

General Terms and Conditions of Purchase (1)

1. Scope, Form

- 1.1 These General Terms and Conditions of Purchase (GTCP) shall apply to all business relationships with business partners and suppliers ("Suppliers") of Colson Rollen GmbH (hereinafter referred to as Colson). The GTCP shall only apply if the Supplier is an entrepreneur (according to Section 14 of the German Civil Code (BGB), a legal entity under public law or a special fund under public law.
- 1.2 The GTCP apply in particular to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether the Supplier manufactures the Goods itself or purchases them from suppliers himself according to Sections 433, 650 of the German Civil Code (BGB). Unless otherwise agreed, the GTCP in the version valid at the time of Colson's order or in any case in the version last notified in text form shall also apply as a framework agreement for similar future contracts without Colson having to refer to them again in each individual case.
- 1.3 These GTCP shall apply exclusively. Conflicting general terms and conditions used by the Supplier shall only become part of the contract if and to the extent that Colson has expressly consented to their application in writing. This consent requirement shall apply in any case, for example even if Colson accepts the Supplier's deliveries without reservation in the knowledge of the Supplier's General Terms and Conditions.
- 1.4 Individual agreements made with the Supplier in individual cases (including collateral agreements, supplements and amendments) shall in all cases take precedence over these GTCP. Subject to proof to the contrary, a written contract or Colson's written confirmation shall be decisive for the content of such agreements.
- 1.5 Legally relevant declarations and notifications of the Supplier with respect to the contract (e.g. setting of deadlines, reminders, rescission) shall be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.
- 1.6 References to the applicability of statutory provisions shall only be of a clarifying nature. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCP.

2 Conclusion of Contract

- 2.1 Colson's order shall be deemed binding at the earliest upon written submission or confirmation. The Supplier shall point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion prior to acceptance; otherwise the contract shall be deemed not to have been concluded.
- 2.2 The Supplier shall confirm the order in writing within a period of 10 days or, in particular, execute it without reservation by dispatching the goods (acceptance). A delayed acceptance shall be deemed to be a new offer and shall require acceptance by Colson.

3 Delivery Period and Delay in Delivery

- 3.1 The delivery time specified by Colson in the order shall be binding. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be 2 weeks from the conclusion of the contract. The Supplier is obliged to notify Colson in writing without delay if it is unlikely to be able to meet agreed delivery times - for whatever reason.
- 3.2 If the Supplier fails to perform or fails to perform within the agreed delivery period or is in default, Colson's rights - in particular to withdraw from the contract and to claim damages - shall be determined in accordance with the statutory provisions. The provisions in para. 3 shall remain unaffected.
- 3.3 If the Supplier is in default, Colson may - in addition to further statutory claims - demand lump-sum compensation for the

damage caused by the delay in the amount of 1% of the net price per full calendar week, but in total not more than 5% of the net price of the goods delivered late. Colson reserves the right to prove that higher damages have been incurred. The Supplier reserves the right to prove that no damage at all or only a significantly lower damage has been incurred.

4 Performance, Delivery, Transfer of Risk, Default of Acceptance

- 4.1 The Supplier shall not be entitled to have the performance owed by it rendered by third parties (e.g. subcontractors) without prior written consent. The supplier shall bear the procurement risk for its services unless otherwise agreed in individual cases (e.g. limitation to stock).
- 4.2 Delivery shall be made "free of charge" within in the territory of Germany to the place specified in the order. If the place of destination is not specified and nothing else has been agreed, delivery shall be made to Colson's Business Location in Hückeswagen. The respective place of destination shall also be the place of performance for the delivery and any subsequent performance..
- 4.3 The delivery shall be accompanied by a delivery bill stating the date (issue and dispatch), the content of the delivery (article number and quantity) and Colson's order identification (date and number). If the delivery bill is missing or incomplete, Colson shall not be responsible for any resulting delays in processing and payment. Separate from the delivery bill, a corresponding dispatch note with the same content must be sent.
- 4.4 The risk of accidental loss and accidental deterioration of the item shall pass to Colson upon handover at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly in the event of acceptance. If Colson is in default of acceptance, this shall be deemed equivalent to handover or acceptance.
- 4.5 The statutory provisions shall apply to the occurrence of default in acceptance. However, Supplier must expressly offer its performance even if a specific or determinable calendar time has been agreed for an action or cooperation by Colson (e.g. provision of materials). If Colson is in default of acceptance, the Supplier may demand compensation for its additional expenses in accordance with the statutory provisions (Section 304 of the German Civil Code (BGB)). If the contract relates to a non-representable item to be manufactured by the Supplier (individual production), the Supplier shall only be entitled to further rights if Colson undertakes to cooperate and is responsible for the failure to cooperate.

5 Prices and Terms of Payment

- 5.1 The price stated in the order is binding. All prices are inclusive of statutory value added tax unless this is shown separately.
- 5.2 Unless otherwise agreed in individual cases, the price shall include all services and ancillary services of the Supplier (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- 5.3 The agreed price shall be due for payment within 60 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If Colson makes payment within 14 calendar days, Supplier shall grant a 3% discount on the net amount of the invoice. If payment is made within 30 calendar days, the Supplier shall grant a 2% discount on the net amount. In the case of bank transfers, payment shall be deemed to have been made on time if the transfer order is received by Colson's bank before the expiry of the payment deadline; Colson shall not be responsible for any delays caused by the banks involved in the payment process.
- 5.4 Colson does not owe any interest on arrears. Default in payment shall be governed by the statutory provisions.

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- 5.5 Colson shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent provided by law. In particular, Colson shall be entitled to withhold payments due as long as it still has claims against the Supplier arising from incomplete or defective performance.
- 5.6 The Supplier shall have a right of set-off or retention only in respect of counterclaims that have been established by a court of law or are undisputed.
- 6 Secrecy and Retention of Title**
- 6.1 Colson retains title and copyright to illustrations, plans, drawings, calculations, design instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and are to be returned after completion of the contract. The documents must be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy shall expire only if and to the extent that the knowledge contained in the documents provided has become generally known.
- 6.2 The foregoing provision shall apply mutatis mutandis to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that Colson provides to the Supplier for production. Such items – as long as they are not processed – shall be stored separately at the Supplier's expense and insured to a reasonable extent against destruction and loss.
- 6.3 Any processing, mixing or combination (further processing) of provided items by the Supplier shall be carried out for Colson. The same shall apply in the event of further processing of the delivered goods by Colson, so that Colson shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.
- 6.4 The transfer of ownership of the Goods to Colson shall be unconditional and without regard to payment of the price. However, if Colson accepts in an individual case an offer by the Supplier to transfer title conditional on payment of the purchase price, the Supplier's retention of title shall expire at the latest upon payment of the purchase price for the delivered Goods. Colson shall remain authorized to resell the goods in the ordinary course of business even prior to payment of the purchase price with advance assignment of the resulting claim (alternatively, the simple reservation of title extended to the resale shall apply). This excludes all other forms of retention of title, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- 7 Liability for Defects**
- 7.1 Colson's rights in case of material defects and defects of title of the Goods (including wrong and short delivery as well as improper assembly, defective assembly, operating or instruction manuals) and in case of other breaches of duty by the Supplier shall be governed by the statutory provisions, unless otherwise provided below.
- 7.2 In accordance with the statutory provisions, the Supplier shall be liable in particular for ensuring that the Goods have the agreed quality at the time of transfer of risk to Colson. In any case, those product descriptions which – in particular by designation or reference in the order – are the subject matter of the respective contract or have been included in the contract in the same way as these GPC shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from Colson, the supplier or the manufacturer.
- 7.3 Colson shall not be obliged to inspect the goods or to make special inquiries about any defects upon conclusion of the contract. In partial deviation from Section 442 (1) Sentence 2 of the German Civil Code (BGB), Colson shall therefore also be entitled without restriction to claims for defects if Colson was unaware of the defect at the time the contract was concluded as a result of gross negligence.
- 7.4 The statutory provisions of Sections 377, 381 of the German Commercial Code (HGB) shall apply to the commercial duty to inspect and give notice of defects with the following proviso: Colson's duty to inspect shall be limited to defects that are apparent during the incoming goods inspection under external examination including the delivery documents (e.g. transport damage, wrong delivery and short delivery) or that are identifiable during a quality inspection by sampling. If acceptance has been agreed, there shall be no obligation to inspect. In other respects, it shall depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. A duty to give notice of defects discovered later shall remain unaffected. Notwithstanding the duty to examine, Colson's notice of defects shall be deemed to have been given without undue delay and in due time if it is sent within 30 working days of discovery or, in the case of obvious defects, of delivery.
- 7.5 Subsequent performance shall also include the removal of the defective Goods and their re-installation, provided that the Goods have been installed in another item or attached to another item in accordance with their nature and intended use; Colson's statutory claim for reimbursement of corresponding expenses shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance shall be borne by Supplier even if it turns out that there was actually no defect. Colson's liability for damages in the event of an unjustified request for rectification of a defect shall remain unaffected; in this respect, however, Colson shall only be liable if it has recognized or failed to recognize through gross negligence that there was no defect.
- 7.6 Notwithstanding the statutory rights and the provisions in para. 5, the following shall apply: If the Supplier fails to meet its obligation to remedy the defect – at Colson's option by remedying the defect (rectification) or by delivering a defect-free item (replacement) – within a reasonable period set by Colson, Colson may remedy the defect itself and demand reimbursement from the Supplier of the expenses required for this or a corresponding advance payment. If subsequent performance by Supplier has failed or is unreasonable for Colson (e.g. due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; Colson shall inform Supplier of such circumstances without undue delay, if possible in advance.
- 7.7 Furthermore, in the event of a material defect or defect of title Colson shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, Colson shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.
- 8. Supplier Recourse**
- 8.1 Colson shall be entitled without restriction to the statutory rights of recourse within a supply chain (supplier recourse pursuant to Sections 445a, 445b, 478 of the German Civil Code (BGB) in addition to the claims for defects. In particular, Colson shall be entitled to demand from the Supplier precisely the type of subsequent performance (repair or replacement) that it owes its customer in the individual case. Colson's statutory right of choice as in Section 439 (1) of the German Civil Code (BGB) shall not be restricted hereby.
- 8.2 Before Colson acknowledges or fulfils a claim for defects asserted by its customers (including reimbursement of expenses in accordance with Sections 445a (1), 439 (2) and (3) of the German Civil Code (BGB), it shall notify the Supplier and request a written statement, briefly setting out the facts. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually granted by Colson shall be deemed to be owed to the Customer. In this case the Supplier shall have the burden of proof to the contrary.

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- 8.3 Colson's claims under supplier recourse shall also apply if the defective goods have been further processed by Colson or another entrepreneur, e.g. by incorporation into another product.
- 9. Producer Liability**
- 9.1 If the Supplier is responsible for product damage, it shall indemnify Colson against third party claims to the extent that the cause lies within its sphere of control and organization and it is itself liable in relation to third parties.
- 9.2 Within the scope of its indemnification obligation, the Supplier shall reimburse expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) arising from or in connection with a third party claim including recall actions carried out by Colson. Colson shall inform the Supplier of the content and scope of recall measures - to the extent possible and reasonable - and give the Supplier the opportunity to comment. Any further legal claims shall remain unaffected.
- 9.3 Supplier shall take out and maintain product liability insurance with a lump sum coverage of at least EUR 2 million per personal injury/property damage.
- 10. Limitation**
- 10.1 The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless otherwise stipulated below.
- 10.2 Notwithstanding Section 438 (1) No. 3 of the German Civil Code (BGB), the general limitation period for claims for defects shall be 3 years from the passing of risk. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance. The 3-year limitation period shall also apply mutatis mutandis to claims arising from defects of title, whereby the statutory limitation period for claims in rem for surrender by third parties (Section 438 (1) No. 1 of the German Civil Code (BGB)) shall remain unaffected; in addition, claims arising from defects of title shall in no case become time-barred as long as the third party can still assert the right - in particular in the absence of a limitation period - against Colson.
- 10.3 The limitation periods under the law of sales, including the above extension, shall apply - to the extent provided by law - to all contractual claims for defects. Insofar as Colson is also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 of the German Civil Code (BGB)) shall apply in this respect, unless the application of the limitation periods of the law of sales leads to a longer limitation period in individual cases.
- 11. Governing Law and Place of Jurisdiction**
- 11.1 These GTCP and the contractual relationship between Colson and the Supplier shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods.
- 11.2 If the Supplier is a merchant within the meaning of the German Commercial Code (Handelsgesetzbuch), a legal entity under public law or a special fund under public law, the exclusive - including international - place of jurisdiction for all disputes arising from the contractual relationship shall be Colson's registered office in Hückeswagen. The same shall apply if the Supplier is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB). However, Colson shall in all cases also be entitled to bring an action at the place of performance of the delivery obligation pursuant to these GTCP or a prior individual agreement or at the Supplier's general place of jurisdiction. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.