

General Terms and Conditions of Purchase for the Pekrun Getriebebau GmbH

§1 Scope

(1) The following terms and conditions of purchase apply to all business transactions with our suppliers or other contractors (hereinafter jointly referred to as "Supplier"), even if they are not mentioned in subsequent transactions or agreements. Inclusion of the supplier's general conditions of sale or other general terms and conditions is hereby expressly rejected. This shall also apply if the supplier makes reference to particular terms and conditions, even if these include protective and/or exclusivity clauses and we do not expressly reject these, independent from the chronological order in which the competing terms have been referred to by the contracting partners, unless this has been agreed in writing. Other terms shall continue to be effective after the acceptance of goods or services.

(2) Our terms and conditions of purchase shall be valid for all future business with the supplier, without requiring express notification, unless we agree a different validity in writing.

§2 Conclusion of Contract

(1) An order shall only be deemed to be issued if it is drafted and signed by us in writing. Orders issued verbally or by telephone are only binding on us, if we have confirmed it by subsequently transmitting a written order.

(2) The supplier is obligated to accept the offer in our order within a period of two weeks. By accepting the order the supplier acknowledges that he has inspected the available documents and has understood the type of execution and scope of service. We shall not be bound by obvious errors, typing mistakes and miscalculations in the documents provided by us, in the event of such errors. The supplier is obligated to inform us of these kinds of errors so that our order may be corrected. The same shall also apply for missing documents. Acceptance of an order shall be confirmed to us in writing within two weeks from the date of the order, otherwise we shall be entitled to revoke the order.

(3) Variations in quantity or quality compared with the text and content of our order as well as subsequent amendments to the contract shall only be deemed to be agreed upon if we have confirmed this in writing.

(4) The purchase order number, supplier number and job number listed in our orders shall be cited on invoices and on all correspondence.

§3 Order execution

We shall be entitled to request changes to the quality, delivery or delivery time of the ordered item or service at our own expense until the order is completely fulfilled. Subcontracts and work sequences may only be awarded by the supplier with our written consent, unless the subcontracts and work sequences merely involve the supply of marketable parts. Any changes to the manufacturing process on the part of the supplier shall also require our written approval.

§4 Delivery Time and Delivery

(1) The stipulated delivery dates are binding. Delivery periods shall be counted from the date of the order. The goods must be received at the place of delivery denoted by us within the delivery period. The supplier is obligated to notify us in writing and without delay if circumstances occur or become evident, whereby the delivery time may not be adhered to.

(2) Early deliveries are not permitted without our agreement.

(3) In the event that the final day for delivery is agreed on under the contract, then at the end of that day the supplier shall be deemed to have defaulted, without needing notification from us to this effect.

(4) In the event of a delay in delivery, we shall be entitled without restriction to the statutory claims, including the right to withdraw from the contract and the right to claim damages instead of performance after a reasonable grace period has expired without results. In particular, after a reasonable grace period has expired without results, we shall be entitled to demand a contractual penalty of 0.5% of the net order value per week or part thereof, but no more than 5% of the net order value and/or delivery, and/or to withdraw from the contract even if the supplier is not responsible for the delay. Any contractual penalty paid shall be set off against any claim for damages. The supplier shall have the right to prove we have suffered no loss at all or only a significantly smaller loss than the above fixed sum. The acceptance of delayed deliveries or services does not mean that we waive any claims for compensation.

(5) Part deliveries are only permitted when specifically agreed in writing.

§5 Right to Separation

(1) We shall be released from our purchasing obligations by force majeure or business disruptions that significantly impact the operational performance of our company, and that have not been caused by us.

(2) We are entitled to termination without notice if application is made to initiate insolvency proceedings against the supplier's assets.

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§6 Shipping, Packaging

(1) Every shipment shall have two copies of a delivery note enclosed. Our order information (in particular our purchase order number and job number) shall be repeated on all shipping documentation. Costs arising due to non-compliance with our shipping instructions shall be borne by the supplier.

(2) Delivery shall be made at the expense of the supplier free of all charges to the place of delivery specified by us. If agreed in writing, that exceptionally we are to bear the costs of freight then the supplier must choose the mode of transport and haulier prescribed by us, or else the mode of transport and delivery favourable to us.

(3) Risk is only transferred to us on acceptance at our place of delivery.

(4) Packaging is included in the price. If, in exceptional cases, other arrangements have been made in writing, the packaging shall be charged at the verifiable cost price.

(5) Packaging shall be carried out according to the current state of the art and under aspects of absence of damage, cost efficiency and environmental protection. In addition, specific instructions may be given by us. We reserve the right to dispose of packaging that does not comply with the current standard or our instructions at the supplier's expense or to return it carriage forward. The protection of the goods during transport and any subsequent storage must always be guaranteed. The supplier must ensure that the packaging is environmentally friendly. We may return invoiced, usable packaging carriage forward for a credit note. If reusable packaging is used, the supplier must make the packaging available on loan. The supplier shall bear the costs and risk of returning the packaging.

§7 Certificates of Origin, Value Added Tax Certificates and Export Limitations

(1) The supplier shall promptly make available any certificates of origin requested by us, complete with all necessary details and duly signed. The supplier shall inform us in writing without delay and without our request, if the details in the certificates of origin for the delivered goods shall no longer be correct.

(2) The same shall also apply to any proofs relating to matters of value added tax law where deliveries are made within the EU or from a foreign country.

(3) The supplier shall inform us without delay if a delivery is partly or wholly subject to export limitations under German or any other law.

§8 Certificates, safety, and environmental protection

Deliveries and services of the supplier must comply with the German statutory provisions, in particular the safety and environmental protection regulations (including the currently applicable environmental laws and regulations) as well as the Ordinance on Hazardous Substances, the Electrical and Electronic Equipment Act (ElektroG) and the safety recommendations of the competent German technical committees or professional associations, e.g. VDE, VDI, DIN. Relevant certificates, test reports and supporting documents must be supplied free of charge. In the case of deliveries and the provision of services, the supplier shall be solely responsible for compliance with the accident prevention regulations. Any protective devices required by these regulations and any instructions of the manufacturer must be supplied free of charge.

§9 Prices, Payment Terms

(1) Unless otherwise agreed in writing, the prices for deliveries and services shall be net plus statutory value added tax and shall include all expenses in connection with the deliveries and services to be provided by the supplier, such as packaging, freight, postage, customs clearance and insurance. Agreed prices shall be fixed prices unless the supplier reduces its prices. Any other actions shall require our prior written consent.

(2) In the event of significant changes to costs of labour, materials or energy for long-term contracts (contracts with a period of more than 12 months and unlimited contracts) each contracting partner shall be entitled to demand negotiations for a reasonable adjustment to the price in consideration of these factors. If the negotiations do not lead to the contract being mutually adapted, both parties shall be entitled to terminate the contract.

(3) The supplier shall not grant us unfavourable prices and conditions compared with other buyers, if and insofar as these buyers offer comparable conditions to the supplier in the specific case.

(4) Payments shall only be made after complete receipt of defect-free goods, complete documentation and the invoice. The invoice is to be sent as a PDF file to our e-mail address: rechnung@pekrun.de. Specification must be in accordance with the wording of our orders and must include our order number and job number. Invoices that do not comply with these requirements shall not be deemed acceptable and shall generally not be paid. This shall apply accordingly to partial deliveries agreed in writing.

(5) Unless otherwise agreed, payment shall be made within seven days less four percent discount, within thirty days less three percent discount or within ninety days net. Time delays caused by incorrect or incomplete invoices shall not affect any discount periods. Insofar as we are entitled to deduct a cash discount for payments to the supplier, the most recent event in terms of time shall be decisive for the calculation of the cash discount period in the event that the arrival of the delivery and the receipt of the invoice and the documentation are separate.

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(6) In principle, payments to the supplier shall not constitute approval with regard to the conformity of the delivered goods with the contract. In the event of late payment, we shall owe default interest at a rate of three percentage points above the base rate in accordance with Section 247 of the German Civil Code (BGB).

(7) Payment demands by the supplier to us may only be assigned to third parties with our written agreement. We shall be entitled to the right to offset and the right of lien to the extent allowed by law. We shall be entitled to assign payment demands arising from the contractual relationship to third parties without prior written consent from the supplier.

(8) Insofar as we have taken on insurance coverage, insurance charges may not form part of the supplier's purchasing price.

(9) In the event that it becomes apparent after the conclusion of the contract that the supplier puts our delivery demand at risk through lack of performance, then we may refuse payment and determine a reasonable period for the supplier during which the supplier must render delivery versus payment or must provide a security. In the event that the supplier refuses or the period expires without result we shall be entitled to terminate the contract and to claim damages.

(10) Ownership of the delivered goods shall pass to us after payment. Any extended or expanded retention of title shall be excluded.

§10 Activity in our Company

Persons who, in fulfilling the supplier's obligations, are active within our company shall be subject to the provisions of our work regulations and our directives with regard to regulations that we apply for preventing accidents, safety at work, environmental and other regulations. Hazardous substances may only be brought into our company following consultation with our specialised personnel and must be properly identified.

§11 Warranty, Liability for Defects

(1) The delivery/service shall be provided in accordance with the contractually stipulated purpose of ensuring that all official regulations, technical rules and guidelines concerning the delivery/service are fulfilled in a usable and functional manner.

(2) We shall be entitled to legal rights to warranty without restriction. In the case of defects that are not initially identifiable it shall be sufficient, if these defects are notified within two weeks of being discovered.

(3) In the event of delivery of defective goods, the supplier, at our discretion, shall be given the opportunity to rectify the defect or to make a replacement delivery at its own expense and without restriction (material, labour, transport, disassembly and reassembly, etc.) and a 5D report shall be sent to us within 14 days. If the supplier is unable to do so or fails to comply with this after being requested to do so and having been set a deadline, we shall be entitled to return the goods at the supplier's risk and expense and to obtain supplies elsewhere. The statutory provisions regarding the dispensability of setting a deadline and all statutory rights due to defects including recourse claims shall remain unaffected.

(4) In urgent cases or if the supplier is in default, we shall be entitled to rectify the defects at the supplier's expense.

(5) Insofar as the delivery is a commercial transaction for both parties, § 377 German Commercial Code (HGB) shall have the following special features:

- The goods shall only be regarded as having been delivered once we have had the opportunity to inspect them in the course of a proper commercial transaction. For the avoidance of doubt, this shall be the point in time at which the goods arrive at our company site during normal working hours. Transfer to a haulier is not sufficient. Notification of defects shall be deemed to have been given in time if notified to the supplier within ten working days calculated from receipt of the goods or the earliest possibility of inspection or, in the event of concealed defects, from the date of discovery.
- The goods shall not be regarded as having been approved if the supplier was not aware of the discrepancy in quality as a result of his own negligence or attributed negligence, but must have assumed that we would not accept the discrepancies had he acted properly.
- Defects which could not be identified in the course of a visual inspection and identity check alone shall be regarded as concealed defects.

(6) The supplier warrants that all deliverables are free from third party rights and in particular that the delivery and use of the goods will not infringe any patent or other industrial property rights in the country of the agreed place of delivery, in the European Union, Switzerland, Turkey and - insofar as communicated to the supplier - in the intended country of use.

(7) Insofar as the supplier is directly liable to the third party, the supplier shall indemnify us from any claims of a third party out of industrial property right infringements and shall bear all necessary costs arising therefrom.

(8) We shall be entitled without restriction to the right to damages, in particular to damages in lieu of performance.

(9) Our warranty and tort shall be subject to a limitation period of three years from the transfer of risk. Insofar as the supplier delivers new items, or at a later stage delivers individual parts for an item, in the context of liability of defects, the period of limitation for the new item or the total repaired item shall begin to be counted anew from the date of transfer of these new items or of the individual parts, insofar as the defect continues in the repaired item. The period of limitation shall not be restarted if the defect was only minor or the supplier has expressly demonstrated before the subsequent delivery that he is not obligated to the subsequent delivery and has only delivered the replacement as a gesture of goodwill or to amicably resolve a dispute.

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§12 Means of Production

(1) Means of production (samples, models, tools, moulds, templates, raw materials, etc.) and documents (samples, drawings, data, etc.) which we make available to the supplier shall remain our property and shall be returned to us without request after completion of the order. Processing or alteration by the supplier is carried out for us.

(2) Our drawings must not be duplicated. The supplier undertakes not to make the means of production provided by us available to third parties. The obligation of confidentiality shall also apply after the execution of this contract. It shall expire if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known. The supplier shall be liable for all damages resulting from the violation of the aforementioned obligation.

(3) The supplier is obligated to identify the production materials and documents as our property and to insure them at his own expense and at original value as new against fire, water and theft. The supplier shall have to prove the existence of such insurance on our demand.

(4) The supplier shall immediately inform us of any damage to the production materials.

(5) Maintenance and repair work on the production materials shall be carried out by the supplier at his own expense. We shall bear the costs for a necessary renewal of the production materials due to wear and tear.

(6) Any processing, conversion or installation of production materials provided to the supplier shall be performed for us. In the event that this should lead to an inseparable mixing with the supplier's or a third party's goods we shall become joint owner of the newly created goods in proportion to the value of our goods to the other processed items, at the time of the processing. Should our goods be processed, converted or installed in such a way that our goods shall have to be regarded as essential components of the supplier's principal goods, we shall acquire joint ownership of the principal goods in proportion to the value of our goods to the other processed items, at the time of the processing. In both cases the supplier shall hold the joint ownership for us.

(7) The supplier is prohibited from contacting our clients without our consent.

§13 Producer Liability, Industrial Property Rights, Confidentiality

(1) For damages attributable to the supplier, the supplier shall exempt us from the resulting liability to the extent that we were not partly responsible for the damage.

(2) We reserve the industrial property rights to all drawings, documents, tools and production equipment handed over to the supplier.

(3) The supplier guarantees that we do not infringe any patents or third party rights by the goods the supplier delivers and their use. The supplier shall be free to prove that he is not accountable for infringing the rights of a third party. The supplier shall exempt us and our customers from all claims asserted on the basis of the use of such industrial property rights, and costs which necessarily arise from the use or in relation to the use of such. We are not entitled – without the consent of the supplier – to enter into any agreement, in particular to conclude a settlement. The supplier shall not exempt us, insofar as the supplier has manufactured the delivered goods according to drawings, models or other equivalent descriptions or instructions and is unaware that industrial property rights will be infringed as a result.

(4) Each contracting party shall use all documents (including samples, models, tools and data) and knowledge received from the business relationship only for the jointly pursued purposes and shall keep them secret from third parties with the same care as if they were own documents and knowledge, if the other contracting party designates them confidential or has an obvious interest in keeping them secret. This obligation shall commence upon first receipt of the documents or knowledge and shall continue after the end of the business relationship.

(5) This obligation shall not apply to documents or knowledge being generally known or being already known to the contracting partner when receiving these without being sworn to secrecy. The same shall apply to documents or knowledge being transferred afterwards by a third party entitled to transmission or being developed by the receiving contracting partner without using the other contracting partner's documents or knowledge to be kept secret.

(6) The manufacture for third parties, the display of products manufactured especially for us (in particular according to our plans, drawings or other special requirements) as well as publications concerning our orders and services and the reference to these orders to third parties shall require our prior written consent.

§14 Transfer

The supply contract concluded with the supplier may not be transferred to third parties without our written consent.

§15 Place of Jurisdiction, Place of Fulfilment

(1) All legal relations between the supplier and us shall be governed exclusively by German law, even if the supplier has its registered office abroad. Application of the UN Convention on the International Sale of Goods (CISG) is excluded.

(2) The place of jurisdiction for merchants shall be Iserlohn. However, we shall also be entitled to assert claims against the supplier at its registered office.

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(3) Place of performance for all deliveries and services shall be the address of the recipient of the goods or services.

(4) Insofar as we agree with the supplier on the validity of one of the international trade clauses (Incoterms) drawn up by the International Chamber of Commerce (ICC) for the contract, the respective current version shall apply.

(5) Should any terms or conditions in these general terms and conditions of purchase be or become invalid, this shall not affect the validity of the remaining terms and conditions.

(6) In the event of differences between the English and the German version, the German version of the General Terms and Conditions of Purchase shall prevail.