



## TERMS AND CONDITIONS OF PURCHASE OF THE PACO GROUP

### § 1 Scope of validity, form

(1) These Terms and Conditions of Purchase (TCP) apply to all commercial relationships with the business partners and suppliers ('Supplier') of the PACO Group, i.e. Paul GmbH & Co. KG, Paul & Co. Herolz GmbH and HETA Verfahrenstechnik GmbH ('PACO'). The TCP shall only apply if the Supplier is a contractor (§ 14 BGB - German Civil Code), a legal entity under public law or a special fund under public law.

(2) The TCP apply in particular to contracts for the sale and/or supply of movable items ('Goods'), regardless of whether the Supplier manufactures the Goods himself or purchases such from third-party suppliers (§§ 433, 650 German Civil Code). Unless otherwise agreed, the TCP shall apply in the valid version at the time of receipt of the order from PACO or, in any case, in the version last communicated to the Supplier in text form as a framework agreement and also for similar future contracts, without requiring PACO to make further reference to the TCP in each individual case.

(3) These TCP apply exclusively. Any deviating, conflicting or supplementary General Terms and Conditions of the Supplier shall only form part of the contract insofar as PACO has expressly agreed to the validity of such in writing. In any event, this authorization requirement shall apply, for example, even if PACO unconditionally accepts deliveries from the Supplier in full knowledge of the Supplier's General Terms and Conditions.

(4) Individual agreements with the Supplier (including ancillary agreements, additions and amendments) in specific cases shall, in any case, take priority over these TCP. A written contract or PACO's written confirmation shall be decisive for the content of such agreements, subject to evidence to the contrary.

(5) Legally relevant declarations and notifications by the Supplier relating to the contract (e.g. setting of deadlines, reminders, cancellation) shall be issued in writing, i.e. in written or text form (e.g. letter, email, fax). Statutory provisions and further evidence, in particular should doubts arise over the legitimacy of the individual making the declaration, shall remain unaffected.

(6) References to the validity of statutory provisions are for clarification purposes only. The statutory provisions shall therefore apply even in the absence of such clarification, unless such are directly modified or expressly excluded in these TCP.

### § 2 Contract conclusion

(1) PACO's order shall be binding no earlier than upon the written submission or confirmation of such. The Supplier shall notify PACO of obvious errors (e.g. spelling and calculation errors) in the order and the incompleteness of such, including the order documentation, for the purposes of correction or completion prior to acceptance; otherwise the contract is not considered concluded.

(2) The Supplier shall confirm PACO's order in writing within a period of 1 week following receipt or, in particular, upon shipment of the Goods without reservation (acceptance).

Late acceptance shall be deemed to be a new offer, and shall require acceptance by PACO.

(3) PACO may, within reason, request changes to the Supplier status with regard to construction and design. The Supplier and PACO will come to a mutual agreement regarding the effects of potential additional and reduced costs, technical properties and delivery dates.

### **§ 3 Delivery dates and late delivery**

(1) The delivery date specified by PACO in the order is binding. The Supplier shall immediately notify PACO in writing if, for whatever reason, the Supplier is unlikely to be able to meet the agreed delivery times. Timely delivery is deemed to be when the Goods arrive at PACO's premises (see § 5 para 2).

(2) Should the Supplier fail to provide the respective services or fail to do so within the agreed delivery time or is in default, PACO's rights, in particular the right to withdraw and the right to compensation, shall be determined in accordance with the statutory provisions. The stipulations in paragraph 3 shall remain unaffected.

(3) PACO reserves the right to prove the existence of a greater extent of damage, and the Supplier reserves the right to prove that no damage, or only significantly less damage, occurred.

### **§ 4 Quality and documentation**

(1) The contractual products must fulfil all the agreed quality requirements stipulated by PACO or its customers (0-error target) and product- or service-specific requirements. Compliance must be ensured with all the statutory and regulatory provisions.

(2) The inspection and documentation of the contractual products for freedom from defects shall be carried out by the Supplier prior to the shipment of the Goods.

(3) The Supplier shall implement and maintain a certified quality management system in accordance with ISO 9001.

### **§ 5 Service, delivery, transfer of risk, default in acceptance, quantity deviations**

(1) The Supplier may not commission third parties (e.g. subcontractors) to perform the service(s) purchased from the Supplier without the prior written authorization of PACO. The Supplier shall bear the risk of procurement for his services unless otherwise agreed in individual cases (e.g. limited stock).

(2) Delivery, unless otherwise agreed, is DDP (Incoterms 2020) to the location indicated in the order. If the destination is not specified and, unless otherwise agreed, delivery shall be DDP (Incoterms 2020) to PACO's registered office in Steinau an der Straße. The respective destination is also the place of performance for the delivery and any supplementary performance (debt to be discharged at the creditor's domicile).

(3) The delivery must be accompanied by a delivery note stating the date (issue and shipment), content of the delivery (article number, article description and quantity) and PACO's order number. Should the delivery note be absent or incomplete, PACO shall assume no liability for delays incurred in the processing and payment of the order. A respective dispatch note stating the same information must be sent to PACO separately from the delivery note.

(4) The risk of accidental loss and accidental deterioration of the Goods shall be transferred to PACO upon delivery at the place of performance. If acceptance has been agreed, this shall be decisive for the transfer of risk. In addition, the statutory provisions of the German law on contracts for work and services shall apply to acceptance accordingly. Default in acceptance by PACO shall be equivalent to delivery or acceptance.

(5) The statutory provisions shall apply to the implementation of PACO's default in acceptance. The Supplier shall also expressly offer its services to PACO if a specific or determinable calendar date has been agreed for an action or cooperation on the part of PACO (e.g. provision of material). Should PACO be in default in acceptance, the Supplier may demand reimbursement of additional expenses incurred under the statutory provisions (§ 304 German Civil Code). Should the contract relate to a unique item to be manufactured by the Supplier (one-off production), the Supplier may only exert additional rights if PACO undertakes to cooperate and is responsible for the failure to cooperate.

(6) Excess deliveries, short shipments and partial shipments are only permitted with the prior authorization of PACO.

## **§ 6 Prices and payment terms**

(1) The price indicated in the order is binding. All prices include the statutory sales tax, unless such is shown separately.

(2) Unless otherwise agreed in individual cases, the price includes all the Supplier's services and ancillary services (e.g. assembly, installation) and all ancillary costs (e.g. appropriate packaging, transport costs and transport and liability insurance).

(3) Unless otherwise agreed, the price agreed shall be payable within 45 calendar days from the date of full delivery and performance (including any acceptance of performance where applicable) and receipt of a correct invoice. Should PACO make the payment within 15 calendar days, the Supplier shall grant PACO a 3% discount on the net amount of the invoice. For bank credit transfers, payment is considered as made in a timely manner if PACO's bank receives the transfer instruction from PACO prior to the payment deadline; PACO shall not be liable for delays caused by the banks participating in the payment process.

(4) PACO shall not be liable for interest payable after the due date.

(5) PACO may exercise set-off and retention rights and reserves the right to suspend performance of the non-fulfilled contract to the extent permitted by law. In particular, PACO may withhold any payments due insofar as PACO remains entitled to assert claims against the Supplier arising from incomplete or defective services.

(6) The Supplier may only exercise set-off and retention rights should such arise from legally established or undisputed counterclaims.

(7) The Supplier may neither assign claims against PACO that are entitled to him nor instruct such claims to be collected by third parties.

## **§ 7 Confidentiality and reservation of title**

(1) PACO reserves the right of ownership and copyrights to diagrams, plans, drawings, calculations, instructions, product descriptions and all other documents. Such documentation shall be used exclusively for the performance of the contractual service and shall be returned

to PACO upon the completion of the contract. The documents may not be disclosed to third parties, even after the termination of the contract. The obligation to maintain confidentiality shall only expire if, and to the extent that, the information contained in the documents supplied becomes generally known.

(2) The above provision applies accordingly to content and materials (e.g. software, finished and semi-finished products) and to tools, templates, samples and other items PACO makes available to the Supplier to enable manufacture. Insofar as they are not processed, such items must be stored separately at the Supplier's expense and insured against destruction and loss to the appropriate extent.

(3) The Supplier may only advertise the business relationship with PACO, name PACO as a reference or disclose the existence of the business relationship to third parties with the prior written authorization of PACO.

(4) Any processing, mixing or combining (further processing) by the Supplier of the items provided will be carried out for PACO. The same applies to the further processing by PACO of the Goods supplied, such that PACO shall be considered the manufacturer and shall acquire ownership of the product no later than the time of such further processing in accordance with the legal regulations.

(5) The transfer of ownership of the Goods to PACO must take place regardless of payment of the cost of such. However, should PACO accept a conditional offer from the Supplier in individual cases for transfer which is incorporated into the purchase price, the Supplier's reservation of title shall expire no later than the payment of the purchase price of the delivered Goods. In accordance with standard business practices, PACO shall be authorized to resell the Goods prior to the payment of the purchase price in accordance with the advance assignment of the claim arising from such transaction (alternatively, the application of the simple reservation of title extended to the resale). This excludes any other forms of retention of title, notably the expanded and transferred reservation of title and reservation of title extended to the further processing.

## **§ 8 Defective delivery**

(1) The statutory provisions apply to PACO's rights in the event of material and legal defects in the Goods (including incorrect and short delivery, incorrect assembly, defective assembly, operating instructions or user manuals) and for additional breaches of duty by the Supplier, unless otherwise specified below.

(2) Under the statutory provisions, the Supplier shall, in particular, ensure that the Goods comply with the agreed condition and quality upon the transfer of risk to PACO. In any event, the product descriptions that are the subject of the respective contract, notably as designated or referenced in PACO's order or which form part of the contract in a similar manner to these TCP, shall be considered an agreement regarding condition and quality, regardless of whether the product description originated from PACO, the Supplier or the manufacturer.

(3) Contrary to § 442 para 1 p. 2 German Civil Code, PACO is entitled to assert claims for defects without restriction even if PACO was unaware of the defect due to gross negligence when the contract was concluded.

(4) The statutory provisions apply to the commercial obligation to inspect and notify defects (§§ 377, 381 HGB) with the following stipulation: PACO's obligation to inspect shall be limited to defects that are obvious and revealed during PACO's incoming goods inspection during an external examination, including the delivery documents (e.g. transport damage, incorrect and short delivery), or during PACO's quality control process using random sampling. No obligation to inspect shall arise if acceptance has been agreed. Furthermore, it also depends on

the extent to which an inspection is feasible under standard business practices, given the circumstances of the individual case. PACO's obligation to give notice of defects discovered at a later date remains unaffected. Without prejudice to PACO's obligation to inspect, PACO's complaint (notification of defects) shall be deemed prompt and timely if sent within 10 working days from the discovery of such or, in the event of obvious defects, from the time of delivery.

(5) Supplementary performance also includes the rectification of the defective Goods and re-installation, provided the Goods have been installed in or mounted on another object in accordance with their type and intended use; PACO's statutory claim to reimbursement of expenses shall remain unaffected. The Supplier shall also bear any costs arising from inspection and supplementary performance if it transpires that no defect did in fact exist. PACO's liability for damages in the event of an unjustified request for rectification of defects shall remain unaffected; in this respect however, PACO shall only be liable if PACO had recognized that no defect in fact existed or had failed to identify such fact owing to gross negligence.

(6) Without prejudice to PACO's statutory rights and the stipulations in para 5, the following applies: should the Supplier fail to meet his obligation to remedy the defect, either by eliminating the defect (rectification) or through the supply of a defect-free item (replacement delivery), at PACO's discretion and within a reasonable period of time set by PACO, PACO reserves the right to eliminate the defect itself and to request reimbursement of the expenses arising or to request the corresponding advance from the Supplier. Should the Supplier fail in his obligation to provide supplementary performance or if such is unreasonable for PACO (e.g. due to a particular urgency, risk to operational security or impending disproportionate damage), no deadline shall be required, and PACO shall immediately notify the Supplier of such circumstances and, if possible, in advance.

(7) Furthermore, PACO is entitled to a reduction in the purchase price or to withdraw from the contract in the event of a quality defect or defect of title in accordance with the statutory provisions. PACO may also claim compensation for damages and expenses under the statutory provisions.

(8) Should the Supplier cease to make payments, if insolvency proceedings are initiated on its assets or in the event of an out-of-court settlement process, PACO may withdraw from the unfulfilled portion of the contract.

## **§ 9 Supplier regress**

(1) In addition to claims for defects, PACO has unlimited statutory recourse claims within a supply chain (supplier regress pursuant to §§ 445a, 445b, 478 German Civil Code). In particular, PACO may request the precise nature of the supplementary performance (rectification or replacement delivery) from the Supplier that PACO would be obliged to provide its customers in individual cases. This shall not restrict PACO's statutory right to choose (§ 439 para 1 German Civil Code).

(2) Before PACO acknowledges or fulfills a warranty claim asserted by its customers (including reimbursement of expenses pursuant to §§ 445a para 1, 439 para 2 and 3 German Civil Code), PACO will notify the Supplier, and request a written statement with a brief description of the facts. Should a substantiated statement fail to be issued within a reasonable period of time and no amicable solution can be found, the warranty claim actually granted by PACO shall be considered as due to PACO's customers. The Supplier shall then be liable to submit evidence to the contrary.

(3) PACO's claims arising from Supplier regress shall also apply if the defective Goods were further processed by PACO or another contractor, e.g. through their incorporation into another product.

## **§ 10 Manufacturer's liability**

(1) If the Supplier is liable for product damage, he shall indemnify PACO against claims from third parties insofar as the cause of such damage lies within the Supplier's area of control, responsibility and organization, and the Supplier is liable in the external relationship.

(2) As part of his obligation to indemnify, the Supplier shall reimburse any expenses arising from or in connection with a claim against third parties in accordance with §§ 683, 670 German Civil Code, including any product recall measures undertaken by PACO. As far as possible and reasonable, PACO will inform the Supplier regarding the content and scope of the recall measures and allow the Supplier the opportunity to comment. Further legal claims remain unaffected.

(3) The Supplier shall conclude and maintain product liability insurance and ensure an appropriate level of coverage.

## **§ 11 Limitation period**

(1) Unless otherwise agreed, any reciprocal claims of the contracting parties shall become time-barred in accordance with the statutory provisions.

(2) Contrary to § 438 para 1 no. 3 German Civil Code, the general limitation period for defects is 3 years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance. The 3-year limitation period shall apply accordingly to claims for defect of title, whereby the statutory limitation period for third-party claims in rem (§ 438 para 1 no. 1 German Civil Code) remains unaffected; moreover, claims arising from defects of title shall not become time-barred as long as the third party may still assert the right against PACO, particularly in the absence of a limitation period.

(3) The limitation periods under sales law, including the above extension, shall apply to the extent of the statutory provisions to all contractual claims for defects. Insofar as PACO is also entitled to non-contractual claims for damages due to a defect, the standard statutory limitation period shall apply (§§ 195, 199 German Civil Code), unless a longer limitation period is applied in accordance with the limitation period of sales law in individual cases.

## **§ 12 Code of Conduct, export and export control regulations**

(1) The Supplier shall always act in accordance with the law. The supplier code of conduct, available under (<https://www.paco-filter.de/en/paco-group/our-download-service>), is binding and mandatory for all PACO Suppliers.

(2) The Supplier shall observe all the relevant legal provisions of the Federal Republic of Germany and those of other countries prior to any export activities and, in particular, shall obtain an export license required by the applicable foreign trade legislation of the Federal Republic of Germany, the EU and/or the United States of America. The Supplier shall be liable for compliance with such export control regulations both for himself and his subcontractors, and releases PACO from any liability in this respect.

## **§ 13 Choice of law and place of jurisdiction**

(1) The laws of the Federal Republic of Germany apply to these TCP and the contractual relationship between PACO and the Supplier to the exclusion of international uniform law, in particular the United Nations Convention on Contracts for the International Sale of Goods.

(2) If the Supplier is a contractor within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive and international place of jurisdiction for all disputes arising from the contractual relationship is PACO's registered office in Steinau an der Straße. The same applies if the Supplier is a contractor within the meaning of § 14 German Civil Code. However, in all cases PACO may file a suit at the place of the performance of the delivery obligation in accordance with these TCP or an overriding individual agreement, or at the Supplier's general place of jurisdiction. Priority statutory regulations, in particular regarding exclusive jurisdiction, shall remain unaffected.

In the event of discrepancies between the English and German version, the German version prevails.