

## Conditions of Purchase of wheycg GmbH

### 1. General / Area of Application

- 1.1 Our conditions of purchase shall apply exclusively; general terms and conditions of business of the supplier to the contrary shall not be acknowledged unless we have expressly consented to their validity in writing. Our conditions of purchase shall also apply even if we face the deliveries/services of the seller without reservation knowing of his general terms and conditions of business.
- 1.2 All agreements reached between us and the supplier for the purpose of the execution of a contract shall be recorded in writing in the contract.
- 1.3 Our conditions of purchase shall apply exclusively vis-à-vis companies, legal entities under public law and legal entities of special assets under public law as defined by Article 310 para. 1 BGB (German Civil Code).
- 1.4 Moreover, our "rules of conduct for employees of outside companies" as at 01/2001 as well as the plant regulations for hygiene and workwear as at 01/2001 – (Instructions for Work-Carried out by Technicians) shall apply to the staff of outside companies employed on our premises and are an integral component part of our order. The aforementioned documents and standards can be obtained from us free of charge.
- 1.5 These conditions of purchase shall apply to all business transactions of the supplier with companies of wheycg GmbH. Express notification of this general validity of the conditions of purchase vis-à-vis the supplier – also in the name of further companies – is hereby given to the supplier. Further companies belonging to wheycg GmbH are listed in item no. 18.

### 2. Order / Order Documents / Maintenance of Secrecy

- 2.1 The supplier shall be obligated to accept our order without delay.
- 2.2.1 We reserve proprietary and intellectual property rights to illustrations, drawings, calculations, data, provided data storage media, technical specifications, requirement specifications and other documents – hereinafter referred to as "information"; they must not be made accessible to third parties without our express written consent. The information shall be used exclusively for the production and / or processing of our order. It shall be returned to us without special request after termination of the business connection.
- 2.2.2 The supplier shall not be entitled to a right of retention in respect of the information as described in item no. 2.2.1 irrespective of the legal aspect.
- 2.3 The supplier shall be obligated to maintain secrecy in connection with the written or verbal information received regarding the placement of the order, the production of the tool and / or the production of the parts. The obligation to maintain secrecy shall apply in particular to data, drawings, specifications, calculations, production information etc. We shall release the supplier from his obligation to maintain secrecy if he is able to prove that the information that had to be kept secret was already known to him before we disclosed it to him or if this information becomes known in general during the term of the contract without this being caused by an infringement of contract. Release from the obligation to maintain secrecy shall only then take effect following our written declaration.

### 3. Scope of Performance / Passing On of the Order / Obligation to Provide Information

- 3.1 The scope of the respective deliveries / services shall arise from our order. The respective valid version of our general work standard, electronic work standard and mechanics work standard shall be a component part of the contract. We shall provide the current versions of these documents at the supplier's request.
- 3.2 Insofar as the performance of the supplier shall involve the delivery of articles of daily use as defined by Article 2 para. 6 of the LFGB (Code covering Food, Articles of Daily Use and Feeding Stuff) the supplier shall guarantee that the articles of daily use he produced and / or delivered shall conform to the respective pertinent provisions of the German and European Food Law, namely the provisions of Articles 30 ff LFGB and that they can be used by us without restrictions for the production of food. Moreover, the supplier shall give assurance that the articles of daily use he delivered correspond to the respective best available technology and the recommendations of the BfR (Bundesinstitut für Risikobewertung und –kommunikation = Federal Institution of Risk Assessment and Communication). The supplier shall guarantee that the articles of daily use he provided were produced and / or treated under flawless conditions as well as with the necessary care and application of the essential hygiene and quality controls.
- 3.3 The supplier shall be obligated to expressly indicate any deviations from our order in his confirmation of order – highlighted in the printing process.
- 3.4 In the event that there shall be significant deviations in the supplier's respective confirmation of order, the conclusion of contract shall be subject to express written confirmation by our competent purchase department. The principles of the commercial letter of confirmation shall not be applied.
- 3.5 Our prior written consent shall be required for passing the order on to third parties as well as for referral to sub-contractors. Insofar as the supplier shall engage third parties to carry out his obligations to provide services, he shall obligate these third parties in the same way as the supplier himself is obligated according to the order and these conditions. The supplier shall always conclude contracts with third parties in his own name and for his own account.
- 3.6 The supplier shall examine our enquiry and / or order, in particular in respect of its plausibility, practicability, completeness etc. and inform us immediately of any deficiencies.

### 4. Tools

- 4.1 Tools shall be produced by the supplier in accordance with our drawings and standards. Alterations or variations shall only then be binding, if we have given written acceptance of the produced tool. The supplier shall be obligated to draw express attention in writing to any alterations or variations of the above tenor both on the drawings as well as in a separate declaration outside of the drawings and the technical data sheets. We reserve the right of ownership of the tools (comp. item no. 13.8).
- 4.2 The supplier shall be obligated to use our tools exclusively for the production of deliveries that are subject matter of our orders.
- 4.3 We shall be entitled to rights of use and industrial property rights for the tools.
- 4.4 In the event that the supplier shall culpably infringe the obligations in accordance with preceding item 4.2, he shall be obligated to pay a contractual penalty in the amount of 12,000.00 euros to us for every case of infringement. The assertion of claims in excess of this, in particular claims for damages, shall remain reserved. We shall be authorised to assert the contractual penalty in addition to performance. The imposed contractual penalty shall be offset to decrease any compensation claims.
- 4.5 We reserve the exclusive copyright to drawings that form the basis for the production of the tool. This shall also apply insofar as alterations or variations are in discussion in accordance with preceding item no. 4.1 that are to be attributed to suggestions by the supplier.
- 4.6 During the term of the supply and performance relationship, the supplier shall be obligated to maintain and also to repair the tool at his own expense. Moreover, he shall be obligated to insure the tool at new value against the usual damage risks (fire, damages due to water, theft and burglary). The supplier shall already now in advance assign to us any compensation claims vis-à-vis the insurer, we hereby accept this assignment. Irrespective of this, the supplier shall be obligated to use any compensation paid by the insurer exclusively for the repair or new acquisition of the tool.
- 4.7 During the term of the supply and performance relationship the supplier shall bear the risk of accidental loss or accidental deterioration of the tool. Preceding item no. 4.6 shall apply accordingly in respect of the obligation to take out insurance.

### 5. Food / Food Additives and Packaging Material

- The conditions of item no. 5 shall apply especially to food, food additives and packaging material. Unless regulated otherwise in item no. 5, the remaining regulations of the conditions of purchase shall be applied.
- 5.1 The supplier shall guarantee that the supplied goods abide by the samples and are in accordance with the contractual agreements. Insofar as particular quality criteria are not agreed, the goods must at least be of customary quality. Quality and quantity details as well as other specifications contained in the order must be adhered to.
- 5.2 The supplier shall bear the responsibility for the marketability of the products both at home where produced as well as in the respective market areas made known to him. He shall guarantee that the contract goods comply with the agreed specifications. Insofar as our products shall be mixed, combined and / or processed with other products, the supplier shall guarantee the usability and marketability both in reference to the manufacturing process and the end product. The supplier shall be obligated to inform us without special request of any doubts in respect of any corresponding use of product, in particular regarding any special features we have to take into account in respect of the use of the products during the production process.
- 5.3 We must be informed in writing of every alteration to quantities and / or compositions of the products in the ingredient lists (changes in recipe) as well as changes in packaging varying from the product specification as agreed by us with the supplier, at least twelve (12) weeks before the planned implementation. Appropriate alterations shall always require our express written consent insofar as they shall not be necessary on account of statutory legal regulations. Even in a case of an alteration in recipe and / or packaging, the supplier shall also remain responsible for the marketability of the products in accordance with the standards as contained in item no. 5.2. The assertion of claims in excess of this shall remain unaffected.
- 5.4 The supplier shall guarantee due and complete checks during the course of production in respect of the contract products. He shall be obligated to ensure that they comply with the respective valid legal situation as well as with the current state of technology taking the special requirements of the product-specific food industry into account. Irrespective of obligations in excess of this and in addition to adherence to the pertinent regulations pursuant to the Food Law, it must be guaranteed on the part of the supplier that production and storage-specific requirements are complied with according to the intended use of the contract goods.
- 5.5 Before beginning production the supplier shall guarantee that he only uses ingredients that originate from third-party suppliers who guarantee without any reservation that their raw materials are marketable and unobjectionable and confirm this fact by means of corresponding certificates from accredited laboratories as the case may be. This shall also apply appropriately to deliveries of goods by the supplier. At our request, the names of the third-party suppliers shall be disclosed to us. The certificates for these third-party suppliers shall be presented to us on demand. The supplier shall guarantee that he monitors the aforementioned third-party suppliers and at least continuously carries out an appropriate incoming goods inspection in accordance with requirements customary in the trade.
- 5.6 We shall be authorised to exclude the commissioning of third-party suppliers insofar as doubts as to the quality standards of the third-party suppliers are justified.
- 5.7 The supplier shall guarantee the consistent and complete traceability in accordance with the respective valid legal provisions for the goods he supplies (in particular EU directive no. 178/2002 and LFGB or future regulations). Over and above the goods, the raw materials, additives and

auxiliary materials etc. for every product at the point in time of manufacture / creation, the packaging materials and the course of the manufacturing process shall be the subject matter of the traceability. If necessary (official complaint, complaint by customers etc.) the supplier shall be obligated to provide us immediately with the necessary details / information in respect of certain goods as enquired about. The assertion of claims in excess of this vis-à-vis the supplier shall remain unaffected by this.

- 5.8 The supplier shall guarantee that the products he supplied are not genetically modified foodstuffs as defined by the pertinent provisions (directives (EC) no. 1829/2003 and (EC) 1830/2003 and future regulations) and / or do not contain any foodstuffs, additives or flavouring agents produced from genetically modified organisms. Random or technically unavoidable contaminations with genetically modified material up to a threshold value of 0.9 % relating to the individual ingredient shall be excluded from this. Inasmuch, the supplier shall guarantee that the products are not subject to specific labelling requirements in respect of existing and future genetic engineering labelling standards.
- 5.9 For products that are or must be labelled with shelf-life related date details (best before date, use by date etc.), the remaining period, i.e. the time at our disposal for the processing and / or marketing of the products, calculated as from the day after receipt of the goods, must amount to at least 80 % of the entire validity period (period of time between production and quoted date). Deliveries of goods that do not comply with this requirement shall be regarded as imperfect.
- 5.10 The supplier shall be obligated to provide us immediately and free of charge with the necessary or appropriate written documents and explanations, e.g. certificates of origin, health certificates, documents of compliance etc. for possible export of the goods to countries inside or outside of Europe. The supplier shall guarantee the authenticity and correctness as to content of certificates of this kind.
- 5.11 Unless regulated otherwise, the supplier shall, at his expense and for his account, order and provide packaging material following our approval of the samples. Irrespective of demands in excess of this, it is only permissible to use primary packagings (product contact) that comply with the agreed specifications and the use of which is unobjectionable. Insofar, the supplier shall also guarantee unrestricted marketability of the contract goods he supplied.
- 5.12 The specifications in item no. 5.11 shall apply appropriately if packaging material that we apply and use is the subject matter of the supplier's delivery, i.e. the supplier shall guarantee the unrestricted marketability and usability of the packaging material. He shall, in particular, guarantee that no adverse effects come from the packaging material that affect the packed product as well as the suitability of the packaging for the concrete application.
- 5.13 If after being ordered the goods are intended for the German market or if the order shall not exclude resale of the goods in Germany, the disposable retail packagings of the goods must bear the DSD "green dot" (Duales System Deutschland Gesellschaft für Abfallvermeidung und Sekundärrohstoffgewinnung GmbH = Dual System Germany, Company for Waste Prevention and Secondary Raw Materials Production plc). Insofar as he supplies packaged finished products the supplier shall be liable for the dual system participation and indemnify us from claims by third parties and also by public authorities that are asserted on account of an infringement of the Packaging Directive and / or on account of an infringement of a contract of the supplier with DSD and / or on account of an infringement of a legal norm passed on the basis of the European Packaging Law. Unless an alternative has been agreed in writing, the preceding specifications shall apply accordingly to goods that, after ordering, are intended exclusively for one or more foreign markets, in particular insofar as the respective country of destination has accepted the green dot as a financing mark for the collection, sorting and recycling of the packaging or other private sector schemes exist similar to the Dual System.
- 5.14 In the event that there is a public warning against purchasing and using the goods or products of a comparable kind or with comparable ingredients, in particular in the media, we shall be entitled to cancel outstanding orders as well as to return goods already supplied against reimbursement of the purchase price, in particular if it is anticipated that there will be no further demand for the goods as a result of the warning. We must exercise the right of termination within one month after the first announcement of the warning. Item no. 11.3, clause 1 shall apply appropriately in respect of any expenditure we incur in connection with the product warning. Any claims in excess of this to which we are entitled shall remain unaffected.

### 6. Prices / Payment Terms

- 6.1 In the event that nothing else has been agreed in writing, we shall pay the invoice amount minus 3 % discount within 14 days as from delivery / performance and receipt of the invoice or net cash within 30 days after receipt of the invoice.
- 6.2 The supplier shall only be entitled to price increases if this is expressly agreed in the contract. We shall not recognise price adjustment clauses.
- 6.3 In the event of premature deliveries the outstanding invoice shall be value-dated at the delivery date stated in the order. Irrespective of this, any payment on account shall be at our sole discretion.
- 6.4 As long as the invoices of the supplier shall not comply with the preceding provisions, they shall be not be regarded as being in proper form and thus shall not trigger payment.
- 6.5 We shall be entitled to the legal scale of rights of retention, set-off and exploitation.
- 6.6 Minimum quantity or small-volume surcharges will not be paid.
- 6.7 We shall be entitled to offsetting within the company group. On demand, we are prepared to inform the supplier in writing which enterprises belong to our group of companies.

### 7. Delivery Time and Time of Performance / Duty to Cooperate

- 7.1 The delivery time and / or time of performance stated in the order shall be adhered to.
- 7.2 The supplier shall be obligated to inform us immediately in writing insofar as circumstances arise or are visible to him indicating that the required delivery time and / or time of performance cannot be adhered to. We are to be notified as quickly as possible in advance of these doubts by e-mail or fax.
- 7.3 In case of default, we shall be entitled to the legal claims. We shall, in particular, be entitled to demand compensation for damages on account of non-performance after fruitless expiry of a reasonable additional respite. The supplier shall also be liable within the framework of the legal provisions for possible defaults of his sub-contractors or manufacturers insofar as they are employed in performing an obligation and for whom he is vicariously liable.
- 7.4 Under the pre-requisites according to preceding item no. 7.3 we shall be entitled to demand a contract penalty in the amount of 1 % of the delivery value for every week or part thereof, however not more than a total of 5%. We shall be entitled to assert the contract penalty in addition to performance; we shall undertake to notify the supplier of the reservation of the contract penalty within 14 working days at the latest, starting from receipt of the delayed delivery / performance. The imposed contract penalty shall be offset to reduce possible claims for compensation. We reserve the right to the assertion of possible claims and rights in excess of this, in particular withdrawal, compensation for damages instead of performance and / or claims for reimbursement of expenses.
- 7.5 The supplier shall provide the necessary samples for the contract products to be produced insofar as this is within the range of his possibilities, e.g. also for the design of the packaging and declarations (banderols, lid design etc). The supplier shall participate in possible development costs within the scope of the agreement. Irrespective of this, the supplier shall undertake to support us in exporting the products, in particular during customs clearance as well as during clarification of appropriate preliminary questions. Any possible documents that are required from the supplier for export purposes shall be provided free of charge by the supplier. Irrespective of this, following advance notice, we shall be entitled to carry out factory tours on working days at the supplier's production facilities. In doing so, we shall be considerate of the operating interests of the supplier.
- 7.6 At our request, the supplier shall undertake to have the marketability of the products examined at least once a quarter by a competent local, accredited laboratory in the country of product origin. The supplier shall immediately submit any examination results to us in full.

### 8. Transfer of Risk / Freight / Documents

- 8.1 Insofar as nothing else has been agreed in writing, the delivery shall be made carriage paid.
- 8.2 The supplier shall be obligated to quote our exact order number on all despatch papers or delivery notes; should he fail to do this, this will lead to unavoidable delays in processing for which we shall not be responsible.
- 8.3 The supplier shall be obligated to cover the risk of accidental loss or accidental deterioration in the ordered raw materials, auxiliary materials and operating materials within the framework of customary transport insurance. He shall assign to us in advance all claims for compensation to which he is entitled vis-à-vis the transport insurer; we hereby accept this assignment.
- 8.4 Insofar as something else shall not arise from the order, the supplier shall bear the costs of packaging as well as the transportation charges to the place of destination; in the case of machines and systems this shall be to the first place of installation. The packaging must be suitable, i.e. protect the goods against damages, effects of the weather etc. The supplier shall obtain information regarding the pertinent requirements in this respect. The goods shall be surrendered to us free from duties.
- 8.5 Insofar as nothing else has been agreed, the supplier shall deliver the goods on undamaged Euro pallets that are suitable for high rise racks. We shall undertake to exchange undamaged Euro pallets upon delivery. Replacement will not be provided for damaged Euro pallets. Moreover, the supplier shall select the packaging in such a way that it is possible to transport by forklift truck, stack appropriately and to forward to the production facility in unmodified packaging.
- 8.6 Insofar as nothing to the contrary has been agreed, the supplier shall be liable to take back the transport packaging upon delivery. In the event that this is not taken back, we shall be entitled to invoice the supplier with the costs incurred for due disposal of the transport packaging.

### 9. Inspection / Information / Network Access

- 9.1 The supplier shall enable us to inspect the progress of the work to be performed and / or of the order processing. We shall be entitled at any time to obtain information regarding the progress by inspection of all relevant documents (reporting system, descriptions, listings, manuals etc.). Upon request, the documents required for this shall be presented and explained to us. We shall be entitled to carry out supplier audits at the supplier's factory following prior coordination.
- 9.2 As soon as justified suspicion exists that environmental pollution over and above the generally acknowledged engineering rules has come about due to the products or the supplier's production process, we shall be entitled to examine the manufacturing procedure and the composition of the supplied raw materials, additives and auxiliary materials as well as the tools of the supplier. Inasmuch, the supplier shall be obligated to provide us with information and to surrender samples of the used materials to us upon first request.
- 9.3 In the event that we grant the supplier with access to networks and / or our data processing systems or those of our customers, this access must only be used exclusively for the purpose of fulfilment of the respective individual order. In particular in cases of this kind, the supplier shall undertake to observe the provisions to maintain secrecy according to the preceding item no. 2.3 and to impose this on his employees as well as on other third parties involved in the execution. Insofar as it is not absolutely essential for the fulfilment of the order by the supplier, he shall not be entitled to copy, amend, reproduce or pass on our data as made accessible to him to third parties without our prior written consent. We shall only be liable to the extent provided for under statutory law for the efficiency of the access security or for breakdowns in the aforementioned

networks and data processing systems as well as for any damages resulting from their use.

## 10. Defects in Quality and Legal Imperfections in Title / Warranty

- 10.1 The supplier shall guarantee that the items supplied by him and the performance provided by him conform to the intended use, the best available technology as well as the pertinent legal provisions, regulations and guidelines of authorities, accident prevention and insurance associations and professional associations, in particular to the safety, industrial safety, accident prevention, pertinent standard, DIN, VDE and other regulations. Recommendations by these authorities that become a regulation within a one year period, shall be taken into account. In the event that deviations from these regulations shall become necessary in an individual case, the supplier must obtain our written consent in this respect. The warranty obligations of the supplier shall not be affected by this consent.
- 10.2 In the event that discrepancies arise between the parties to the contract within the framework of the handling of this contractual relationship regarding the content of terms or symbols, quality requirements, format requirements or similar, adherence as a minimum to the respective pertinent DIN / EN standards as well as our respective general work standards, our electronic work standards as well as our mechanics work standard shall be regarded as agreed, without prejudice to the regulation in item no. 10.1.
- 10.3 In the event that a DIN / EN standard is amended after conclusion of contract but before production of the delivery, the supplier shall be obliged to take the requirements of the new standard into account to a reasonable extent. He does not have to carry out fundamental amendments to the machine, software and other items insofar as this is only to be achieved by means of significant time input or financial expenditure. He shall, however, inform the user in writing in the case of fundamental amendments in order to put the user in a position to come to a modification agreement.
- 10.4 We shall not waive our rights of complaint and warranty by accepting or confirming models, drawings, payments or similar.
- 10.5 In the event that doubts exist as to the type of execution requested by us, the supplier shall immediately inform us of this in writing.
- 10.6 We shall immediately inform the supplier in writing of defects of delivery as soon as they are determined according to the conditions of the ordinary course of business. Inasmuch, the supplier shall waive the plea of belated notification of defects. If a quality assurance agreement exists, the separate incoming inspection provisions as stipulated therein shall apply if necessary in respect of the duties to examine defects and requirements to give notice of defects.
- 10.7 We shall be entitled to unabridged legal warranty claims.
- 10.7.1 We shall be obligated to examine the goods for any deviations in quality and quantity within reasonable time-limits; in any event, the complaint shall be in good time insofar as it is received by the supplier within a time-limit of 10 working days (Monday – Friday) for domestic procurement transactions and within a time-limit of 28 working days for foreign procurement transactions, calculated in each case as from receipt of the goods or in the case of hidden defects as from time of determination; without prejudice to deviating regulations in a quality assurance agreement.
- 10.8.1 In accordance with Articles 433 para. 1 clause 2, 434, 435 BGB (=German Civil Code) (purchase contract) or Article 633 paras. 1, 2 and 3 BGB (contract for services) the supplier shall, in particular, be responsible for the supplied goods or the services owed conforming to the respective purchase sample or service sample as well as to the legal and agreed quality and packaging conditions, the specification of services, and in the absence thereof at least to the customary quality conditions and that they are free from defects in quality and legal imperfections in title or defects as defined by the law, in particular by the Product Liability Law. The supplier shall guarantee that valid regulations including the packaging and labeling regulations are not infringed by the sales and marketing of the supplied goods and / or by the utilisation of the contractual service, that third party rights are not infringed and / or the goods and / or work performance satisfy requirements under public law and / or pursuant to competition law. It shall be guaranteed by the supplier that existing and / or attached labels regarding the features / properties and condition and / or shelf life, designations, descriptions, accompanying documents and / or advertising messages and / or directions for use and assembly instructions are correct as regards content, legally acceptable, complete, understandable and in the German language or at our request composed in appropriate foreign languages.
- 10.8.2 The provisions of preceding numbers 10.7 and 10.8.1 shall apply appropriately to services provided on the part of the supplier, in particular to advisory services. The supplier shall guarantee that the processing, production and utilisation details and information he provides are comprehensive and correct.
- 10.8.3 The following item no. 12 shall apply additionally in respect of possible trademark rights.
- 10.9 Insofar as the supplier breaches duties, he shall be liable towards us for every kind of fault. It is drawn to the attention of the supplier that he has the right to prove that he is not responsible for a breach of duty.
- 10.10 We shall only be obligated to allow judicial clarification of the claims or infringements asserted by the customer insofar as the supplier agrees to reimburse the expected costs of this in advance.
- 10.11 In the event that the work performance provided by the supplier (supplied goods, provided performance, service etc.) shall not conform to the aforementioned standards as defined by the contract, we shall at our own choice be entitled to demand supplementary performance by means of remedy of defects or delivery of an item free of defects (purchase contract) or remedy of defects or new production of the work (contract for services). The expenditure for the purpose of necessary supplementary performance shall be borne in full by the supplier. Claims in excess of this shall remain unaffected.
- 10.12 We shall be entitled to carry out supplementary performance and / or rectification of defects ourselves or to have this carried out by third parties at the supplier's expense if there is an imminent danger or in case of particular urgency and continuing to wait patiently would not be reasonable, in particular setting a reasonably short time-limit for supplementary performance.
- 10.13 In case supplementary performance fails, we shall be entitled to the legal defect in quality claims. This shall apply in particular to claims for damages on account of failure to fulfill obligations.
- 10.14 In the case of items that according to their usual manner of application are used for a building, the warranty period shall be 66 months and 36 months for the rest, calculated as from transfer of risk insofar as a longer warranty period does not arise from the contract or from law.
- 10.15 In the case of a delivery, the values determined during our incoming goods inspection shall be authoritative for the number of pieces, weights, quantities etc. and form the basis for the accounting.
- 10.16 An agreed, determined and / or supplied technical design and quality of a vendor part must not be amended without our written consent.
- 10.17 The supplier shall label the delivery items in such a way that they are permanently recognisable as his products.
- 10.18 The supplier shall carry out appropriate quality assurance in an appropriate manner and to an appropriate extent and in compliance with the best available technology and shall provide us with proof of this upon request. Upon request, he shall conclude an appropriate quality assurance agreement with us.

## 11. Product Liability / Indemnification / Liability Insurance Coverage

- 11.1 Insofar as the supplier is responsible for a product defect, he shall, at first request, be obligated to indemnify us from claims for compensation by third parties as the cause is in his area of control and organisation and he is liable himself in relationships with third parties.
- 11.2 Preceding item no. 11.1 shall apply accordingly insofar as we are entitled to claims against the supplier in accordance with Articles 478, 479 BGB (German Civil Code). Within this framework the supplier shall in advance, by way of precaution, assign possible claims for recourse to us to which the supplier would be entitled vis-à-vis his sub-contractors as arising from Articles 478, 479 BGB (German Civil Code) in order to secure claims for recourse in our favour. We accept the assignment.
- 11.3 The supplier shall be obligated to reimburse to us any expenditure arising from or in connection with a product recall carried out by us. Insofar as possible and if reasonable, we shall come to an agreement with the supplier regarding the content and extent of the product recall to be carried out, keep him informed and give him the opportunity to comment.
- 11.4 The supplier shall undertake to provide – overall - product liability insurance relating to all risks and with a limit of indemnity of at least 5.0 million euros per case of personal injury / material damage and to maintain this in full for the term of the supply relationship / of the order. In the event that we are entitled to claims for damages in excess of this, these shall remain unaffected. At our request, proof of insurance coverage shall be provided. The supplier shall inform us immediately in writing regarding the withdrawal / restriction of the insurance coverage.

## 12. Trademark Rights

- 12.1 The supplier shall guarantee that rights of third parties, in particular copyrights, are not infringed in connection with his delivery and performance and that any performance provided by him is free from the rights of third parties. In the event that intellectual trademark rights of third parties are infringed by the performance and if we are prohibited from using the performance in whole or in part, the supplier shall at his own choice provide us with the right of utilisation and / or exploitation of the performance or provide the performance free from trademark rights. Any claims of ours in excess of this shall remain unaffected.
- 12.2 In the event that we are claimed against by a third party on account of an infringement of copyrights, the supplier shall be obligated, insofar as he has an obligation towards us under warranty, to indemnify us from these claims at first written request. The indemnification obligation of the supplier shall refer to all expenditure incurred necessarily by us during or in connection with the demands by a third party.
- 12.3 The period of limitation for the claims according to the preceding item numbers 12.1 and 12.2 amounts to 5 years beginning upon conclusion of the respective contract, and insofar as a longer period of limitation shall not arise from the contract or law.

## 13. Provision / Reservation of Title

- 13.1 Insofar as we provide parts and / or materials to the supplier, he shall be obligated to examine the parts and / or materials we provide for suitability and to handle and store them temporarily in an appropriate fashion.
- 13.2 In the event of acceptance of the parts and / or materials in our factory on the part of the supplier, the responsibility for damage and loss shall transfer to the supplier irrespective of whether the parts and / or materials were provided by us free of charge or at extra cost.
- 13.3 Insofar as not expressly agreed otherwise, parts and / or materials we provide shall be charged to the supplier at factory sales prices.
- 13.4 The parts and / or materials we provide shall only be used appropriately on the part of the supplier for the agreed purpose.
- 13.5 Insofar as we provide parts or materials to the supplier, we reserve the title to them. Processing or alteration by the supplier shall always be carried out on our behalf. In the event that our goods subject to retention of title are processed with other objects that do not belong to us, we shall acquire co-ownership of the new object in proportion to the value of our object (purchase price plus V.A.T.) to the other processed objects at the point in time of the processing.

13.6 In the event that the object we provided is inseparably mixed with other objects that do not belong to us, we shall acquire co-ownership of the new object in proportion to the value of the object subject to retention of title to the other mixed objects at the point in time of mixing. If mixing is carried out in such a way that the object of the supplier is to be regarded as the main object, it shall be regarded as agreed that the supplier will transfer proportionate co-ownership to us; the supplier shall keep our sole or joint ownership in safe custody.

13.7 Insofar as the security interest to which we are entitled in accordance with the preceding item numbers 13.5 and / or 13.6 shall exceed the purchase price of all our goods subject to retention of title that have not yet been paid for by more than 10 %, we shall be obligated to release the security interests of our own choice upon request by the supplier.

13.8 Any tools provided by us shall remain in our possession. In the event that the tools are produced by the supplier in accordance with our specifications or by third parties, we shall acquire possession of the tools upon completion and delivery / surrender to the supplier at the latest, subject to a simple reservation of title inasmuch as agreed. The supplier shall keep our sole ownership of the tools in safe custody.

13.9 The agreement on an extended and / or expanded retention of title in favour of the supplier shall pre-suppose that we have come to a written del credere agreement with him in this respect.

## 14. Liability of the Buyer / Withdrawal from the Contract

14.1 In general, the supplier can only demand compensation for damages from us instead of performance at the same time as rejecting fulfillment following prior determination of a reasonable time-limit with threat of rejection.

14.2 In the event that the supplier stops his payments or applies for judicial or extrajudicial composition proceedings or insolvency proceedings regarding his assets, we shall be entitled to withdraw from the part of the contract that has not been fulfilled.

## 15. Additional Conditions for Software

Insofar as our order in whole or in part refers to the delivery, production and / or licensing of software, the current version of our "Additional Conditions for Software" shall apply additionally. We shall forward these additional conditions to the supplier on request.

## 15a Code of Conduct

15a.1 The supplier undertakes to comply with and implement the current version of the BSCI (Business Social Compliance Initiative) code of conduct. The currently applicable BSCI code of conduct can be inspected and accessed at <http://www.bsci-eu.com/index.php?id=2034>. The supplier is obliged to keep himself continuously informed of his own accord about the conditions in the latest version. The information is available to the supplier free of charge. Failure to comply with the conditions represents a fundamental breach of contract on the part of the supplier.

15a.2 The Supplier must document and on our request produce evidence at any time by means of verifiable documents of the observance and implementation of the requirements of the BSCI code of conduct, in particular the social and environmental standards.

15a.3 In the event of an infringement by the supplier of the requirements of the BSCI code of conduct, we shall be entitled to terminate the contractual relationship for good cause without observing a notice period after the unsuccessful expiration of a time limit set for remedial action or after an ineffective warning. The setting of a time limit or giving of a warning is not required in those cases of § 323 para. 2 BGB (German Civil Code). Our right to claim damages is not excluded as a result of the termination.

15a.4 If a claim is lodged against us by a third party because of an infringement of the requirements of the BSCI code of conduct and this is based on conduct attributable to the supplier, the supplier is obliged to indemnify us from these claims upon the first written request. The indemnity obligation also relates to all expenses which we incur necessarily from or in connection with the claim made by a third party.

## 16. Place of Jurisdiction / Place of Performance

16.1 Insofar as the supplier is a businessman, legal entity under public law or a legal entity of special assets under public law, the registered office of the purchasing company shall be the place of jurisdiction. We shall, however, also be entitled to bring action against the supplier at the court at his place of residence.

16.2 Insofar as another agreement has not been reached, the place of performance shall be the factory to be supplied in each case. Insofar as an alternative agreement has not been reached, the place of performance for payments shall be Altentreptow, the registered office of wheycy GmbH.

## 17. Choice of Law

German law shall apply including the United Nations Convention on Contracts for the International Sale of Goods (CISG), always however in compliance with the contents of these conditions of purchase.