

General Purchasing Terms and Conditions

of BIKAR-METALLE GmbH

Effective from: 24 July 2018

Industriestraße 3 – 17, 57319 Bad Berleburg-Raumland, Germany

§ 1 General

(1) All deliveries, services and offers of our Suppliers are made exclusively on the basis of these General Conditions of Purchase. These terms form part of all contracts which we enter with our Suppliers for deliveries or services offered. They also apply to all future deliveries, services or offers to us, even if they are not separately agreed again. The terms and conditions of our suppliers, or of a third party, do not apply, even if we do not explicitly contradict their application. Even if we refer to a letter containing or making reference to the terms and conditions of business of the Supplier or of a third party, this shall not constitute a concession that those terms and conditions of business shall apply.

No other differing, conflicting or supplementary general terms and conditions of business shall be part of the contract, even when there is knowledge of them, unless their validity is expressly agreed in writing. This written consent requirement shall apply in any case, even if we face the deliveries/services of the Supplier without reservation knowing of his general terms and conditions of business.

For services which are not consisting of the delivery of an item, the terms “delivery”, “supplier” etc. are synonymous with the term “service”.

These general terms and conditions become part of the contract only if the Supplier is an entrepreneur (within the meaning of section 14 of the German Civil Code [BGB]) or a legal entity of public or private law and special funds under public law.

§ 2 Orders and requests

(1) If our offers do not contain any binding period of time, we are bound for the period of one day from the date of the offer. Acceptance will be seen as punctual, dependent on the receipt of the declaration of acceptance in our premises. A belated confirmation or one that differs from our order shall be deemed to be a new offer and requires our explicit written acceptance.

(2) We are at any time entitled to change the time and place of delivery, and the type of packaging in writing within a period of at least 7 calendar days before the agreed delivery appointment. The same applies to product specifications, as long as it is done within the boundaries of the Supplier’s normal production process and can be implemented without any considerable extra effort, whereby such cases of extra effort must be made clear within a period of at least 7 calendar days. We will refund the Supplier with any proven and appropriate additional costs incurred due to the change. If such changes cause delays in delivery, which cannot be avoided during the Supplier’s normal production and business operations despite reasonable effort, the original delivery date will be postponed accordingly. The Supplier will notify us in writing about his careful assessment of the expected extra expenses and/or delivery delay in good time before the delivery date, however at least within 5 working days of receipt of our notification mentioned in the first sentence of this paragraph.

(3) We are entitled to terminate the contract at any time with a written declaration and indication of the reason if we can no longer use the products in our business operations due to circumstances arising after entering the contract. In this case, we would pay the Supplier for any partial services/supplies provided.

(4) The Supplier shall comply in relation to its goods and/or services with the respective applicable statutory regulations of the European Union and the Federal Republic of Germany. The Supplier must fulfill all specifications and measures resulting from the REACH directive for all materials, prepared materials and products supplied/provided to us. The Supplier shall immediately inform us in writing about relevant changes in the product due to legal regulations, in particular the REACH regulation, its supply availability, use or quality and shall in individual cases agree with us on suitable measures to be taken. This applies as soon as and to the extent to which the supplier realizes that such changes will happen.

§ 3 Prices, Terms of Payment, Details on Invoice

(1) The price stated in the order shall be binding.

(2) If a written agreement has not been made, the price includes delivery and transport to the location given in the order, as well as packaging. If the agreement made does not include the costs of packing and the payment for the packaging is not expressly determined, this must be invoiced at proven cost prices. The Supplier is obliged to take back any packaging on his own cost upon our request.

(3) Insofar as the Supplier has the right to have the packaging needed for shipment returned, this shall be clearly marked on the delivery documents. In the absence of such marking, we shall dispose of the packaging at the cost of Supplier; in this case Supplier's right to have the packaging returned shall expire. The costs of a return of the packaging shall be borne by the Supplier.

(4) The agreed price shall be due for payment within 30 calendar days after delivery, performance, acceptance and due issuing of an invoice. Unless agreed otherwise, we shall be granted 3 % discount on the net amount if we make payment within 14 calendar days. The receipt of our payment instruction by our bank shall determine whether the payment owed by us has been made on time. We cannot be held responsible for delays caused by the payment procedures of the banks involved.

(5) The article number, our order number, all product specifications and standards, the delivery amount and address are to be stated in every confirmation, delivery papers and invoices. Should any one or several of these details be missing and the treatment of the order as part of our normal business process be delayed, the periods of time for payment stipulated in sec. 3 will be extended for the duration of the delay.

(6) The rights of offsetting and retention as well as the plea of non-performance or incomplete performance of the contract shall remain possible for us to the extent provided for by law. In particular, we shall be permitted to hold back payments, also due payments, as far as, and for as long as we are still entitled to claims arising from faulty deliveries. This also applies to the event of missing delivery documents (such as e.g. factory certificates).

(7) The Supplier shall only have a right of offset or retention in the event of res judicata or undisputed counterclaims.

(8) We do not accept interests on maturity. In the event of default of payment, we shall be liable for default interest in the amount of 5% above the base interest rate as defined in Section 247 of the German Civil Code [BGB].

§ 4 Delivery, delivery period and transfer of risk

(1) The delivery period specified in our order or otherwise according to these general terms and conditions of purchase is binding on the Supplier. Partial deliveries or premature deliveries are not permitted without our approval.

(2) The Supplier is obliged to notify us in writing without delay if circumstances arise or if such circumstances become recognizable to him which result in his being unable to observe the stipulated delivery period.

(3) Should the latest date on which delivery is to occur based on the contract pass without delivery, the Supplier will fall into arrears, without this requiring an official reminder from us.

(4) In the case of delivery delays, we are entitled to unrestricted legal claims, including the right to step back from the contract and the right to replacement of damages, instead of accepting the supply/service after exceeding an appropriately set deadline.

(5) We are entitled to demand payment of a contractual penalty for delivery delays, after issuing a previous written warning to the Supplier, for each commenced week of the delay at a sum of 0.5 %, and a maximum of 5 %, of the order value. The penalty is to be set off against the delay damages replaced by the Supplier.

(6) Unless otherwise agreed, delivery shall be made DDP, as defined in the current version of the Incoterms.

(7) If no place of delivery is specified the shipment shall be to our business location in Bad Berleburg, Germany. Place of performance for all other mutual services and deliveries (including supplementary performance) shall be also our business location in Bad Berleburg, Germany. The transfer of risk is only passed over to us, including if a dispatch has been agreed, when the goods are transferred at the agreed destination.

§ 5 Protection of ownership

(1) We reserve the proprietary laws and copyright laws for any orders or commissions provided as well as drawings, illustrations, calculations, descriptions and other documents provided to the Supplier. Without our explicit permission, the Supplier may not make them accessible to third parties, publicize them, use them, reproduce them or let third parties use them. Upon our request, the Supplier is obliged to completely return all documents and any copies if they are no longer needed for proper business procedures, or if negotiations are not leading to the completion of a contract. Any copies the Supplier may have made of the documents are to be destroyed; this excludes any data stored pursuant to the statutory storage duties and the storage of data as a backup as part of usual data storage practice.

(2) Tools, devices and models that we put at the disposal of the Supplier or that are manufactured for contractual use and are invoiced separately to us by the Supplier remain our property, or are passed on to our property. The Supplier must mark the same as our property, store them with care, protect them against damage of any kind, and use them for the purposes of the contract only. In the absence of a deviating agreement, each of the contract partners bear half of the maintenance and repair costs of such objects. Insofar as such costs are attributable to defects in objects manufactured by the Supplier or to improper usage on the part

of the Supplier, its employees or other vicarious agents, then such costs are the sole responsibility of the Supplier. The Supplier shall notify us without undue delay of all damage to said items which is not just negligible. Upon request, the Supplier is obliged to hand these objects over to us in proper condition if they are no longer needed for fulfilment of the contract entered with us.

(3) Title to goods shall be transferred to us unconditionally and regardless of whether the purchase price has been paid. If, however, in a given instance, we accept an offer to have the goods assigned to us by the Supplier conditional upon the payment of the purchase price, the Supplier's reservation of title shall expire when the purchase price for the goods delivered is paid at the latest. We shall still be authorised to sell on the goods in a proper commercial transaction even before we have paid the purchase price subject to assigning the account materialising as a result of the resale to the Supplier in advance of the resale. All forms of the extended or prolonged reservation of title shall be excluded so that a potentially effective reservation of title declared by the Supplier shall only apply up to the payment of the goods delivered to us and only for these.

(4) The material supplied by us shall, in any case, remain our unrestricted and sole property. Use of such material shall only be permitted for purchase orders placed by us. Before the start of any manufacture, the Supplier shall inspect the material provided for visible defects. Any defects that are identified must be reported to us immediately. In any case, materials provided by us shall be processed for us. To the extent that the value of materials provided by us, exceeds the value of the processing and, if applicable, the value of the remaining components of the newly manufactured articles, the newly manufactured articles shall become our property or else, we will become a co-owner at the rate of the value of the material provided in proportion to the value of the overall result.

§ 6 Warranty claims

(1) In the event of a defect we are entitled to unrestricted legal claims.

(2) According to the statutory provisions, the Supplier is particularly liable for supplying the goods at the agreed quality at the time when the risk passes to us. In any case, those product descriptions that are the subject matter of the respective contract or incorporated in the contract in the same way as these conditions of purchase - in particular due to identification or reference in our order - shall be valid as an agreement on the properties and condition, whereby it shall be immaterial whether the product description originates from us, from the Supplier or from the manufacturer.

(3) Notwithstanding Article 442 para. 1 page 2 BGB of the German Civil Code [BGB], we shall even be entitled to unrestricted warranty claims if the defect shall remain unknown to us upon conclusion of contract as a result of gross negligence.

(4) Quality and quantity differences count as rebuked on time if we notify the Supplier within 7 working days after receipt of the goods. Any hidden material defects also count as rebuked on time if the notification is sent to the Supplier within 7 working days after discovery.

(5) Acceptance or approval of samples does not constitute a waiver of warranty rights.

(6) Part of the subsequent rectification also includes the removal of the defective goods and reinstallation, if the goods have been installed in or attached to another object. Our statutory claim for compensation for corresponding expenses remains unaffected. The costs for assessing the goods and remedying defects shall be borne by the Supplier, even if it turns out that there were in fact no defects. The liability to pay damages in the case of unjustified demands concerning notices of defects shall remain unaffected; however, as far as this is concerned we shall only be liable if we have recognized or were grossly negligent in failing to recognize that there was no defect.

(7) In the event that the Supplier shall not honour his obligation for supplementary performance – at our choice by remedying the defect (subsequent improvement) or by delivery of an item free of defects (replacement delivery) – within a reasonable time limit as set by us, we shall be able to remedy the defect ourselves and demand compensation for the related expenses or an appropriate advance payment from the Supplier. A deadline shall not be necessary in the event that supplementary performance by the Supplier shall be abortive or unacceptable for us (e.g. on account of special urgency, operating safety hazard or imminent occurrence of disproportionate damages); the Supplier shall be informed of this immediately, if at all possible in advance.

(8) Furthermore, we shall be entitled to reduction of the purchase price or withdrawal from the contract according to the legal regulations in the case of defects of quality and defects of title. Moreover, we shall have a claim to compensation for damages and reimbursement of expenses according to the legal regulations.

(9) The receipt of our written defect notice from the Supplier stays the period of limitation until the defect is rectified or the rectification is denied conclusively by the Supplier, or in the case the Supplier refuses to continue the negotiations concerning the claim or the circumstances underlying the claim. In case of a replacement delivery or a removal of defects, the defects liability period for replaced and mended parts begins again unless we had to assume from the behavior of the Supplier that he did not feel committed to this action but carried out the replacement delivery and removal of defects as a gesture of goodwill or for similar reasons.

(10) In case of a justified notification of defects, we reserve the right to charge a flat fee of 200,00 € for additional expenses. The Supplier is expressly permitted to provide evidence that damages or depreciation have not occurred at all or are much lower than the lump sum stipulated for damages. The enforcement of the flat fee shall be without prejudice to other claims of the Purchaser; in particular, we shall be moreover entitled to assert any claims for supplementary performance or compensation.

§ 7 Regress against suppliers

(1) In addition to the warranty claims, we shall have unrestricted entitlement to our legally determined rights of recourse within a supply chain (regress against Suppliers according to Articles 445 a, 445 b, 478 of the German Civil Code [BGB]). In particular, we shall be entitled to demand exactly the type of supplementary performance from the Supplier (subsequent improvement or replacement delivery) that we owe to our buyer in an individual case. Our legal option (Article 439 para. 1 BGB of the German Civil Code [BGB]) shall not be restricted by this.

(2) Before we recognize or fulfil a claim under warranty asserted by our buyer (including compensating him for his expenses in accordance with Section 478 Para 3, Section 439 Para 2 of the German Civil Code [BGB]), we shall inform the Supplier by giving a brief description of the facts and circumstances, request a written response. If we do not receive a response within a reasonable period of time, and if a solution is not reached by mutual consent either, the remedy actually rendered by us shall consequently be owed to us as we have rendered it to our buyer. In this case the production of evidence to the contrary shall be incumbent upon the Supplier.

(3) Our claims recourse of the entrepreneur shall also apply in those cases in which the goods have been finished by us or one of our buyers, e.g. installation into another product.

§ 8 Product liability

(1) Insofar the Supplier shall be responsible for damage to a product, he shall be obligated to indemnify us at first request in this respect from claims of third parties, as the cause is positioned in his area of command and organization and he is liable himself in relation to third parties.

(2) Under his obligation to indemnify, the Supplier must reimburse any expenses pursuant to Paragraphs 683, 670 of the German Civil Code [BGB] that arise out of or in connection with any recourse taken by third parties including recall campaigns carried out by us. Insofar as this is possible and reasonable, we shall inform the Supplier regarding contents and extent of product recalls and give him the opportunity to comment. Further legal claims shall remain unaffected.

(3) The Supplier shall have to take out a product liability insurance policy with lump-sum cover of at least 10 million € per personal injury / property damage claim and maintain the policy continuously.

§ 9 Property rights

(1) The Supplier is responsible for ensuring that no third party protection laws are breached in connection with products produced by the Supplier or on behalf of the Supplier in countries of the European Union, North America or other countries.

(2) The Supplier is obliged to free us of all claims which third parties make against us in connection with the breaches against the commercial protection laws mentioned in paragraph 1 and must refund us with all necessary expenses in connection with the demands. This demand is irrespective of any fault of the Supplier.

(3) Our additional statutory rights on account of legal defects to the products supplied against the Supplier shall not be affected by the above.

§ 10 Spare parts

(1) The Supplier shall be obliged to keep a stock of spare parts available for the products supplied to us for a period of at least 4 years after delivery.

(2) If the Supplier intends to stop production of spare parts for the products supplied to us, he must inform us of this immediately after making the decision to stop making the mentioned spare parts. Subject to Paragraph 1 above, this decision must be made at least 3 months prior to closing down production.

§ 11 Statute of limitation

(1) The reciprocal claims of the Parties to the contract shall become time-barred in accordance with the statutory regulations, unless an agreement has been made otherwise in a given instance below.

(2) Notwithstanding Section 438 Para 1 No 3 of the German Civil Code [BGB], the general period of limitation for warranty claims shall be 3 years (36 months) from the passing of risk. Provided that acceptance has been agreed, the period of limitation shall

begin with acceptance. The three-year period of limitation shall also apply accordingly for claims based upon legal defects, whereby the statutory period of limitation for real third party rights of surrender (Section 438 Para 1 No 1 of the German Civil Code [BGB]) shall not be affected as a result. Claims based upon legal defects shall, moreover, not become time-barred in any circumstances, for as long as the third party is still able to assert the right against us – in particular in the absence of a period of limitation.

(3) The periods of limitation laid down in the law on sales including the above extension shall apply – to the extent laid down by law - for all contractual claims under warranty. Insofar as we are also entitled to non-contractual compensation claims for damages on account of a defect, the normal statutory period of limitation shall apply (Sections 195 and 199 of the German Civil Code [BGB]), if the law on sales does not result in a longer period of application and if the periods of limitation apply to the given case.

§ 12 Obligation of non-disclosure

(1) The Supplier shall be obliged to keep secret the terms of our order as well as all information and documents provided to him for this purpose (with the exception of information in the public domain) for a period of 2 years after disclosure, but at least however, for the duration of the actual supplier-customer relationship with us and only use it for carrying out our order. He shall return it to us immediately after queries have been dealt with or after handling orders upon request.

(2) Without our prior written permission, the Supplier may not allude to our business relationship in advertisement material, brochures, etc. and may not display our products.

(3) Any sub-suppliers which the Supplier is allowed to call in are to be placed under a corresponding obligation according to this § 12.

§ 13 Court of jurisdiction and applicable law

(1) The law of the Federal Republic of Germany (excluding all international and supranational (treaty) law systems, in particular the UN Convention on Contracts for the International Sale of Goods, shall apply to these conditions of purchase and all legal relations between us and the Supplier.

(2) For all disputes arising directly or indirectly from the contractual relationship the Local Court (Amtsgericht) of Bad Berleburg (Germany) has exclusive jurisdiction.

We shall, however, also be entitled to take legal action against the Supplier at the court having jurisdiction where his principal place of business is based. Statutory provisions on exclusive jurisdiction shall remain unaffected.