

## Fritzmeier Group General Procurement Terms

### I. Scope

(1) The following terms and conditions ("General Procurement Terms") apply to all business relations with business partners and Suppliers ("Supplier") relating to the delivery of movable goods ("Goods" or "Products") and the provision of services to Georg Fritzmeier GmbH & Co. KG and its affiliate companies ("FRITZMEIER"). These General Procurement Terms shall apply irrespectively of whether the Supplier self-supplies or procures at third parties. These General Procurement Terms assume that the Supplier is an entrepreneur as defined under Section 14 of the German Civil Code ("BGB").

(2) These General Procurement Terms apply, in their most up to date version, as a framework agreement also to future purchase, delivery or service contracts with the Supplier, even if FRITZMEIER fails to reference these when negotiating the future transaction. The most recent version of these General Procurement Terms is available at [www.fritzmeier.de](http://www.fritzmeier.de).

(3) Individual contractual arrangements with the Supplier (including collateral agreements, additions and amendments) enjoy priority over these General Procurement Terms. Subject to proof of the contrary, a written agreement or written order confirmation shall be authoritative for the content of such individual arrangement. Any legally relevant declaration or statement of intent of the Supplier pertaining to the contract (e. g. setting of deadlines, notification of defects, cancellation, rescission, price reduction demands) must be submitted in writing or in text form (e. g. letter, e-mail, fax) unless statutory requirements apply a stricter form.

(4) These General Procurement Terms shall form the contractual basis for the entire business relationship between FRITZMEIER and the Supplier, and any deviating, contrary or supplementary terms and conditions of the Supplier do not become part of the contract without express consent, even if FRITZMEIER chooses to accept deliveries unconditionally despite knowledge such Supplier terms and conditions.

### II. Order Mechanism

(1) Any order made by FRITZMEIER to the SUPPLIER must be in written or text form. The SUPPLIER shall confirm each order within a period of one week at least in text form or execute it immediately and without reservation. Any change or delay shall be considered a counter-offer which requires acceptance by FRITZMEIER at least in text form.

(2) Any offer, design or sample by the Supplier shall be made or provided are free of charge for FRITZMEIER. At the request of FRITZMEIER, the Supplier will take back samples immediately and at its own expense.

### III. Delivery time and delay

(1) Any delivery time specified by FRITZMEIER in the order shall be binding. In the event it is foreseeable that such delivery time cannot be met, the Supplier shall notify FRITZMEIER without delay, at least in writing, stating the reasons and the expected delay. Deliveries ahead of schedule as well as partial deliveries may not be made unless prior consent of FRITZMEIER has been obtained.

(2) Should the Supplier fall into arrears, FRITZMEIER is entitled to liquidated damages amounting to 0.5% of the net order value per week of delay, but no more than 5% of the net order value. FRITZMEIER may assert further damages should FRITZMEIER suffer further damage.

(3) The delivery claim of FRITZMEIER is only excluded if the Supplier provides full compensation for damages on request of FRITZMEIER instead of the delivery. Acceptance of late delivery, even if unconditional, does not constitute a waiver of any claim for damages or penalty.

### IV. Delivery Terms, Transfer of Risk

(1) Unless agreed otherwise individually, all deliveries must be made free of charge to the destination ("Destination") specified in the order (DDP Destination as specified under INCOTERMS 2010).

(2) The Destination shall be deemed both place of performance and fulfilment, and risk shall transfer at the Destination ( ). Where, as the case may be, a formal acceptance requirement has been agreed individually, risk shall transfer upon acceptance.

### V. Price, Payment Terms, Transfer of Title

(1) The price stated in FRITZMEIER's order is binding. All price quotations are exclusive of statutory sales tax, even if not shown separately. This also applies to additional services that may have to be provided by the Supplier.

(2) Unless expressly agreed otherwise, the price includes all services and ancillary services of the Supplier as well as any ancillary cost (e. g. proper packaging, customs, import duties, transport costs including insurance).

(3) Invoices are to be sent to FRITZMEIER, stating the invoice number, order number, quantity, price and any other reference information required for processing the invoice.

(4) Payments shall be made by FRITZMEIER in accordance with the individually agreed payment terms, absent which the payment target is 60 days. FRITZMEIER may deduct 3% cash discount in the event of payment within 15 working days.

(5) Should FRITZMEIER fall into arrears with a payment, no default shall be deemed to have occurred unless FRITZMEIER has received a default notice. Should FRITZMEIER default with a payment obligation, such payment obligation shall bear interest in the amount of 5% per year above European Central Bank base rate.

(6) The Supplier may not exercise offsetting or retention rights unless his claim has been uncontested or finally adjudicated.

(7) Should the Supplier retain title in the Products delivered to FRITZMEIER subject to purchase price payment, such title shall pass, in any event, with purchase price payment for the respective delivery latest. In no event shall transfer of title from Supplier to FRITZMEIER be subject to payment for other claims of Supplier, in particular not through an extended or expanded retention of title.

(8) Should FRITZMEIER provided the Supplier with any material, it remains the property of FRITZMEIER. Any processing, mixing or combination of such material is carried out on behalf of FRITZMEIER. In the event the material is mixed, FRITZMEIER shall become co-owner of the finished product in the ratio of the value of the supplied material to the value of the finished product.

### VI. Quality, performance-related secondary duties

(1) The Supplier shall deliver Goods and Products free of defects of material or of title, and according to the specification in the order. Services shall be provided by the Supplier in accordance with FRITZMEIER's statement of requirement. Any Good or Product must comply with all statutory provisions and be state of the art at the time of delivery.

(2) The Supplier guarantees that all delivered Products are free of third party rights. The Supplier shall indemnify and hold FRITZMEIER harmless, at first request, from any claim that third parties assert in connection with the Product against FRITZMEIER.

(3) In the event the Supplier delivers mass-produced or standardized Goods or Products to FRITZMEIER or provides services relating to mass-produced or standardized parts, the following applies: FRITZMEIER operates a quality management system in accordance with ISO 9001:2015. The Supplier undertakes to secure Product quality by operating a quality assurance system which is at least equivalent, and to carry out quality assurance measures as demanded by FRITZMEIER or otherwise necessary during and after the production process. The Supplier shall maintain records relating hereto. At FRITZMEIER's request, the Supplier shall provide reasonable evidence as to the Supplier's quality assurance system. FRITZMEIER may audit the Supplier's quality assurance system and operations both at the Supplier and, as the case may be, at the Supplier's Suppliers. FRITZMEIER may demand the Supplier to enter into a Quality Assurance Agreement based upon the template published at [www.fritzmeier.de](http://www.fritzmeier.de).

(4) In the event the Supplier, his employees or contractors are physically present at a FRITZMEIER location, the Supplier shall procure that the house rules and, if applicable, plant regulations of FRITZMEIER are maintained at all times. FRITZMEIER may make access to factory premises subject to the precondition that the respective persons accept a corresponding agreement.

(5) The Supplier shall take back the packaging material used for delivery of Products. The Supplier shall bear the cost of return shipment. Should the Supplier refuse to take back packaging material, FRITZMEIER may send it back or to recycle it, both at the cost and expense of the Supplier.

### VII. Defects of material and title

(1) Unless stated otherwise below, the rights of FRITZMEIER relating to defects of material and title and other breaches of duty shall be governed by statutory provisions.

(2) The Supplier represents and warrants that the Products delivered meet, upon transfer of risk, the agreed quality and specification, including, without limitation, product descriptions of the Supplier (or specification sheets by FRITZMEIER) which have, by reference or quotation in FRITZMEIER's order, become part of the contract or included as terms and conditions otherwise.

(3) The commercial inspection and defect notification requirements defined in Section 377 of the Commercial Code ("HGB") shall apply to the delivery of Products as follows: FRITZMEIER's obligation to inspect the Products and notify the Supplier of any defect shall be restricted to de-

fects that are, upon incoming goods inspection, either apparent and visible or openly recognizable from the shipping documents (e. g. transport damage, obvious cases of wrong delivery or short delivery). Any other defect shall be subject to notification after discovery. In all cases, FRITZMEIER's notice shall be deemed as immediate and on time if it is being received by the Supplier within 10 calendar days. In the event a formal acceptance process has been agreed for a delivery, the Supplier waives any inspection obligation of FRITZMEIER.

(4) In the event the Supplier fails, after expiry of a reasonable deadline set by FRITZMEIER, to remedy defects by means of – at the discretion of FRITZMEIER – rectifying the defect (rectification) or delivering a defect-free item (replacement), FRITZMEIER shall be entitled to remedy the defect itself or have the defect rectified by a third party, and to demand compensation from the Supplier for any necessary cost and expense. Should Supplier's attempts to remedy the defect have failed, or should it be unreasonable for FRITZMEIER to wait for expiry of such deadline (e. g. because of particular urgency, endangerment of operational safety or imminent occurrence of un-proportional damage), no deadline is required; FRITZMEIER shall however inform the Supplier without delay, if possible beforehand, of such circumstance.

(5) In the event the defect is remedied by delivery of a defect-free item, a new warranty period for the replacement product shall commence from the delivery of the replacement product. This does not apply, however, if the Supplier has rightly made a reservation whereby the delivery of the defect-free item constitutes an act of goodwill, aims to avoid a dispute or seeks to encourage continued supply relations.

(6) In the event FRITZMEIER's order is based upon a specification or an agreement which FRITZMEIER's downstream customer ("Third Party Customer") has directly entered into with the Supplier (triangular trade), FRITZMEIER is entitled to assign its warranty claims to the Third Party Customer or demand the Supplier reimburses FRITZMEIER for any damage, cost, expense or harm that FRITZMEIER may suffer because the delivered Products do not meet the specification agreed between the Supplier and the Third Party Customer.

#### **VIII. Recourse claims within supply chains**

(1) In the event FRITZMEIER is part of a longer supply chain, FRITZMEIER reserves the recourse claims of a Seller (Sections 445a, 445b BGB) in parallel to any claim relating to defect of material or title. This applies, without limitation, if the Products have been, prior to being sold onward by FRITZMEIER, been processed by FRITZMEIER or a third party down the value chain, provided however the Products have not been materially altered (e. g. by being built-in). In the event FRITZMEIER is obliged to deliver a defect-free item vis-à-vis its downstream customer, FRITZMEIER may demand the same from the Supplier.

(2) FRITZMEIER shall inform and request a statement from the Supplier before acknowledging or fulfilling a defect claim raised by a customer (without limitation including reimbursement claims under Sections 478 para. 3, 439 para 2 BGB). In the event the Supplier does not respond within a reasonable deadline, it shall be presumed that the customer's claim, as fulfilled by FRITZMEIER, is justified; the Supplier may, however, provide evidence to the contrary.

#### **IX. Product Liability and Insurance Cover**

(1) In the event FRITZMEIER is subject to a product liability assertion based upon a defect of a Product delivered by the Supplier, the Supplier shall indemnify, reimburse and hold harmless FRITZMEIER of any and all cost and expense arising from such assertion. In the event FRITZMEIER's liability is subject to willfulness or negligence, the Supplier's obligation to reimburse and hold harmless shall be subject to willfulness or negligence, too. However, in the event the cause of damage roots in the Supplier's responsibility, it is upon the Supplier to demonstrate absence of negligence and willfulness.

(2) Without limitation to the foregoing, the obligation of Supplier to indemnify FRITZMEIER includes all costs and expenses arising from or in connection with the product liability assertion. This includes in particular the cost of a recall. Before such recall, FRITZMEIER shall inform the Supplier, enable the Supplier to cooperate and discuss an efficient implementation; this does not apply however if information or participation of the Supplier is inappropriate due to special urgency. Without limitation, the Supplier shall also bear the cost of appropriate precautionary measures to protect FRITZMEIER against claims arising from non-contractual liability which are due to defects of Products delivered by the Supplier (e. g. cost of communication measures). Further statutory claims remain unaffected.

(3) During its business relation with FRITZMEIER, the Supplier shall, at any time, maintain sufficient product insurance cover and provide, upon request, evidence of such insurance.

#### **X. Customs and Export Control**

(1) The Supplier shall inform FRITZMEIER in writing, as soon as possible before the delivery date, of any approval requirements for delivery of Products under German, European (EU) or U. S. export, customs and foreign trade law; the same applies to any corresponding requirement from the country of origin of the Products. For this purpose, the Supplier shall promptly provide FRITZMEIER with any necessary information and data that is reasonably required for export, import and, as the case may be, re-export of the Goods, in particular customs tariff numbers.

(2) In the event of an infringement of the obligations under the previous paragraph, the Supplier shall bear any cost, expense and damage FRITZMEIER suffers from such infringement (e. g. additional non-domestic import duties, fines and penalties).

#### **XI. Legal and technical compliance**

(1) The Supplier shall comply with any applicable legal and regulatory provision. The Supplier shall comply with all generally accepted rules of engineering (in particular DIN/EN/ISO standards, VDE regulations, VDI guidelines) and applicable provisions on product safety (in particular the product safety code).

(2) The Supplier shall abide by the technical, legal and social principles laid out in FRITZMEIER's Code of Conduct for Suppliers, as amended, published at [www.fritzmeier.de](http://www.fritzmeier.de).

(3) In the event the Supplier is in breach of any provision in this Section, the Supplier shall reimburse FRITZMEIER and the customers of FRITZMEIER against all costs, claims of third parties (in particular direct or indirect claims for damages) and other disadvantages (e. g. fines) which are based upon the violation of the respective provision. This does not apply if the Supplier is not responsible for this breach of duty. Furthermore, FRITZMEIER is entitled, at any time, to cancel the corresponding order immediately and to refuse acceptance of the delivery without incurring any cost. Further statutory damages claims of FRITZMEIER remain unaffected. Should FRITZMEIER cancel an order or refuse to accept a delivery, such cancellation or refusal shall not be construed or interpreted as waiver of any kind.

#### **XII. Confidentiality and Documents**

(1) Any information made available to the Supplier by FRITZMEIER, whether of business or technical nature, including the supply relationship as such, shall be kept confidential to third parties unless publicly known. Within the Supplier's organization, such information shall be distributed on a strict need-to-know basis, i. e. only to persons who must necessarily be involved for the purpose of delivery to FRITZMEIER, and who are also subject to a reasonable confidentiality obligation. FRITZMEIER may require the Supplier to enter into a more detailed confidentiality agreement, a sample of which is provided at [[www.fritzmeier.de/kontakt/nda](http://www.fritzmeier.de/kontakt/nda)].

(2) Any technical documentation, documents, drawings, diagrams, diagrams, graphics, photographs, layouts, templates and other documentation produced by the Supplier during relationship with FRITZMEIER – irrespective whether on magnetic or electronic media, in printed form or as a material for prepress or printing – as well as samples, tooling, materials and auxiliaries (hereinafter: "Works") shall be kept confidential from third parties. Upon fulfillment of the order, all Works shall become the property of FRITZMEIER. To the extent permitted by law, FRITZMEIER shall obtain all rights of ownership, use and exploitation of all aforementioned Works. The Parties agree that the purchase price for Products includes an appropriate consideration for the transfer of rights herein, and no further remuneration shall be paid.

#### **XIII. Choice of Law; Forum.**

(1) These General Procurement Terms shall be construed and interpreted under the laws of the Federal Republic of Germany, without recourse to the UN sales convention.

(2) Any dispute arising from or in relation to the contractual relation shall be heard in front of the courts of Munich, Germany.

(3) In the event of a discrepancy of the German and the English version of these General Procurement Terms, the German version shall prevail.

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