

Standard Terms and Conditions of Purchase

§ 1 Scope

- (1) These Standard Terms and Conditions of Purchase apply to all business relations with our business partners and suppliers ("seller"). They only apply if the seller is an entrepreneur (sec. 14 German Civil Code – *Bürgerliches Gesetzbuch*) or a legal entity under public law.
- (2) These Standard Terms and Conditions of Purchase apply in particular to contracts for the sale and/or supply of movable items ("goods") irrespective of whether the seller produces the good itself or purchases from other suppliers (secs. 433, 651 German Civil Code). Unless otherwise agreed, these Standard Terms and Conditions of Purchase – in the version which applies when we place our order or, at least, the last version communicated to the Seller in text form as a framework agreement – will also apply to any future contracts of the same type, even if we do not expressly repeat this information in each individual case.
- (3) These Standard Terms and Conditions of Purchase apply to the exclusion of any other standard terms and conditions. Standard terms and conditions of business of the seller which differ from, conflict with or supplement our own will not become a constituent part of the contract unless we have expressly consented to this in writing. This requirement for consent applies in all cases, even for example if we take receipt of goods supplied by the seller without reserve despite being aware of the seller's standard terms and conditions of business.
- (4) Individual agreements entered into with the seller in an individual case (including ancillary agreements, additions and amendments) will always take precedence over these Standard Terms and Conditions of Purchase. Unless evidence is provided to the contrary, the content of such agreements will be as set out in a written contract or as confirmed by us in writing.
- (5) Any statements or notifications from the seller regarding the contract which are of legal relevance (such as deadlines, formal warnings, withdrawal) must be made in writing, i.e. in written form (i.e. with an original signature) or text form (i.e. letter, email, fax). This has no effect on statutory requirements regarding form and other evidence, particularly where there is doubt as to whether the person making the declaration is authorised to do so.
- (6) Information on the application of statutory provisions is provided for clarification purposes only. Thus, even in the absence of such clarification, statutory provisions apply unless they are directly amended or expressly disappplied in these Standard Terms and Conditions of Purchase.

§ 2 Contract

- (1) Our order is not binding until provided in writing or confirmed. The seller must alert us to obvious errors (such as typographical and mathematical errors) and omissions in the order and the order documents so that they can be corrected or completed before acceptance; otherwise the contract will be deemed not to have been concluded.
- (2) The seller must confirm acceptance of the offer in writing within 5 days or execute the contract without reserve, in particular by shipping the goods (acceptance). Delayed acceptance is deemed to be a new offer and is subject to our acceptance.

§ 3 Delivery time and delay in delivery

- (1) The delivery time which we stipulate in the order is binding. If a delivery time is not stipulated in the order and has not been agreed elsewhere, the delivery time will be two weeks from conclusion of the contract. The seller will notify us in writing without undue delay if it becomes apparent that it will not be possible to meet agreed delivery times for whatever reason.
- (2) If the seller does not perform or does not do so within the agreed delivery time or if it is in delay, our rights will be as set out in statute, particularly with regard to withdrawal and compensation. This will not affect the provisions of (3).
- (3) If the seller is in delay with delivery, we can – in addition to our broader statutory rights – demand liquidated damages for the loss suffered owing to the delay of 1% of the net price per complete calendar week but no more than 5% of the net price of the goods affected by the delay. We reserve the right to claim higher compensation subject to proof. The seller reserves the right to prove that we have suffered no loss or that any loss suffered was significantly lower.

§ 4 Performance; shipment; passage of risk; delay in taking receipt of goods

- (1) The seller may not have the performance to be rendered under the contract performed by a third party (e.g. a sub-contractor) without our prior written consent. Unless otherwise agreed in a specific case (e.g. sale while stocks last) the seller bears the procurement risk in respect of the its performance.
- (2) Where shipment is to a destination in Germany the goods will be shipped "free house" to the destination stipulated in the order. If no destination is stipulated or otherwise agreed, goods must be shipped to our seat in Ravensburg. The destination will also be the place of performance for the shipment and any subsequent performance (obligation).
- (3) A delivery note stating date (of issue and despatch), content of shipment (article number and quantity) and our order data (date and number) must accompany the shipment. We will not accept liability for any delays in payment or processing caused by a missing or incomplete delivery note. We must also be sent shipping advice and with the same content.
- (4) Risk of accidental loss and accidental deterioration of the goods will pass to us on handover at the place of performance. Where the parties have stipulated acceptance, passage of risk will occur on acceptance. In all other respects, acceptance will be subject to the law regarding contracts for mixed work and services (*Werkverträge*). The provisions of handover and acceptance will apply likewise if we are in delay in taking receipt of the goods.
- (5) The commencement of a delay in taking receipt of the goods will be as set out in statutory provisions. However, the seller must also expressly offer to perform even if an act or contribution (e.g. providing material) on our part by a specific or by a definable date has been agreed. If we are in delay in taking receipt of the goods, the seller may demand a refund of additional expenses which it incurs as set out in statute (s. 304 German Civil Code). If the contract is for an item which the seller is to custom-manufacture, the seller will only have additional rights if we have undertaken to collaborate and if responsibility for non-collaboration lies in our sphere of responsibility.

§ 5 Prices and terms of payment

- (1) The price shown in the order will be binding. All prices will include VAT at the applicable statutory rate unless VAT is indicated separately.
- (2) Unless otherwise agreed in a specific case, the price will include all performance/ancillary performance to be rendered by the seller (e.g. assembly, installation) and all ancillary costs (e.g. proper packaging, transport costs including any transport or third-party liability insurance).
- (3) The agreed price will be payable within 30 calendar days from full delivery and supply (including acceptance, if applicable) and from receipt of a proper invoice. If we pay within 14 calendar days, the seller will grant us 3% discount on the net invoice

amount. Where payment is made by bank transfer, payment will be deemed to have been made in timely manner if our bank receives our payment instruction before the payment period expires; we are not responsible for delays attributable to the banks involved in the payment process.

(4) We will not pay interest charged after the payment's due date. Any delay in payment will be governed by statutory provisions.

(5) We are entitled to offset and withhold payment and to plead the defence of unfulfilled contract as provided for by statute. In particular, we may withhold payments for such time as we have claims against the seller for incomplete or deficient performance.

(6) The seller may only offset or withhold performance in respect of counterclaims which are undisputed or which have been ruled final and absolute in a court of law.

§ 6 OEM purchases

If DOSATRONIC buys the product as an original equipment manufacturer (OEM) the following will apply:

(1) Order procedure

DOSATRONIC will indicate its status as OEM customer in every order.

(2) Rights

DOSATRONIC may incorporate the OEM product in its products, modify it accordingly and distribute it as part of its own products in its own name and for its own account. The right granted to DOSATRONIC is company-related, non-exclusive, non-transferable, is not limited in terms of territory and time; it applies solely to the product named in the order. This has no effect on the seller's property rights in the product.

DOSATRONIC will only present the product using its own product designation / branding and will not furnish any assurances regarding attributes over and above what is stated in the product description or documentation without the seller's prior consent.

§ 3 Property rights

DOSATRONIC will not contest the seller's property rights during the warranty period. Likewise it will not assist third parties in contesting such property rights.

DOSATRONIC and the seller will inform each other of any allegations regarding property right infringements.

(4) Product marking

The seller will only supply the above product using the DOSATRONIC's stipulated product designation, trademark or copyright notice.

The seller will not apply any designations to the product which indicate any association between the seller, its suppliers and the product. This applies to the seller's own product designations, its own trademarks or copyright notices, codes, links, QR codes and other suitable identifying elements.

The seller will not use its own colour and/or form marks on any visible or invisible parts of the product or product as a whole.

(5) Disclosures

The seller and any contractually associated distribution organisations or individuals will not disclose that it/they are the product manufacturer to DOSATRONIC customers.

§ 7 Confidentiality and reservation of title

(1) We reserve title and copyright in illustrations, plans, drawings, calculations, instructions on execution, product descriptions and other documents. Such documents may be used solely for performing the contract and must be returned to us once the contract has been completed. Documents may not be disclosed to third parties at any time, including after the contract has ended. The confidentiality obligation will lapse if and in so far as the knowledge contained in the documents provided has become generally known.

(2) The above provision applies accordingly to substances and materials (such as software, finished and semi-finished products) and to tooling, templates, samples and other items which we provide to the seller for manufacturing purposes. As long as such items have not been processed they must be stored separately at the seller's cost and appropriately insured against destruction and loss.

(3) If the seller processes, mixes or combines (further processing) such items, this will be deemed to have been done on our behalf. The same applies if we further process the goods supplied; we will then be deemed to be the manufacturer and at the latest on such further-processing will acquire title in the goods as provided for by statute.

(4) Title in the goods must pass to us unconditionally and irrespective of whether the price has been paid. However, if – in an individual case – we accept an offer from the seller under which transfer of title is conditional on payment of the purchase price, the seller will forfeit its right to retain title at the latest when the purchase price for the goods supplied is paid. We are authorised to resell the goods in the ordinary course of business even if they have not yet been paid, in which case the ensuing claim will be assigned in advance (in the alternative simple reservation of title extended to resale). Thus, all other forms of reservation of title are excluded, including without limitation the extended and delegated reservation of title and reservation of title extended to apply to further processing.

§ 8 Defective supply

(1) Unless otherwise set out below, our rights in respect of quality defects and defects in title (including if the goods supplied are not what was ordered or the quantity supplied is less than ordered, deficient assembly, operating manual or instructions for use) and other breaches of duty on the part of the seller will be as provided for by statute:

(2) Under statutory provisions the seller is liable, among other things, for the goods having the agreed attributes when risk is transferred to us. Agreed attributes will be deemed to be product descriptions which are the subject of the contract – in particular by having been stipulated or referred to in our order – or which have been incorporated into the contract as is the case with these Standard Terms and Conditions of Purchase. Whether the product description originates from us, the seller or the manufacturer is immaterial.

(3) Notwithstanding sec. 442(1) sentence 2 German Civil Code, our defect rights are unrestricted even if, the defect was not apparent to us owing to gross negligence.

(4) Our duty to inspect incoming goods and report any defects is as set out in statute (secs. 377, 381 German Commercial Code – *Handelsgesetzbuch*) subject to the following: Our duty to inspect incoming goods is confined to defects which are identified by our incoming goods inspection staff in an external inspection, including inspection of the shipping documents, (such as transport damage, goods supplied are not what was ordered or quantity supplied is less than ordered) or which are identified by our quality control staff in random checks. Where the parties have agreed that the goods will be subject to acceptance, we do not have inspection obligations. In all other respects it depends on the extent to which an inspection is

feasible in the ordinary course of business, taking account of the circumstances of the specific case. This has no effect on our duty to report defects which are not discovered until later. Regardless of our duty to inspect incoming goods, any defect report which we make will be deemed to have been made without undue delay and in a timely manner if it is sent within [...] working days of being discovered and, in the event of obvious defects, if it is sent within [...] working days of delivery.

(5) Where the good was installed in another item consistent with its designated purpose, subsequent performance will also include removal of the defective good and re-installation. The seller will bear the costs it incurs for inspection and subsequent performance (including any removal/installation costs) even if it transpires that there was no defect. Our liability for compensation is not affected if we did not have a valid claim for the defect to be remedied; we will only be liable if we have acknowledged that there was no defect or if, through gross negligence on our part, we failed to see that there was no defect.

(6) If the seller does not fulfil its obligation to render subsequent performance – either by remedying the defect (remedy) or by supplying a non-defective item (replacement) – within a reasonable period stipulated by us, we may remedy the defect ourselves and demand that the seller refund necessary costs and/or demand an advance on the refund; we will choose whether subsequent performance will take the form of remedy or replacement as we see fit. If subsequent performance by the seller fails or is not reasonably acceptable (e.g. for reasons of extreme urgency, danger to operating safety or impending disproportionate damage), we are not obliged to set a deadline; we will notify the seller without undue delay, if possible beforehand, of such circumstances.

(7) We have the right to reduce the purchase price or to withdraw from the contract in the event of defects in quality or title as provided for in statute. We also have the right to claim compensation or a refund of expenses as provided for by statute.

§ 9 Recourse against suppliers

(1) In addition to claims for defects we are also fully entitled to statutory rights of recourse within a supply chain (supplier's recourse purs. to secs. 478, 479 German Civil Code). In particular, we have the right to stipulate that the seller will render subsequent performance (remedy or replacement) in the same manner as we are obliged to render to our customer. This has no effect on our statutory right to choose (sec. 439(1) German Civil Code).

(2) Before acknowledging or fulfilling a defect claim asserted by our customer (including refund of expenses pursuant to sec. 478(2) sec. 439(2) German Civil Code) we will notify the seller, outlining the facts and asking the seller to comment in writing. If such comment is not provided within a reasonable period and if a mutually acceptable solution is not achieved, the warranty claim granted by us will be deemed to be owed to our customer, in which case the obligation to prove otherwise will lie with the seller.

(3) Our claims to recourse against suppliers apply even if we or one of our customers have processed the goods before they are sold to a consumer, e.g. by fitting in another product.

§ 10 Manufacturer's liability

(1) If the seller is responsible for damage to a product it will indemnify us from third-party claims in as far as the cause lies within the seller's sphere of control and organisation and the seller is itself liable in its external relations with third parties.

(2) Under its indemnification obligation the seller will reimburse expenses resulting from claims asserted by third parties, including product recalls which we have carried out (secs. 683, 670 German Civil Code). As far as is possible and reasonable, we will inform the seller of the content and extent of the recall measures to be carried out and allow it an opportunity to comment. This will not affect any further statutory rights.

(3) The seller must take out and maintain product liability insurance providing cover for personal injury and property of at least EUR [...] million per loss occurrence.

§ 11 Limitation

(1) Unless otherwise stated below, the limitation period for mutual claims of the parties will be as provided for by statute.

(2) However, notwithstanding sec. 438(1) no. 3 German Civil Code, the general limitation period for claims arising from defects is three years from the passage of risk. Where the parties have stipulated acceptance, the limitation period will begin on acceptance. The three-year limitation period will apply likewise to claims from defects in title and will not affect the statutory limitation period for real claims of third parties for the release of property (sec. 438(1) no. 1 German Civil Code); on no account will claims from defects in title become statute-barred as long as the third party still has the right to assert claims against us, particularly in the absence of a limitation period.

(3) To the extent permitted by statute, the limitation periods under sales law – including the above extension thereto – will apply to all contractual claims for defects. Where we are entitled to non-contractual compensation claims owing to a defect, the usual statutory limitation periods will apply (secs. 195, 199 German Civil Code) unless in a specific case application of the limitation periods under sales law gives rise to a longer limitation period.

§ 12 Choice of law; place of jurisdiction

(1) These Standard Terms and Conditions of Purchase and the contractual relationship between DOSATRONIC and the seller will be subject to the law of the Federal Republic of Germany excluding uniform international law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).

(2) If the seller is a businessman (*Kaufmann*) as defined in the German Commercial Code (*Handelsgesetzbuch*), a legal entity under public law or a special fund under public law the sole – including international – place of jurisdiction for any disputes arising from this contractual relationship will be our seat in Ravensburg. The same will apply if the seller is an entrepreneur (*Unternehmer*) as defined in sec. 14 German Civil Code. However, we are also entitled to bring action at the place of performance for the supply obligation stipulated in these Standard Terms and Conditions of Purchase or in an overarching individual agreement or at the seller's general place of jurisdiction. This has no effect on statutory provisions, particularly provisions on exclusive competence, which take precedence over these Standard Terms and Conditions of Purchase.