

**General Terms and Conditions of Purchase of Grass GmbH, Egerländer Str. 2, 64354 Reinheim, Germany („Customer“)**

**1. Applicability**

- 1.1. The present General Terms and Conditions of Purchase („GTCP“) shall apply to all business relations of the Customer with its business partners and suppliers („Contractor(s)“) with respect to the delivery of movable items („Goods“ or „Product(s)“) and/or services, irrespective of whether the Contractors effect the delivery themselves or provide the service or purchase from their suppliers. The GTCP apply only if the Contractors are an entrepreneur (Section 14 of the German Civil Code „BGB“), a public-law legal entity or constitute public-law special funds.
- 1.2. The GTCP as amended from time to time shall apply as a framework agreement also to future contracts on the sale and/or delivery of movable items and/or services entered into with the same Contractor without the Customer being required to refer to the same in every single case; the most recent version of the GTCP is retrievable from <https://grass.at/agb.html?L=1>.
- 1.3. These GTCP shall apply exclusively. Any derogating, conflicting or supplementary general terms and conditions of the Contractor shall only become part of the contract if and to the extent that the Customer has expressly agreed to applicability of the same in writing. This approval requirement shall apply at all times, for example, also where the Customer unconditionally accepts the Contractor's deliveries even though the Customer knows the Contractor's general terms and conditions.
- 1.4. Agreements (including side agreements, modifications or amendments) entered into with the Contractor in a specific case shall prevail over these GTCP. However, a written contract and/or written confirmation of the Customer shall be decisive for the content of such agreements.
- 1.5. Legally relevant statements, declarations or notifications to be made by the Contractor vis-à-vis the Customer after conclusion of the contract (e.g. setting of deadlines, reminders, notice of rescission) shall be made in writing to be effective.
- 1.6. Any references to the applicability of statutory provisions shall only serve the purpose of clarification. Accordingly, the statutory provisions shall apply even without such clarification unless they are directly modified or expressly excluded by the GTCP.

**2. Conclusion of contracts**

- 2.1. Purchase orders placed by the Customer shall become binding not earlier than after having been placed or confirmed in writing. Deliveries for which no written purchase order exists shall not be accepted. Silence on the part of the Customer with respect to offers, requests or other statements of the Contractor shall only be considered approval if this has been expressly agreed in writing. The Contractor shall immediately advise the Customer of obvious errors (e.g. typing or computing errors) in and/or incomplete purchase orders or missing documents for the purpose of correction and/or completion; otherwise the contract shall be deemed not concluded.
  - 2.2. If no changes to the purchase order are necessary in terms of quantity, price or delivery date, the Customer, in principle, waives the requirement of transmission of a written acknowledgement of order. However, at the Customer's explicit request the Contractor shall acknowledge the purchase order in writing within a period of one (1) week or execute the same immediately and unconditionally. Modified or late acceptance shall be deemed a new offer and shall always require acceptance by the Customer. The same shall apply to acceptance subject to enhancements, limitations or other changes.
  - 2.3. Offers, drafts, specimens and samples of the Contractor shall be provided free of charge for the Customer. At the Customer's request the Contractor shall take them back immediately and at its own cost.
- 3. Delivery period; Delay in delivery**
- 3.1. The delivery period stated in the purchase order by the Customer shall be binding. If it is foreseeable that the agreed delivery periods cannot be observed, the Contractor shall immediately notify the Customer in writing and state the reasons for and the expected duration of the delay. Before the agreed delivery date (partial) deliveries may only be effected upon the Customer's prior written consent.
  - 3.2. In the case of non-performance by the Contractor or if the Contractor does not deliver within the agreed delivery period or in the case of default, the rights of the Customer shall depend on the statutory provisions, in particular with respect to rescission of contract and damages. The regulations of Clause 4.3 shall remain unaffected.
  - 3.3. If the Contractor is in default, the Customer shall be entitled to demand a contractual penalty of 0.5% of the total contract value for each commenced calendar day which is capped at 5% of the total contract value. In this respect the Contractor waives the defence of treating consecutive violations of this provision as one violation for the purpose of this provision. The Customer shall be entitled to claim the contractual penalty in addition to performance and as a minimum amount of damages owed by the Contractor pursuant to the statutory provisions; claiming additional damages shall not be affected. If the Customer accepts late performance, the Customer shall claim the contractual penalty not later than at the time of the final payment.
  - 3.4. The Customer's delivery claim shall be excluded only if the Contractor pays full damages in lieu of delivery at the Customer's request. Acceptance of late delivery shall constitute no waiver of claims for damages or the contractual penalty.

**4. Delivery; Passing of risk; Default in acceptance; Packaging**

- 4.1. Unless otherwise agreed in a specific case, deliveries shall be „free domicile“ (DDP named place of destination according to the INCOTERMS 2010) to the place named in the purchase order. Unless a place of destination is named or otherwise agreed, delivery shall be effected to the Customer's registered office in Germany, Egerländer Str. 2, 64354 Reinheim. The relevant place of destination shall also be the place of performance (obligation to be fulfilled at the Customer's address).
- 4.2. With every shipment the Contractor shall enclose a delivery note which includes the purchase order number, item and article number, delivery note number, gross weight and net weight for every item.
- 4.3. The risk of accidental loss or accidental deterioration of the delivery item shall pass to the Customer upon delivery at the place of performance. If an acceptance procedure has been agreed, the risk shall pass according to the same.
- 4.4. For assessing whether default of acceptance has occurred the statutory provisions shall apply. However, the Contractor shall expressly offer its performance to the Customer even if a definite or definable calendar time has been agreed for an action or contribution of the Customer. If the Customer is in default of acceptance, the Contractor shall be entitled to claim reimbursement of its additional expenses in accordance with the statutory provisions.

**5. Cancellation fees; Forfeit money**

- 5.1. The Customer shall at any time be entitled to rescind the contract with no obligation to state reasons. The Customer's liability shall be limited to the damage that has actually occurred and shall not exceed 10% of the purchase price/fee.
- 6. Duty to provide information; Subcontractor(s)**
- 6.1. The Contractor shall give the Customer early written notice of any changes in production processes, changes in materials or supplied parts for Products or of changes in services, relocation of production sites, as well as of any changes in procedures or testing facilities for parts or other quality assurance measures. The Customer shall be entitled to check to the necessary extent whether the changes might detrimentally affect the Product. For that purpose the Contractor shall make available the required documents and enable audits to the necessary extent.
  - 6.2. The Customer shall be advised in writing of any subcontractors, freelancers, upstream suppliers or other third parties (jointly referred to as „Agents“) who are no members of the Contractor's staff in connection with performance owed to the Customer.

**7. Prices; Invoices; Terms of payment; Right to offset and withhold payment**

- 7.1. The price stated in the purchase order shall be binding. All prices are exclusive of statutory VAT even if VAT is not stated separately. This shall also apply to any ancillary services the Contractor may have to provide.
  - 7.2. Unless agreed otherwise in a specific case, the price shall include all services and ancillary services of the Contractor as well as all ancillary costs (e.g. proper packaging, customs duties, import taxes, transport costs, including transport and/or third-party liability insurance, if any).
  - 7.3. One original of any invoice shall be sent to the Customer and shall include the invoice number, purchase order number, quantity, price and other identifiers (including but not limited to the Customer's item numbers). Invoices shall be sent separately, i.e. not be enclosed with the shipment. In the case of shipments from territories outside the EU customs territory a copy of the invoice and/or a proforma invoice shall be enclosed with the shipment.
  - 7.4. Unless expressly agreed otherwise, the payment period shall be 90 days from receipt of the invoice. In the case of payment within 25 days of receipt of the invoice the Customer shall be entitled to deduct a cash discount of 3%. In the case of bank transfer payments shall be deemed timely made if the Customer's payment order is received by the Contractor's bank prior to expiry of the payment period; the Customer shall not be liable for delays caused by the banks involved in the payment transaction. Payments shall be made subject to review of the invoice.
  - 7.5. Late payment by the Customer shall be governed by the statutory provisions. A written reminder by the Contractor shall, however, be required in any case.
  - 7.6. The Customer shall have rights to offset or withhold payments and to plead non-performance of the contract to the extent provided for by law. In particular, the Customer shall be entitled to withhold payments due as long as the Customer still has claims vis-à-vis the Contractor in connection with incomplete or defective performance.
  - 7.7. The Contractor shall only have a right to offset or withhold payments on account of counterclaims that are undisputed or have been ascertained in a non-appealable/final manner.
- 8. Retention of title; Provisions**
- 8.1. Title to Goods shall be transferred unconditionally upon delivery to the Customer and irrespective of payment of the price. However, if in a specific case the Customer accepts an offer of the Contractor to transfer title that is conditional upon payment of the purchase price, the Contractor's right to retention of title shall cease not later than upon payment of the purchase price for the Goods delivered. Any prolongation or extension of a retention of title by the Contractor shall be excluded.
  - 8.2. Any processing, commingling or combining of items provided by the Customer by the Contractor shall be effected for the Customer. The parties agree that the Customer shall become a co-owner of the Products manufactured by means of

the items provided in proportion of the value of the provisions to the value of the whole Product, which Products shall be kept safe by the Contractor for the Customer until delivery.

9. **Secrecy; Documents; References**

- 9.1. All commercial and/or technical information made accessible by the Customer shall be kept secret vis-à-vis third parties and in the Contractor's business may only be made available to persons who need to be involved for the purpose of supply of the Customer and who are subject to an equal obligation to maintain secrecy unless such information is demonstrably in the public domain.
- 9.2. The Customer retains title to and copyright in any and all documents and resources provided by the Customer for execution of a purchase order, including but not limited to drawings, illustrations, drafts, designs, calculations, descriptions, plans, models, specimens, technical specifications, data storage media, other written materials, tools, parts and materials. Such documents and resources shall exclusively be used to render contractual performance and shall be returned to the Customer completely (including any copies and records that may have been made) after fulfilment of the contract. Products made according to documents or resources of the Customer shall neither be used by the Contractor itself nor offered or supplied to third parties.
- 9.3. Title to any technical records, documents, drawings, charts, schemes, graphics, photographs, layout templates and other documentation, whether stored on data storage media, in printed form or as material for print preparation or printing, as well as all specimens, tools, materials and other resources produced by the Contractor in connection with execution of the order shall pass to the Customer upon provision. In addition, the Customer shall be granted all ownership rights, rights of use and exploitation to all of the copyrightable works stated above. For assigning the above rights the Customer shall owe no separate consideration; such assignment shall be fully included in the prices stated in the purchase orders.
- 9.4. Without the Customer's prior express written consent the Contractor shall be prohibited from stating the Customer's name or the business relationship between the Contractor and the Customer as a reference in any form whatsoever.
- 9.5. If names and/or addresses of customers of the Customer become known to the Contractor in connection with the purchase order, the Contractor shall keep them secret and shall not use them for its own business purposes.
- 9.6. The order placed may neither in whole nor in part be passed on to subcontractors without the Customer's written consent. The above obligations shall be fully imposed on the subcontractor.
10. **Defective delivery**
- 10.1. The Customer's rights in the case of defects in the quality or the title of the Goods and in the case of other breaches of the Contractor's duties shall be governed by the statutory provisions unless stipulated otherwise hereinafter.
- 10.2. According to the statutory provisions the Contractor shall in particular warrant that the Goods possess the agreed quality at the time the risk passes to the Customer. The product specifications which are the subject matter of the relevant contract or have been integrated into the contract in the same way as the GTCP, in particular by description or reference in the Customer's purchase order, shall in any case be deemed stipulations of quality. In this context it is irrelevant whether the product specifications originate from the Customer or the Contractor.
- 10.3. The commercial duty to inspect the Goods and to notify defects shall be governed by the statutory provisions (Section 377 and Section 381 of the German Commercial Code [„HGB“]) subject to the following: the Customer's duty to inspect the Goods shall be limited to defects which are obvious in the course of the Customer's inspection of the exterior of the incoming Goods including the shipping documents (e.g. transport damage, wrong delivery or short delivery) or in the course of the Customer's quality check in the form of spot checks. If an acceptance procedure has been agreed, the Customer shall be under no obligation to inspect the Goods. For the rest, the decisive factor is the extent to which an inspection is reasonably possible in the ordinary course of business in view of the circumstances of the specific case. The duty to notify defects that are detected later shall remain unaffected. In all cases the Customer's notification (of defects) shall be deemed made immediately and timely if it is received by the Contractor within ten (10) calendar days.
- 10.4. If the Contractor fails to fulfil its obligation to render subsequent performance (at the Customer's option by remedying the defect (subsequent improvement) or by delivering goods that are free from defects (substitute delivery)) within a reasonable period fixed by the Customer, the Customer may remedy the defect itself and ask for reimbursement or an adequate advance payment for the necessary expenses to be incurred for the same. If subsequent performance by the Contractor has failed or is not acceptable to the Customer (e.g. due to special urgency, the risk of jeopardising operational safety or imminent occurrence of unreasonable damage) no granting of a grace period shall be required; the Customer shall immediately notify the Contractor of such circumstances, if possible beforehand.
- 10.5. If the Contractor fulfils its obligation to render subsequent performance by substitute delivery, the period of statutory limitation for the substitute goods shall start again upon delivery, unless in connection with the subsequent performance the Contractor expressly and correctly reserved its right to effect substitute delivery only as a gesture of good will, to avoid disputes or in the

interest of a continuation of the supply relationship.

- 10.6. For the rest, in the case of a defect in quality or in title the Customer shall be entitled to a reduction in the purchase price or to rescission of the contract in accordance with the statutory provisions. In addition, the Customer shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.
11. **Product liability; Duty to take out insurance**
- 11.1. In the case that the Customer is held liable under product liability the Contractor shall indemnify the Customer against such claims to the extent that the damage was caused by a fault in the Goods delivered by the Contractor. In cases of strict liability this shall, however, only apply if the Contractor is at fault. If the cause of damage lies within the Contractor's sphere of responsibility, it shall prove that it is not at fault.
- 11.2. Under its indemnification obligation the Contractor shall bear all costs and expenses arising out of or in connection with third-party claims, including recalls made by the Customer. Prior to a recall the Customer shall notify the Contractor, allow the Contractor sufficient opportunity to participate and exchange views on efficient implementation with the Contractor; this shall not be required where notification or participation of the Contractor is not possible due to particular urgency.
- 11.3. Additional statutory claims shall remain unaffected.
- 11.4. During the existence of the contractual relationship with the Customer the Contractor shall take out product liability insurance at its cost which shall be sufficient at all times. The Contractor shall provide the Customer with evidence of conclusion of a product liability insurance contract upon request.
12. **Statutory limitation**
- 12.1. Unless regulated otherwise, claims shall become statute-barred in accordance with the statutory provisions.
13. **Export control; Customs clearance**
- 13.1. The Contractor shall state the origin and the customs tariff number of every item delivered by it and update the same regularly. The Contractor shall be liable for the accuracy of such information.
- 13.2. The Customer shall in any case be notified in writing of any changes in descriptions of Goods, the production site, the Goods' origin or the customs tariff number in advance. As such changes normally indicate a change in the promised properties of items to be delivered, the delivery of such items shall be subject to the Customer's prior written approval. Approval may be denied with no obligation to state reasons. In the case of non-approval items of a changed origin or customs tariff number can no longer be delivered to the Customer.
- 13.3. The Contractor undertakes to observe and comply with the relevant national export control regulations (including sanctions lists, embargo lists, lists of dual-use items, etc.) at the place of dispatch and irrespective thereof shall observe and comply with those of the USA and notify the Customer thereof in writing. If applicable, the Contractor shall mark items accordingly and unequivocally including comprehensible ECCN (Export Control Classification Number) details in its offers, acknowledgements of orders and all shipping documents.
14. **Compliance**
- 14.1. The delivered Products shall be in conformity with generally accepted rules of technology (technical standards, regulations, processes, conditions, etc.) in terms of production, quality and usability. The Contractor shall implement quality assurance measures that are state of the art and appropriate in terms of type and scope to ensure the agreed quality and provide evidence thereof to the Customer upon request.
- 14.2. All Products, substances or products delivered by the Contractor shall be in compliance with Directive 2011/65/EU (RoHS), Regulation (EC) No. 1907/2006 (REACH) and Regulation (EC) No. 1272/2008 (CLP) as applicable from time to time for the restriction of the use of hazardous substances. In addition, all Products delivered shall be in compliance with the CE requirements as amended and applicable from time to time.
- 14.3. The Contractor shall observe the environmental policies accessible online at [www.grass.eu](http://www.grass.eu) in the company/environmental management section.
- 14.4. The Contractor shall comply with the internationally applicable minimum labour-law standards, including but not limited to all conventions of the International Labour Organisation („ILO“) with respect to employees' rights, working hours and occupational safety and health, as well as all statutory provisions and official regulations applicable from time to time.
- 14.5. The Contractor undertakes to comply with the relevant statutory regulations for the protection of the environment and shall neither actively or passively nor directly or indirectly take part in any form of bribery or corruption, violation of human rights or discrimination against its staff, forced labour or child labour.
15. **Choice of law; Place of jurisdiction**
- 15.1. These GTCP and all legal relations between the Customer and the Contractor shall be governed by the laws of the Federal Republic of Germany; uniform international law and, in particular, UN Sales Law shall be excluded. The requirements and effects of retention of title shall be governed by the laws of the place where the Goods are if according to the provisions of national law the choice of German law is inadmissible or ineffective.
- 15.2. The exclusive, including international, place of jurisdiction for all disputes arising out of or in connection with the contractual relationship shall be Stuttgart, Germany. However, the Customer shall also be entitled to take legal action at the place of performance of the delivery obligation.