations. If deviations from these provisions are necessary in individual cases, the supplier must obtain a corresponding written consent. The warranty obligation of the supplier shall not be restricted by such a consent. If the supplier has any concerns in respect of the type of execution requested by Inopor, the supplier shall notify Inopor without delay in writing.
2. The supplier guarantees and assures that all deliveries shall be free of proprietary rights of third parties and, more particularly, that the delivery and use of the subject matters of the delivery shall not infringe any patents, licenses or other proprietary rights of third parties within Germany. If the supplier knows that his products are distributed by Inopor in certain countries, this shall also apply to these countries.

#### **VIII. Spare part supplies**

1. The supplier undertakes to supply Inopor with all spare parts for the duration of the average service life of the delivered product.
2. The price of a spare part must not be higher than the price of a corresponding part on the free market.
3. If the spare part production was discontinued after the expiration of the period mentioned in clause 8.1, the supplier undertakes - at the request of Inopor against an appropriate remuneration - to surrender construction documents/drawings to Inopor and to use such documents for the manufacture of spare parts exclusively for Inopor's own use. Inopor undertakes not to make these documents accessible to third parties.
4. The supplier undertakes to inform Inopor in writing at least three months prior to the discontinuation of production of a product offered by Inopor.

#### **IX. REACH-Regulation**

1. The supplier obliges himself to Inopor to fulfil his duties according to European Union Regulation 1907/2006 (Registration, Evaluation, Authorisation and Restriction of Chemicals, "REACH"). The supplier in particular obliges himself to provide Inopor with a material safety data sheet according to the provisions of Regulation 1907/2006 with every corresponding consignment.
2. The supplier shall be obliged to provide Inopor with the information necessary according to art. 32 of the said regulation without request.

#### **X. Obligations of and rights to information**

1. If the supplier offers a product Inopor has already obtained from him, the supplier has to inform Inopor without request, regardless of any further obligations of information, about any changes, if the specification has changed compared to products having been formerly delivered under the same identification.
2. Under section 4 paragraph 1 of the German Law on the Security of Devices and Products ("Geräte- und Produktsicherheitsgesetz"), the supplier is obliged to provide Inopor with all information relevant for the assessment of dangers to security and health of the users of the product or of third parties. This refers in particular to
  - The characteristics of the product including its composition, package, instruction of assembly, installation, attendance and service life
  - Its effects on other products, as far as an application together with other products is to be expected
  - Its presentation, amongst others in commerce, labelling, warning notices, instructions for use and operating, specifications of disposal and all other product-related information and details.
  - The group of users that is exposed to a higher danger than others when using the product.
3. The supplier obliges himself to explicitly indicate when he supplies a substance that has contrary to the obligation according to European Union Regulation 1907/2006 not been registered. The same shall apply when he delivers a preparation that contains one or more substances that have not been registered contrary to the obligation according to European Union Regulation 1907/2006.  
If the supplier delivers one or more substances mentioned in appendix XIV of European Union Regulation 1907/2006 or a preparation that contains such a substance or such substances, the supplier shall explicitly inform Inopor in writing about the reasons which allow the bringing into circulation of the substance in the sense of article 56 European Union Regulation 1907/2006.
4. If the supplier advises against the application of a substance, he has to do this in writing and in emphasised form.
5. Provided that Inopor is obliged to compile a chemical safety report on the grounds of article 37 European Union Regulation 1907/2006 and needs information from the supplier regarding the delivered substances, the supplier shall be obliged to provide the said information within 30 days after having received the according request.

#### **XI. Heavy metal ban**

1. The supplier of products, which the supplier delivers obviously or knowingly for the production of spare parts for motor vehicles, undertakes to deliver only products to Inopor which are in compliance with EU Directive 2000/53/EC of 18 September 2000, taking into account the decision of the European Commission of 27 June 2002 (2002/525/EC).
2. If the supplier delivers products which include substances covered by the aforementioned EU Directive, the supplier undertakes to expressly inform Inopor of such substances.

#### **XII. Property rights**

1. The supplier shall indemnify and customers of Inopor against any claims of third parties for any infringements of proprietary rights and shall bear all costs incurred by Inopor in this connection.
2. In case of infringement of an industrial property right, the supplier shall at first be entitled to enter into a dispute with the holder of the industrial property right regarding existence, scope and area of application of the industrial property right as well as about the amount of an adequate licence fee.
3. In case the matter results in legal proceedings, Inopor is entitled to enter into the lawsuit ("Streitbeitritt" according to German civil procedure) on the supplier's side. If the supplier loses the trial without Inopor being at fault, the supplier has to compensate Inopor for legal costs.
4. If the supplier refrains from entering into a dispute or fails with his such-like endeavours, Inopor shall be entitled to obtain the approval for using the concerned delivered goods and services at the supplier's costs. This claim shall be restricted to the reimbursement of the

purchasing price and the compensation for the damage caused by the defect of title.

#### **XIII. Extraordinary right of rescission**

If insolvency proceedings are instituted against the assets of the supplier, Inopor shall be entitled to rescind the agreement within a period of 12 months following the institution of the insolvency proceedings.

#### **XIV. Business In foreign countries**

If the supplier has his branch establishment outside Germany, the following shall apply in addition:

1. For the relationship between the supplier and Inopor, German law shall be the exclusively applicable law excluding the UN sales convention (CISG).
2. The contractual language shall be German. If the contracting partners use any other language, the German wording shall prevail.

#### **XV. Final provisions**

1. Should individual parts of these Standard Terms and Conditions of Purchase be legally invalid, the validity of the remaining provisions shall not be impaired.
2. The supplier shall not be entitled to transfer the order or essential parts thereof to third parties without the prior written consent of Inopor.
3. Inopor shall treat person-related data of the supplier in accordance with the German Data Privacy Act.
4. Unless otherwise expressly agreed upon, the place of performance for the delivery obligation shall be the shipment address and/or place of use requested by Inopor.
5. For all disputes arising out of the contractual relationship and if the supplier is a fully qualified merchant, a legal entity under public law or a federal special fund under public law, the place of jurisdiction shall be the main registered office of Inopor. Inopor shall also be entitled to sue the supplier at any other admissible place of jurisdiction.

**Status: July 2016**