

General Terms and Conditions of Purchase of MBS-MP GmbH & Co. KG (as of 10/24)

§ 1 Scope of Application

All orders placed by
MBS-MP GmbH & Co. KG
Gutenbergring 55a
22848 Norderstedt
– hereinafter referred to as MBS-MP –
the present terms and conditions shall apply exclusively, unless expressly agreed otherwise.

The General Terms and Conditions of Purchase apply to companies within the meaning of § 14 BGB ('Supplier'). They also apply to all future transactions with the Supplier, even if no express reference is made to them. The version valid at the time of conclusion of the contract shall be decisive.
The General Terms and Conditions of Purchase apply exclusively. The contractor's terms and conditions in their general terms and conditions or order confirmation are hereby expressly rejected. Unconditional acceptance of order confirmations or deliveries does not constitute acceptance of such terms and conditions, unless MBS-MP expressly agrees to their validity in writing. There are no subsidiary agreements.
With the first delivery under these Terms and Conditions of Purchase, the Supplier acknowledges their exclusive validity for all further orders.

§ 2 Orders, Order Confirmations

Orders and order confirmations are only valid if they are made in writing. This also applies to changes and additions to the agreements made as well as to subsidiary agreements. Any waiver of the written form requirement must also be made in writing.

§ 3 Delivery, Deadlines, Contractual Penalty

- (1)
The specifications and delivery deadlines stated in the order are binding. Changes require written consent.
- (2)
Delivery times refer to the receipt of goods at the delivery address specified in the order. They run from the date of the order. The supplier is not entitled to make partial deliveries unless otherwise agreed.
- (3)
MBS-MP is not obliged to accept delivery before the delivery date.
- (4)
MBS-MP is entitled to refuse to accept goods that are not delivered on the delivery date specified in the order and to return them at the supplier's expense and risk or to store them with third parties.
- (5)
If, for whatever reason, delays in delivery are to be expected, the supplier must inform MBS-MP immediately as soon as this becomes apparent to them. The statutory and other contractual rights in the event of a delay in delivery by the supplier are not affected by this provision.
- (6)
The supplier undertakes to pay MBS-MP a contractual penalty of 0.5% of the net order volume for each week or part thereof that the delivery deadline is exceeded, up to a maximum of 5% of the order volume. The contractual penalty shall be offset against further statutory claims for damages, the assertion of which remains unaffected. MBS-MP shall also be entitled to assert the contractual penalty, even if this was not expressly reserved upon acceptance of the goods, until the supplier's invoice has been settled.
- (7)
Any underdelivery requires the written consent of MBS-MP. In the event of an overdelivery of up to 5% of the order quantity, no approval from MBS-MP is required. An overdelivery of more than 5% of the order quantity requires the written consent of MBS-MP.
- (8)
All shipping documents, letters and invoices must state the MBS-MP order and item numbers.
- (9)
The supplier's invoice must be sent to MBS-MP as an email in PDF format to invoicing@mp-trafo.de if possible.

§ 4 Materials Provided

- (1)
The tools, moulds, samples, models and plans provided by MBS-MP to the supplier for production shall remain the property of MBS-MP. Like the items produced with them, they may not be passed on to third parties or used for purposes other than those specified in the contract without written consent.
- (2)
Subject to further rights, MBS-MP may demand immediate return.
- (3)
The supplier shall provide replacement for lost or damaged tools, moulds, samples, models and plans, unless he is not responsible for the loss or damage.

§ 5 Prices and Transfer of Risk

- (1)
Unless expressly agreed otherwise, the contractor shall bear the costs of transport, including packaging, insurance and all other ancillary costs.
- (2)
The risk of accidental loss and accidental deterioration shall pass to MBS-MP upon delivery of the goods to MBS-MP.
- (3)
The price agreed between MBS-MP and the supplier is a fixed price.

§ 6 Acceptance

- (1)
The delivered goods shall be inspected within a reasonable period of time for obvious deviations in quality and quantity. Any obvious defects detected in this process may be reported within 10 working days of receipt of the goods. Hidden defects that are not immediately apparent may be reported within 10 working days of discovery.
- (2)
If acceptance is to take place in accordance with § 640 BGB (German Civil Code), MBS-MP is entitled to partial acceptance, but is not obliged to do so.
- (3)
Industrial disputes, operational disruptions and other cases of force majeure release MBS-MP from its obligation to accept delivery until the obstacle has been removed. If these obstacles persist for more than three months, each party is entitled to withdraw from the contract.

§ 7 Call-off Orders

- (1)
In the case of call-off orders, MBS-MP shall be entitled, but not obliged, to call off a maximum of the quantity of goods agreed with the supplier within the period agreed with the supplier.
- (2)
In the event of a call-off, delivery must be made within 10 days.

§ 8 Payments

- (1)
Payments shall be made within 14 days with a 3% discount or within 30 days net. The payment period shall commence as soon as the delivery or service has been completed in full and the duly issued invoice has been received.
- (2)
Payments shall be made subject to proper delivery and the accuracy of prices and calculations.
- (3)
Payments do not constitute a waiver of MBS-MP's contractual or statutory rights with regard to the delivery or service, such as the subsequent assertion of complaints, warranty claims and damages.

§ 9 Rights of Set-off and Retention

The supplier shall only be entitled to set-off and to assert Sections 273, 320 of the German Civil Code (BGB) if its counterclaims are either undisputed or have been established by a final and binding court decision. The assertion of a right of retention further requires that the supplier's claims are based on the same contractual relationship.

§ 10 Warranty

(1)

The supplier fully guarantees that the goods delivered by him are free of defects. In the event of a defect, MBS-MP is entitled to the statutory warranty rights.

(2)

Repairs shall be carried out where the goods are located (if applicable, after resale by MBS-MP).

(3)

If the supplier fails to fulfil its obligation to remedy the defect within a reasonable period of time to be set by MBS-MP, MBS-MP shall be entitled to remedy the defect itself and to demand compensation in the amount of the expenses incurred.

(4)

The statutory warranty period shall apply. During the period of subsequent performance (repair, subsequent delivery), the limitation period for warranty claims shall be suspended in accordance with the following provisions, insofar as the supplier was obliged to remedy the defect:

- For subsequently delivered parts of the goods, the warranty period shall recommence upon completion of the subsequent delivery.-

For repaired parts of the goods, the warranty period shall recommence upon completion of the repair, provided that the defect is the same or is the result of a faulty repair.

(5)

If MBS-MP withdraws from the contract due to a defect in the purchased item, the supplier shall reimburse MBS-MP for the contractual costs, unless MBS-MP is responsible for the reason for withdrawal.

(6)

The supplier guarantees that no third-party rights are infringed in connection with its delivery. If a third party asserts claims against MBS-MP due to an infringement of its rights, the supplier shall be obliged to indemnify MBS-MP against these claims. The indemnification obligation also applies to all expenses necessarily incurred by MBS-MP in connection with the claim by a third party.

§ 11 Product Liability

(1)

The supplier is obliged to indemnify MBS-MP against third-party claims arising from product liability if and to the extent that it is responsible for the product defect and the damage incurred in accordance with product liability principles. Within the scope of this obligation, the supplier is further obliged to reimburse MBS-MP for any expenses arising from or in connection with a recall campaign carried out by MBS-MP.

MBS-MP shall inform the supplier of the content and scope of the recall measures to be carried out, as far as possible and reasonable, and give the supplier the opportunity to comment.

(2)

The supplier undertakes to maintain product liability insurance with a minimum coverage of €550,000.00 per personal injury/property damage – on a flat-rate basis – and to provide MBS-MP with proof of this.

(3)

Further legal claims remain unaffected.

§ 12 Claims for Damages

(1)

Claims for damages against MBS-MP, regardless of their legal basis, are excluded in cases of slight negligence.

This exclusion of liability does not apply to claims for damages based on a breach of essential contractual obligations by MBS-MP. Furthermore, it does not apply in cases of injury to life, limb or health and in cases of mandatory statutory liability, such as under the Product Liability Act.

(2)

In cases of slightly negligent breach of essential contractual obligations and gross negligence on the part of simple vicarious agents, however, compensation shall be limited to the replacement of the typical damage foreseeable at the time of conclusion of the contract.

(3)

Insofar as MBS-MP's liability is excluded or limited, this also applies to the personal liability of its employees, workers, staff, representatives and vicarious agents.

§ 13 Limitation Period

Notwithstanding § 10 (4), the statutory provisions shall apply to the limitation period.

§ 14 Place of Performance and Jurisdiction

(1)

The place of performance is the place to which the goods are to be delivered in accordance with the order or, if no place of delivery has been agreed, the registered office of MBS-MP. If the supplier is a merchant or does not have a general place of jurisdiction in Germany, the place of jurisdiction shall be the registered office of MBS-MP. However, MBS-MP shall also be entitled to sue the supplier at its place of business.

(2)

All legal relationships shall be governed exclusively by German law. The UN Convention on Contracts for the International Sale of Goods shall not apply.

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