

**General Terms and Conditions**  
**for the Purchasing Department of MABEG Kreuzschner GmbH & Co. KG**

**Section 1 General provisions, scope of application**

- (1) Our Terms and Conditions of Purchase apply exclusively to all contracts with our suppliers. Any terms and conditions of the supplier that conflict with or deviate from our Terms and Conditions of Purchase are expressly rejected, unless the terms and conditions have been expressly recognised by us in writing with regard to individual provisions or as a whole. Our Terms and Conditions of Purchase shall also apply if the supplier's delivery is accepted without reservation in the knowledge of conflicting or deviating terms and conditions of the supplier. Our General Terms and Conditions shall also apply to all future business relations, even if they are not expressly agreed again. Special agreements shall only apply to the contract in question and shall not apply to any further or subsequent contracts.
- (2) All agreements made between us and the supplier for the purpose of executing this contract must be set out in writing in this contract.
- (3) Our Terms and Conditions of Purchase shall only apply to entrepreneurs in accordance with Section 14 BGB (German Civil Code).

**Section 2 Offer and conclusion of contract**

- (1) The supplier is obliged to accept our order within a period of three working days.
- (2) We reserve the right of ownership and copyright to drawings, samples, calculations and other documents made available to the supplier by us. They may not be made accessible to third parties without our express written authorisation and, in the event that a contract is not concluded, may not be used by the supplier for his own purposes. They are to be used exclusively for production based on our order and are to be returned to us unsolicited after completion of the order or if the contract is not concluded. With regard to confidentiality vis-à-vis third parties, reference is made to the provision in Section 10 of these General Terms and Conditions.

**Section 3 Prices**

- (1) The price stated in the order is binding. Unless otherwise agreed in writing, the price includes delivery "free domicile" including packaging. The return of the packaging shall only be owed by special agreement.
- (2) Unless otherwise stated, statutory VAT is included in the price.

## Section 4 Invoicing and payments

- (1) Invoices can only be processed by us if they are verifiable in that they correspond to the specifications of our order and state the order number/assignment number specified in our order. The supplier is responsible for the consequences of non-compliance with this obligation, unless he can prove that he is not responsible for this.
- (2) Unless otherwise agreed in writing, payments are to be made within 14 days of delivery
- (3) We shall be entitled to rights of set-off and retention to the extent permitted by law.

## Section 5 Delivery period

- (1) The delivery period stated in the order is binding.
- (2) In order to minimise possible damage to us, the supplier is obliged to notify us immediately in writing if it becomes apparent to him that the binding delivery period cannot be met.
- (3) In the event of a delay in delivery, we shall be entitled to the statutory claims. In particular, we are entitled to demand compensation in lieu of performance and cancellation after the fruitless expiry of a reasonable deadline. The setting of a deadline shall be dispensable if the statutory requirements are met. Insofar as we demand compensation, the supplier shall be entitled to prove that he is not responsible for exceeding the delivery deadline.

## Section 6 Transfer of risk and documents

- (1) Delivery is free of charge, unless otherwise agreed in writing.
- (2) The supplier must state our exact order number/assignment number on all shipping documents and delivery notes. If the supplier fails to do so, we shall not be responsible for delays in processing for these reasons.

## Section 7 Inspection for defects and liability for defects

- (1) We shall inspect the goods immediately, i.e. within a reasonable period of time, for any deviations in quality and quantity. A complaint about the goods shall be deemed to have been made in good time if it is received by the supplier within a period of 3 working days from receipt of the goods or, in the case of hidden defects, from discovery.
- (2) In the event of defects, we shall be entitled to the full statutory claims. In particular, we shall be entitled, at our discretion, to demand that the supplier remedy the defect or deliver a new item. We expressly reserve the right to claim damages, in particular damages in lieu of performance.
- (3) In the event of imminent danger or particular urgency, we shall be entitled to remedy the defect ourselves at the supplier's expense if the supplier is unable to provide immediate subsequent fulfilment and the circumstances make it unreasonable for us to wait.
- (4) The limitation period is 36 months, calculated from the transfer of risk, unless the five-year limitation period applies to the delivery item in accordance with its normal use for a building.

**Section 8 Product liability, indemnification and liability insurance cover**

- (1) Insofar as we are confronted with claims for damages by third parties for which the supplier is responsible due to product damage, the supplier shall indemnify us against claims for damages by the third party upon first request, insofar as the causes of the damage lie in his sphere of control and organisation and he himself is liable in relation to third parties.
- (2) The supplier undertakes to maintain sufficient product liability insurance for the period up to the expiry of the limitation period for defects. Any further claims for damages on our part shall remain unaffected.

**Section 9 Designs and other industrial property rights**

- (1) The supplier shall be responsible for ensuring that no industrial property rights are infringed in connection with his delivery.
- (2) The supplier undertakes to indemnify us upon first written request from claims of third parties if claims are asserted against us by third parties due to an infringement of property rights. We are not authorised to conclude agreements, in particular a settlement, with the third party due to the infringement of property rights without the supplier's consent.
- (3) The supplier's obligation to indemnify shall also cover all expenses necessarily incurred by us as a result of or in connection with claims asserted by a third party.
- (4) The limitation period is 10 years calculated from the conclusion of the contract.

**Section 10 Retention of title**

- (1) If we provide the supplier with parts for delivery, we reserve title to these parts. The processing or transformation of parts provided by the supplier shall be carried out on our behalf. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item to the other processed items at the time of processing.
- (2) If the parts provided by us are inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved item to the other mixed items at the time of mixing. If the mixing takes place in such a way that the supplier's item is to be regarded as the main item, the proportionate co-ownership shall be deemed to have been transferred to us and the supplier shall hold the property for us.
- (3) Insofar as our claims would be over-secured by other securities due to the retention of title, the release from the retention of title is declared.
- (4) In the event of access by third parties to the reserved goods, in particular seizures, the supplier shall draw attention to our ownership and inform us immediately so that we can enforce our ownership rights. Any costs and damages incurred by us as a result shall be borne by the supplier. Insofar as claims for damages against third parties arise directly for us as a result of the seizure, we shall assign these to the supplier concurrently against payment of the costs and damages incurred by us.

## Section 11 Secrecy

Drawings, samples and other documents provided to the supplier by us must be kept secret. We reserve the right of ownership and copyright. Documents provided by us may not be made accessible to third parties without our express written authorisation.

Documents handed over must be returned to us if they are no longer required by the supplier. Even if the disclosure to third parties is authorised, they must undertake to maintain confidentiality vis-à-vis the supplier in writing in accordance with the above provisions.

## Section 12 Limitation of liability

Claims for damages due to breaches of duty on our part arising from the contractual obligation (Section 280 BGB) and from unauthorised action are excluded both against us and against our vicarious agents, unless intentional or grossly negligent action is involved. This shall not apply if injury to life, limb or health is the result of a culpable breach of duty. Insofar as a material contractual obligation is breached by us or by persons acting on our behalf as vicarious agents, the claim for damages in the event of slight negligence shall be limited to the foreseeable damage typical of the contract. Reference is made to the right to demand reimbursement of futile expenses in accordance with Section 284 BGB instead of compensation for damages. In the case of reimbursement of expenses, the above-mentioned provisions for damages shall apply accordingly.

## Section 13 Applicable law, place of jurisdiction and place of fulfilment

- (1) These terms and conditions and the entire legal relationship between us and the supplier shall be governed by the law of the Federal Republic of Germany, including the UN Convention on Contracts for the International Sale of Goods.
- (2) If the supplier is a merchant, our registered office in Soest shall be the place of jurisdiction. However, we are also entitled to sue the supplier at his place of business.
- (2) Unless otherwise stated in the order, our place of business shall be the place of fulfilment.

## Section 14 Severability clause (partial invalidity)

If one of the aforementioned clauses is invalid, this shall not affect the validity of the remaining clauses. The contracting parties undertake to replace the ineffective clause with an effective clause that comes as close as possible to the economic intent of the ineffective clause.

MABEG Kreuschner GmbH & Co KG, Ferdinand-Gabriel-Weg 10, 59494 Soest, Germany

**Status: 01 August 2008**