

## Terms and Conditions of Purchase of HERA Herm. Rahmer GmbH & Co. KG

### Scope

1. These terms and conditions of purchase apply to companies, legal entities under public law and special funds under public law.
2. Our orders take place only on the basis of the following terms and conditions. Terms and conditions of the partner, which we do not expressly accept, are not valid. They also do not apply even if they are included in an order confirmation or other document, following our order or commission and we do not expressly contradict it or accept the delivery without reservation. Remaining silent shall be considered as rejection of the terms and conditions of the partner.
3. The terms and conditions of purchase also apply to all future orders and contractual relationships between the partner and us..

### General provisions

4. The contractual partners will immediately confirm verbal agreements in detail in writing.
5. If individual parts of these terms and conditions of purchase are or become ineffective, this will not impair the effectiveness of the remaining provisions.

### Orders

6. If the partner does not accept our orders within 1 week of receipt we are entitled to cancellation.
7. Delivery schedules will be binding, if the partner does not object to them, within 5 working days of receipt at the latest.
8. We can request changes to the delivery item to the extent of what is reasonable for the partner. In doing so, the implications, with regard in particular to extra or reduced costs, as well as delivery deadlines, are to be appropriately and mutually regulated.

### Long-term and call-off purchase agreements, price adjustment

9. Unlimited contracts can be terminated with a deadline of 3 months.
10. If there is an essential change in labour, material or energy costs in the case of long-term contracts (contracts with a duration of more than 12 months and unlimited contracts), then each contractual partner is entitled to request negotiations about an appropriate adjustment of the price taking account of these factors.

### Confidentiality

11. If a separate secrecy agreement has not been concluded, the following regulations apply: each contractual partner will only use all the documents (this also includes patterns, models and data) and knowledge, which it obtains from the business connection, for the mutually agreed purposes and will maintain secrecy with the same care towards third parties as for its own relevant documents and knowledge, if the other contractual partner designates them as confidential or has a clear interest in their secrecy. This obligation begins when the documents or knowledge are first received and finishes 36 months after the end of the business relationship.
12. The obligation does not apply to documents or information that are generally known or that were already known to the contractual partner at the time of their receipt by the contractual party, which was not obliged to secrecy, or to documents or information that have been submitted by a third party, which has the authority to disclose, or to documents or information which are developed by the receiving party without any use of documents or knowledge of the other party, which have to be kept secret.

### Drawings and descriptions

13. Drawings, data, software, CAD data and descriptions handed over by us to by the partner remain our inalienable material and intellectual property, which must be returned unrequested when the order has been completed. The partner hereby transfers to us, under the condition precedent of complete payment, the ownership of the drawings and descriptions compiled in accordance with our information.

## Patterns and Manufacturing Equipment

14. If production costs for patterns and manufacturing equipment (tools, mouldings, master plates etc.) have been previously agreed, they will be invoiced to us separately from the goods to be delivered, if not agreed otherwise. This also applies to manufacturing equipment, which has to be replaced as a result of wear and tear. If not expressly agreed otherwise, the partner must bear the costs of production and exchange.
15. The partner bears the costs for maintenance, repair, and appropriate storage, as well as the risk of damage or destruction of the manufacturing equipment.
16. The partner will store the manufacturing equipment free of charge for three years after the last delivery. He will then ask in writing to say within 3 months whether we want to use it again. The obligation for safekeeping ends if no comment is made within these 3 months or if a new order is not submitted.  
For supplies to third parties, the partner may only use customer-related manufacturing equipment with our prior written agreement. They may not be scrapped without our written consent, nor made accessible to third parties, nor be used for anything other than the contractually agreed purposes and must be stored carefully by the partner.

## Prices

17. Provided it is not agreed otherwise, the agreed prices are understood to be fixed prices and exclude every type of additional claim. Costs of packaging and transport to the stated dispatch address or location, as well as the costs for customs formalities and customs are included in the prices.

## Proofs of origin, VAT proofs and export restrictions

18. The partner will provide all the proofs of origin requested by us, with all necessary information, and will make them available immediately and correctly signed. The partner will instruct us immediately and unrequested in writing if the information in the proofs of origin for the delivered goods is no longer accurate.
19. The same applies to VAT proofs for foreign and intra-community supplies.
20. The partner will inform us immediately, if a delivery is entirely or partially subject to export restrictions pursuant to German or other law.

## Terms and conditions of payment, Assignment of claim

21. Provided it is not agreed otherwise, we will pay, subject to the regulation in Clause 23, up to 14 days after delivery and receipt of the correct invoice with 3 per cent discount or within 30 days net. The determining factor for the start of the payment period is the respective later point in time.
22. Upon acceptance of delivery ahead of schedule the payment date is based on the agreed delivery date.
23. If the delivery is defective or if there is a delay in delivery, we are entitled to hold back payment pro-rata until fulfilment according to specification.
24. The partner is not entitled, without our written consent, which may not be unreasonably refused, to assign claims against us, or to have debts called in by a third party. If there is an extended reservation of title, consent is considered granted.  
If the partner assigns his claims against us, contrary to Clause 1, without our consent, to a third party, the assignment is nevertheless, effective. We can, however, make payment, at our own option, with the effect of discharging an obligation, to the partner or the third party.
25. If it becomes apparent after conclusion of the contract, that our entitlement to delivery is at risk due to the lack of ability to perform of the partner – for instance, due to a deterioration in financial circumstances, then we can for instance refuse payments already due and specify an appropriate period of time to the partner, in which he must concurrently deliver against payment or must prove to us his ability to deliver. Upon refusal of the partner or upon ineffective expiry of the deadline, we are entitled to withdraw from the contract or to terminate it and request compensation; statutory rights of withdrawal and cancellation, as well as claims for damages remain unaffected.

## Delivery and Passing of risk

26. Provided it is not agreed otherwise the partner supplies free domicile. In doing so, the risk passes to us, as soon as the partner has placed the goods in our warehouse.
27. An agreed delivery deadline begins with the dispatch of the order confirmation and is extended appropriately in the event of force majeure.
28. Partial deliveries are only admissible by special agreement. 10 % over/under-delivery is admissible. The total price changes accordingly, depending on the size.

## Activity in our company

29. Persons, who are acting in fulfilment of the obligations of the partner within our company, are subject to the provisions of our work regulations and orders with regard to accident prevention, work safety, environmental and other regulations. Dangerous substances may only be used inside our plant after agreement with our technical staff and must be correctly marked.

## Delay in delivery

30. Agreed deadlines and time limits are binding. The determining factor for adherence to the delivery deadline is the date that we, or the recipient that we have specified, receive(s) the goods. The delivery partner must inform us immediately in writing of any identifiable delay in its service, stating the reasons and the foreseeable duration of the delay. The partner can only refer to causes not attributable to him if he has complied with his duty to give notice. In the case of delay we are entitled to request a contractual penalty from the partner. This amounts to 0.5% for each week of delay that has been started, but altogether a maximum of 5 % of the total value of the order. The legal claims we are entitled to are not affected by agreement of a contractual payment or its enforcement. Any paid contractual penalties must be charged to claims for damages. The contractual penalty can be enforced until payment has been made for goods delivered late.

## Material defect

31. The goods must meet the agreed specifications and those, which must be assumed by the partner in light of his knowledge of the intended use, but must at least meet the mandatory legal requirements and the state of technology. The point in time of the passing of risk is crucial for the condition of the goods in accordance with the contract.  
In carrying out the deliveries the partner adheres to the respective legal regulations of the European Union and the Federal Republic of Germany, e.g. the REACH Regulation (Regulation EC No. 1907/2006), the Act governing the Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (ElektroG) as national implementation of Directive 2002/95/EC (RoHS) and Directive 2002/96/EC (WEEE) and the Law on End-of-Life Vehicles as national implementation of EU Directive 2000/52/EC.  
The partner will immediately inform us about relevant changes to the goods, their ability to be delivered, their facility for being used or their quality, due to legal regulations, in particular the REACH order, and in the individual case must agree suitable measures with us. The same applies as soon as and insofar as the partner recognises that such changes will occur.
32. In the case of material defects we are entitled to request immediate fulfilment by subsequent delivery or by rectification of the defect. The partner undertakes to bear all the expenses connected with the subsequent delivery or rectification, in particular, inspection, transport and toll costs, and material costs, independent of where the goods delivered by the partner are located. This includes any costs of necessary exchange or repair of products, into which the goods have been integrated by us or by our customer.
33. In urgent cases and after prior agreement with the partner we can, in order to comply with our own delivery commitments our own delivery commitments, carry out a possible rectification in the necessary volume ourselves or through a third party. The partner bears the necessary costs for this, unless he is not responsible for the defective performance.
34. If the partner allows a deadline set for him to elapse, without having rectified or delivered defect-free goods, we can ourselves rectify the defect at the expense of the partner, or have it rectified by a third party. The legal regulations about the expendability of setting a time limit, as well as all statutory rights due to defects, including rights of recourse, remain unaffected.
35. Claims for material defects become time-barred in 3 years from the passing of risk. This does not apply if the law provides for longer time limits, in particular for defects in the case of a building and in the case of goods, which were used in accordance with their normal mode of application for a building, and which caused its deficiency.

## Defects of title

36. The partner guarantees that all deliveries are exempt from the rights of third parties and in particular that through the delivery and use of the goods, patents or other protection rights of third parties in the country of the agreed place of delivery, in the European Union, Switzerland, Turkey and – insofar as the partner has been informed – in the intended countries of use, are not infringed.
37. Insofar as the partner is liable for the third party directly, by virtue of the law, the partner indemnifies us from the claims of third parties, arising from any infringements of industrial property rights and bears all necessary costs, which arise in this connection.
38. Claims due to defects of title become time-barred in 3 years from passing of risk.

## Other claims, liability of the partner

39. Provided that the partner is responsible for damage of a product, he undertakes to indemnify us against claims for damages of third parties, if the cause is placed in his domain and organisational area and he is himself liable, or would be liable, in relations to third parties.  
Within the scope of this liability the partner also undertakes to compensate any expenses pursuant to §§ 683, 670 BGB (German Civil Code) as well as pursuant to §§ 830, 840, 426 BGB, which arise from, or in connection with a product recall made by our customer or us. We will inform the partner – insofar as possible and reasonable – about the content and scope of the recall measures to be carried out and give him the opportunity to comment. Other legal claims remain unaffected.  
The partner undertakes to keep a product liability insurance policy, appropriate in scope and amount, and to show it to us upon request. If there are further claims to damages owing to us, these remain unaffected.

## Our liability

40. Any claims for damages for whatever legal reason can only be enforced against us in the case of deliberate intention, gross negligence of our legal representatives or executive employees and in the case of culpable infringement of essential contractual obligations. In the case of culpable infringement of essential contractual obligations we are only liable for damages that are typical for the contract, and reasonably foreseeable.  
Limitation of liability does not apply in cases, in which, in accordance with the Product Liability Act we are mandatorily liable for damages to persons or property and in the event of injury of life, body or health.

## Force majeure

41. Force majeure, civil disturbance, measures by the authorities and other unforeseeable, inevitable and serious events exempt the contractual party for the duration of the disturbance and in the scope of the effect of the obligation to perform. The contractual partners undertake, within the scope of what is reasonable, to immediately provide the necessary information and to adapt their obligations to the changed conditions in good faith.  
Industrial dispute measures, such as strike or lock out, do not represent force majeure within the meaning of this clause.

## Place of fulfilment, place of jurisdiction and applicable law

42. The place of fulfilment for delivery and payment is Kirchhundem. The place of jurisdiction for all disputes arising from this contract is the court locally responsible for Kirchhundem. We are, however, also entitled to take action at the registered office of the contractor. German law applies to the contract under exclusion of the United Nations Convention on Contracts for the International Sale of Goods.