

## Lonza Cologne AG – GENERAL TERMS AND CONDITIONS FOR PURCHASING

### § 1 General – Scope

- (1) Our Terms and Conditions of Purchase shall apply exclusively; contrary Supplier terms or terms deviating from our Terms and Conditions of Purchase are not recognized by us unless we have agreed in writing to their application. Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's goods without express reservation in the knowledge of the Supplier's contrary terms and conditions or terms and conditions deviating from our terms and conditions.
- (2) All agreements made between us and the Supplier for the purpose of performance of this Contract shall be set down in writing in this Contract. The written form applies also to cancellation of the written form requirement.
- (3) Our Terms and Conditions of Purchase apply only in respect of contractors as defined in § 310 BGB [German Civil Code].

### § 2 Tender – Tender Documentation – Conclusion of the Contract

- (1) In the absence of agreement to the contrary the Supplier undertakes to accept our order within a period of 2 weeks.
- (2) We reserve our title and intellectual property rights to illustrations, drawings, calculations and other supporting documentation; these may not be made accessible to third parties without our express written consent. They shall be used exclusively for manufacture on the basis of our order; following completion of the order they shall be returned to us automatically. They shall be treated in the strictest confidentiality vis-à-vis third parties, in which respect the provision of § 9 paragraph (4) applies.
- (3) In case a Quality Agreement is agreed it constitutes an integral and prevailing component of this Contract.

### § 3 Prices – Terms and Conditions of Payment

- (1) The price shown in the order is binding. In the absence of written agreement to the contrary the price shall include delivery "carriage paid", including packaging. Return of packaging requires special separate agreement.
- (2) The prevailing statutory rate of VAT shall be separately shown.
- (3) We can only process invoices if the latter – in accordance with the stipulations contained in our order – indicate the order number shown therein; the Supplier shall be responsible for all consequences ensuing therefrom unless he is able to demonstrate that he is not responsible for the said circumstance.
- (4) We shall pay, in the absence of written agreement to the contrary, the purchase price within 14 days counted from date of delivery and receipt of invoice, with 3% discount or within 30-days following receipt of invoice net.
- (5) We are entitled to right of offset and retention to the full extent of the law.

### § 4 Delivery Time

- (1) The delivery time shown in the order is binding.
- (2) The Supplier undertakes to immediately inform us in writing if circumstances occur or become known to him which entail that conditioned delivery time cannot be observed.
- (3) In the event of default in delivery we are entitled to statutory claims. In particular we are entitled, following expiry to no effect of an appropriate period of grace, to demand compensation for loss and withdrawal. Should we demand compensation the Supplier has the right to demonstrate to us that he bears no responsibility for the breach of obligation.

### § 5 Transfer of Risk – Documentation

- (1) Delivery shall be, in the absence of written agreement to the contrary, "carriage paid".

- (2) The Supplier undertakes to indicate our order number precisely on all shipment paperwork and delivery notes; should he fail to do so we shall not be responsible for any delays in processing.

### § 6 Defect Inspection – Liability for Defects

- (1) We undertake to inspect the goods within an appropriate period for any qualitative or quantitative deviations; complaint is deemed timely if it is received by the Supplier within a period of 5 working days counted from the point of receipt or in the case of concealed defects with effect from the point of discovery.
- (2) We are entitled to unabridged statutory right of defect claims; in any event we are entitled to demand defect rectification or supply of a new item at our discretion. Right to damage compensation, in particular to damage compensation in lieu of goods or services, remains expressly reserved.
- (3) We are entitled to undertake defect rectification ourselves at the cost of the Supplier in the event of danger ahead or particular need for urgency.
- (4) Statute of limitations is 36 months calculated from transfer of risk.

### § 7 Product Liability – Indemnification – Product Liability Insurance Protection

- (1) If the Supplier is responsible for product damage he undertakes to indemnify us from third party damage compensation claims upon first demand to the extent that the cause lies in his area of control and organisation and he himself is liable in relation to third parties. The Supplier shall make available to us upon first demand all supporting documentation requested which, for example, is associated with the cause of damage or the demonstrability thereof.
- (2) In the context of his liability for instances of damage as defined in Paragraph (1) the Supplier further undertakes to refund any expenses as defined in §§ 683 and 670 BGB or §§ 830, 840 and 426 BGB which result from or are in connection with any recall action implemented by us. Regarding the content and scope of recall actions implemented we shall – as far as is possible and reasonable – instruct the Supplier and accord him the opportunity to respond. Other statutory claims remain unaffected.
- (3) The Supplier undertakes to maintain product liability insurance protection cover for a sum of € 10 million – lump sum - per instance of personal injury or damage to property; should we be entitled to further damages claims these remain unaffected.

### § 8 Industrial Property Rights

- (1) The Supplier shall vouch for the fact that no third party rights within the Federal Republic of Germany are infringed in connection with his supply of goods and services.
- (2) Should we be claimed against by any third party in this regard the Supplier undertakes to indemnify us from the said claims upon first written request; we are not entitled to reach any agreements of any nature with the third party – in the absence of the Supplier's consent - and in particular not to conclude any settlement.
- (3) The Supplier's duty of indemnification relates to all expenses necessarily incurred by us which arise from or are in connection with claims by any third party.
- (4) Statute of limitations is ten years calculated from conclusion of the Contract.

### § 9 Reservation of Title – Provision of Components – Tooling – Confidentiality

- (1) Should we provide the Supplier with components we hereby reserve title thereto. Processing or alteration by the Supplier is undertaken on our behalf. Should our reserved title goods be processed together with other items not belonging to us we shall acquire joint title to the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the point of processing.
- (2) Should our reserved title goods be inseparable amalgamated with other items not belonging to us we shall acquire joint title

to the new item in the ratio of the value of our reserved title item (purchase price plus VAT) to the other amalgamated items at the point of amalgamation. Should amalgamation be performed in such a manner that the Supplier's item is regarded as the main item, it shall be deemed agreed that the Supplier shall transfer to us pro rata joint title; the Supplier shall hold in safekeeping sole title or joint title on our behalf.

- (3) We reserve title to tools; the Supplier undertakes to use the said tools solely for manufacture of goods ordered by us. The Supplier undertakes to insure tools belonging to us at new for old value at his own cost against damage or loss by fire, water and theft. Simultaneously the Supplier assigns to us at this juncture all damage claims arising from the said insurance policy; we hereby accept the said assignment. The Supplier undertakes to carry out in a timely manner and at his own cost any necessary servicing and inspection work on our tools including all maintenance and repair work. He shall notify any breakdowns to us immediately; should he culpably fail to do so claims for damages shall remain unaffected.
- (4) The Supplier undertakes to maintain the strictest confidentiality regarding all illustrations, drawings, calculations and other supporting documentation and information received by him. The latter may only be disclosed to third parties with our express permission. The above confidentiality obligation shall continue to apply even subsequent to completion of this Contract; it shall expire when and if production knowledge contained in the illustrations, drawings, calculations and other supporting documentation provided to him is in the public domain.
- (5) If the security rights to which we are entitled pursuant to Paragraph (1) and/or Paragraph (2) exceed the purchase price of all our as yet unpaid reserved goods by more than 10% we undertake on request of the Supplier to release the security rights at our discretion.

#### **§10 Legal Venue – Place of Performance - Miscellaneous**

- (1) Köln (our registered place of business) shall be the legal venue.
- (2) If nothing to the contrary ensues from the order, our registered seat shall be our place of performance.
- (3) The law of the Federal Republic of Germany shall apply; the UN Convention on the International Sale of Goods (CISG) is excluded.
- (4) The content of Contracts separately agreed (individual agreements) take precedence to these General Terms and Conditions of Business provided these have written expression. All agreements, ancillary agreements etc, between the parties must be in writing, this applying also to cancellation of the written form. Should any provision be or become invalid either wholly or in part this shall not affect the validity of the remaining provisions. The parties undertake to replace the invalid provision by such legally valid provision which nearest approaches the commercial purpose of the invalid provision replaced. The invalidity of individual provisions does not affect the binding nature of these General Terms and Conditions of Business in other respects.

LONZA 09/2008