

Standard Terms and Conditions for Purchases by, Orders and planning services (AGB) of Temme // Obermeier GmbH
(hereafter T//O)

1. General – Scope of application

- 1.1 Only the following terms and conditions will apply: T//O does not recognise any terms and conditions of the Supplier or Customer/Client/Party ordering the goods that are contrary to or differ from these terms and conditions.
- 1.2 All quotations from T//O are subject to change. A contract will not come into force until it has been counter- signed by T//O. The dispatch of a commercial letter of confirmation will not therefore cause a contract to come into force.
- 1.3 All agreements concerning deliveries of goods and services concluded between T//O and the Supplier or Client must be included in the relevant written contract and any additional agreements made. Verbal agreements, especially amendments of and additions to T//O's standard terms and conditions, and including this written form clause, as well as side-agreements of any kind require T//O's written confirmation in order to become valid.
- 1.4 These standard terms and conditions of T//O only apply with respect to companies, civil law legal entities and public law special assets.

2 Quotation – documents supporting the quotation

T//O's standard terms and conditions will exclusively apply to orders it places with suppliers; any contrary terms and conditions of the Supplier are rejected and will be considered as not having been agreed. Unless anything to the contrary has been agreed in writing, cost estimates submitted by the Supplier are binding and free of charge. T//O reserves rights of title and copyright to diagrams, drawings, calculations and other documents. These documents may not be disclosed to third parties without T//O's express written consent. They may only be used for manufacturing on the basis of an order from T//O. These documents must be returned unsolicited to T//O after the order has been processed. They must be kept secret from third parties.

3 Prices – payment conditions

- 3.1 The price shown in the order is binding. In the absence of any written agreement to the contrary, the price includes delivery, customs paid by the Supplier, to the place specified in the order and includes packaging.
- 3.2 As stipulated in the contract documentation or the order, T//O is only able to process invoices that show the order number and project number. Unless he can prove that he was not to blame, the Supplier will be responsible for any delays resulting from a failure to comply with this requirement.
- 3.3 Unless anything different has been agreed in writing, T//O pays its invoices 30 days after receipt of the invoice. Payment will always be made subject to checking the invoice and does not constitute recognition of the claim paid.
- 3.4 Unless any special agreement has been made in the contract on this subject, T//O is entitled to deduct 3% cash discount when paying invoices within 14 days from subcontractors and suppliers. Invoicing takes place after complete delivery and service in the original (postal).
- 3.5 T//O is entitled to net claims and to withhold service to the extent permitted by law. The Customer may only net counter-claims against T//O's claims or exercise his right to withhold service provided that these claims have been recognised in law or are acknowledged by T//O.

4 Delivery time – force majeure

- 4.1 The delivery time stipulated in T//O's order is binding.
- 4.2 The Supplier is required to notify T//O in writing immediately should circumstances arise or become obvious to him as a result of which the agreed delivery time cannot be met. T//O is entitled to the remedies provided for in law in the event of delayed delivery. In particular, T//O may demand compensation instead of performance and / or rescind the contract once a reasonable period of grace has expired without the desired result. The Supplier is entitled to prove to T//O that it was not responsible for the delay should T//O demand compensation.
- 4.3 Acceptance without objection of a delayed delivery or services does not constitute a waiver of claims to which the delay entitles T//O.
- 4.4 Irrespective of any other rights, unless such occurrences last only a short time and, force majeure, industrial disputes, civil disorder, measures by public authorities and other unavoidable events will entitle T//O to rescind all or parts of the contract. No rights may be exercised against T//O on account of its exercise of the right to rescind the contract.

5 Transfer of risk - documents

- 5.1 The Supplier bears the risk also of the accidental destruction of the goods up to the time that they are accepted by T//O or by its authorised representative at the contractually agreed place of performance. The place of performance is T//O's registered office should none other have been agreed.
- 5.2 T//O may refuse to accept the goods should an event of force majeure or other circumstances beyond T//O's control, including industrial disputes, make acceptance temporarily impossible. In such a case, the Supplier will be required to store the goods at his expense and at his risk. T//O will notify the Supplier immediately should any circumstances occur preventing acceptance of the goods.
- 5.3 The Supplier is required to state T//O's order number and/or project number on all shipping documents and delivery notes; T//O will not be liable for any ensuing delays should the supplier fail to comply with this requirement.
- 5.4 The Supplier is required to provide T//O with copies of all diagrams, drawings, calculations and other documents he makes.

6 Quality control, claims of defective goods and recourse

- 6.1 The Supplier guarantees that the goods will be of quality customary in the trade and that they will be delivered in

accordance with the latest state of technology and DIN, VDE, VDI or similar norms, to the extent that such norms exist. The latest state of technology must be complied with should this be higher than these norms. The Supplier will subject the goods to a thorough functional and quality test before they are delivered to T//O and adequately document all measures taken in order to fulfil these obligations.

The Supplier is required to retain these documents for a period of 12 years and to permit inspection by T//O at any time should this be requested.

- 6.2 T//O is required within a reasonable space of time to test the goods for quality and quantity deviations and to report any defects to the Supplier. Hidden defects must be reported to the Supplier with a reasonable period of their having been discovered.
- 6.3 Unless anything to the contrary is provided for below, the provisions of German law relating to defects of quality and of title will apply.
- 6.4 T//O is as a matter of principle entitled to demand subsequent fulfilment.
- 6.5 Should the Supplier not immediately begin to remedy defects after having being called upon to do so by T//O, in urgent cases, particularly in order to prevent acute risks or to forestall even greater damage, T//O will be entitled to carry out repairs itself or to have them carried out by a third party at the Supplier's expense.
- 6.6 Claims based on defect of quality will expire in three years unless the product has been used in a building in accordance with its normal use and has caused defects in the building. In this case, the claim will expire after seven years. The period allowed to report defects of quality will begin with the delivery of the contractual product to the contractually agreed place of performance.
- 6.7 In the event of defects of title, the Supplier will also exempt T//O from any claims pursued by third parties. Defects of title will expire after ten years from the date the goods are delivered to the contractually agreed place of performance.
- 6.8 The limitation period for goods refurbished or repaired during this period of time will begin anew once the Supplier has fully meet T//O's rights to subsequent fulfilment.
- 6.9 The Supplier is required to pay any costs incurred by T//O as a consequence of the delivery of defective goods, especially costs of transportation, travel, labour or materials or the costs of checking incoming goods to a degree exceeding what is customary.
- 6.10 Should T//O take back products from a final customer that T//O has manufactured and/or sold due to defects in goods delivered by the Supplier or should T//O's selling price be reduced as a result or any other claims lodged against T//O, it will be entitled to claim an equal amount of compensation from the Supplier, whereby T//O will not be required to set a grace period in reporting defects which would otherwise be required. Should T//O demand compensation from the Supplier, it will cede all its objections and counter-rights against the final customer up to the value of the demand for compensation.
- 6.11 Irrespective of any other provisions, the expiry date in the above provision will occur at the earliest two months after the date on which T//O has fulfilled the claims levied against it by its end customer but five years at the latest after delivery by the Supplier.
- 6.12 Should a defect of quality in deliveries to T//O emerge within six months of the transfer of risk, it will be assumed that these defects were already present at the time risk was passed.

7 Product liability – exemption – warranty – liability insurance cover

- 7.1 The Supplier is required to indemnify T//O for all claims lodged against it on account of product liability should the damage have been caused by a defect in goods delivered by the Supplier. Should the cause of the damage lie in the Supplier's area of responsibility, it will be assumed that the defect or the damage was due to negligence on the part of the Supplier until the Supplier can prove that this not the case.
- 7.2 As part of his liability for claims due to product liability, the Supplier is also required to reimburse any expenses in accordance with §§ 683, 670 or §§ 830, 840 and 426 of the German Civil Code incurred as a result of or in connection with a recall action carried out by T//O. T//O will – as far as possible and reasonable- inform the Supplier of the nature and the extent of the recall action that is to be carried out and give him the opportunity to express an opinion. This will not affect any other legal claims.
- 7.3 The Supplier undertakes to maintain a product liability insurance cover with an amount insured of € 5 million per person and property claim; this will not affect further claims to which T//O may be entitled.
- 7.4 The warranty does not cover development models, prototypes or deliveries prior to mass production. The warranty also does not cover damage resulting from unsuitable or improper use, faulty assembly or commissioning by the Customer or by third parties, natural wear-and-tear, faulty or careless treatment, unsuitable operating materials, exchanged raw materials, chemical, electro-chemical or electrical influences, unless due to negligence on the part of T//O.

8 Reservation of title– provision of goods by T//O – tools - secrecy

- 8.1 T//O reserves title to any parts provided by T//O to the Supplier or the Client. Processing or conversion undertaken by the Supplier or the Client will have been carried out on behalf of T//O. Should T//O's reserved goods be combined with other objects not belonging to T//O, T//O will acquire co-ownership of the new object in proportion to the value of T//O's goods (purchase price plus VAT) to the other objects processed at the time the processing took place.
- 8.2 Should goods provided by T//O be inseparably mixed with other objects not belonging to T//O, T//O will acquire co-ownership of the new object in proportion to the value of the goods subject to reservation of title (purchase price plus VAT) to the other objects mixed at the time the mixing took place. Should the mixing take place in such a way that the goods provided by the Supplier or the Client are to be regarded as the principle component, it will be deemed to have been agreed that the Supplier or the Client has transferred a proportionate share of co-ownership to T//O; the Supplier or Client will store the solely or partly owned goods on behalf of T//O.
- 8.3 T//O will retain title to tools it provides. The Supplier or Client is required to use the tools solely in the manufacture of goods ordered by T//O. The Supplier or Client is required to insure tools provided by T//O at their value as new at its

own expense against damage due to fire, water and burglary. Simultaneously, the Supplier or Client cedes to T//O with immediate effect all claims to compensation under this insurance; T//O hereby accepts the cession. The Supplier or Client is required to carry out in good time and at its own expense all necessary maintenance and servicing of T//O's tools as well as all refurbishing and repair work. It is required to notify T//O of any malfunctions immediately; claims for compensation will not be affected should he culpably fail to do this.

- 8.4 The Supplier or Client is required to keep strictly secret all diagrams, drawings, calculations and other documents and other information received from T//O, particularly those relating to production, assembly and manufacturing processes. They may only be disclosed to third parties with T//O's express consent. The obligation to secrecy will remain in force after this contract has been processed; it will not expire unless the production knowledge in the diagrams, drawings, calculations and other documents received from T//O becomes generally known.

9 The Supplier's liability in accordance with the German Law on Electricity

All goods delivered to T//O by the Supplier or Client comply in all respects with the requirements of the current version of the German law governing the bringing into circulation, return and environmentally-friendly disposal of electrical and electronic equipment (abbreviated in German to "ElektroG") and do not contain any materials in concentrations or applications that are forbidden under the most recent version of the law referred to above. The Supplier or Client undertakes to notify T//O immediately of changes in the concentration or application of the goods. In the event of an infringement of the above provisions, the Supplier or Client will indemnify T//O for any claims whatsoever lodged by third parties. This exemption also includes claims lodged against T//O on account of the imposition of fines and administrative penalties.

10 Protection of third parties

The Client will be liable for the following in the event of requests or models submitted by the Client

- that implementation drawings submitted do not infringe the rights of third parties and
- that implementation does not infringe any copyrights, commercial proprietary rights or other rights of third parties.

The Supplier is required to indemnify T//O and, at T//O's request, to provide adequate security should claims be pursued against T//O on account of the infringement of such rights.

11 Choice of law and place of jurisdiction

- 11.1 The place of jurisdiction for all disputes arising directly or indirectly from the contractual relationships on which these purchasing terms and conditions are based is T//O's registered office. T//O is however entitled, at its option, to sue the Supplier in the court at the Supplier/Client's registered office or at the Supplier/Client's branch office or at the court at the place of fulfilment

- 11.2 The law of the Federal Republic of Germany will apply. The provisions of UN purchasing law are excluded.

12. Partial invalidity

Should provisions in these terms and conditions and any additional agreements be or become invalid, this will not affect the validity of the remaining provisions. The contractual parties are required to replace the invalid provision by a provision that as far as possible corresponds with the invalid provision in its commercial objective.

This English version of these standard purchasing terms and conditions of T//O is a translation of the original German version "Allgemeine Einkaufs-, Fertigungs- und Planungsleistungsbedingungen Temme // Obermeier GmbH" AGB. In the event of contradictions or inconsistencies between the German original and this translation of the standard purchasing terms and conditions, the German language version will have precedence.

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