

Our order is subject to the exclusive application of our General Terms and Conditions of Purchase and Order accessible on the following website: <http://www.dewertokin.de/terms-and-conditions.php>

## General Terms and Conditions of Purchase and Order

### I. Scope of Application, General

1. These General Terms and Conditions of Purchase and Order (hereinafter referred to as “**GTC**“) shall apply exclusively between DewertOkin GmbH with registered seat in D-32278 Kirchlingern, Weststraße 1, company registration number HR B 7338 (hereinafter referred to as the “**Purchaser**“) and the respective enterprises (hereinafter referred to as the “**Seller**“). Differing or contrary terms shall not apply except if expressly agreed upon in writing.
2. These GTC shall also govern all future transactions between the Purchaser and the Seller and shall apply as well if the Purchaser accepts delivery despite its knowledge of differing or contrary terms.
3. These GTC shall only apply vis-à-vis entrepreneurs pursuant to sec. 14 BGB (German Civil Code), governmental entities, or special governmental estates within the meaning of sec. 310 para. 1 BGB.
4. Individual agreements reached with the Seller in individual cases (including side agreements, supplementary agreements and amendments) take precedence over these GTC. A written contract or a written confirmation by the Purchaser is decisive for the content of such agreements.
5. Legally relevant declarations and notifications, which are to be submitted towards the Purchaser by the Seller after conclusion of this contract (e. g. setting of deadlines, warning notices, declarations on rescission), require written form in order to be valid. This written form requirement shall also be deemed complied with if the relevant declarations and notifications are sent by email or fax.
6. References to the validity of statutory regulations shall only have clarifying significance. Therefore, the statutory regulations shall also apply without such a clarification insofar as they are not directly changed or explicitly excluded in these GTC.
7. In individual cases, where agreed explicitly by the parties, the Seller has manufactured the contractual goods to be supplied to the Purchaser according to certain specifications with regard to the manufacturing process and the materials used (hereinafter referred to as the “**Specifications**“) that the Purchaser has provided for such purchase. In these cases, the respective Purchase Order will either state the Specifications or refer explicitly to the relevant documents comprising them.

### II. Confirmation and Acceptance, Compliance

1. A purchase order placed by the Purchaser shall only be considered accepted and a contract concluded between the parties if the Seller has confirmed acceptance of the purchase order within a reasonable time not exceeding two weeks of receipt. The Purchaser may cancel the purchase order if the Seller has not confirmed its acceptance in due time.
2. With acceptance of the order, the Seller warrants that the contractual goods shall comply with the applicable EU regulations as well as the statutory provisions, including without limitation to, RoHS II Directive (2011/65/EU) and EU REACH Regulations (No. 1907/2006), and the contractual goods shall contain no materials injurious to the safety and human health, which, in particular, are listed by ECHA as “substance of very high concern” (echa.europa.eu), unless they are approved and marked accordingly. In addition, the Seller warrants that it shall comply with all the applicable laws, regulations, guidelines and requirements in connection with the

supply of the contractual goods to the Purchaser.

3. The purchase order may be modified or cancelled by the Purchaser at any time prior to its receipt of the written acceptance by the Seller.
4. If the Seller's confirmation varies from the purchase order, the Purchaser shall be bound thereby only if it agrees to such variation in writing and neither the acceptance of delivery of the contractual goods nor payments made shall constitute approval or agreement of any such variation.
5. The passing on of purchase orders to third parties or the involvement of subcontractors shall only be permissible with the Purchaser's prior written consent.

### **III. Adherence to Specifications**

1. The Seller agrees to adhere at all times to the Specifications and shall not change any parts of it without the Purchaser's prior written approval. The Purchaser reserves the right to change the Specifications at any time if this shall be required through applicable laws.
2. The Purchaser further reserves the right to extend the Specifications to storage and transport requirements. The Purchaser shall immediately notify the Seller of any such variation.

### **IV. Prices, Payment**

1. The prices are fixed net prices and include delivery to the Purchaser's facilities and all other charges, including, without limitation, costs of transport, insurance and packing, except as otherwise expressly agreed in writing.
2. The Seller is obliged to provide to the Purchaser a proper invoice in compliance with all applicable tax provisions. Invoices shall be executed in two copies. They shall at least indicate the purchase order number, the article name, the unit of measurement, the quantity, the unit price as well as the total purchase price.
3. Unless otherwise expressly agreed in writing, the purchase price is due and payable within 20 days from receipt of the satisfactory delivery as well as the proper invoice with a 3 % discount or within 60 days without any deductions.
4. The assignment of the Seller's payment claims and their collection through third parties requires the prior written consent of the Purchaser which may not be unreasonably withheld.

### **V. Offset, Retainer**

1. The Purchaser reserves all rights to offset or retain payment provided by applicable law.
2. The Seller shall be entitled to offset only insofar as the Seller's counterclaim is acknowledged, undisputed or assessed in a legally binding judgement. The Seller is entitled to claim retainer rights only to the extent such rights are based on the same transaction.

### **VI. Delivery Terms**

1. All delivery dates stated in the purchase order or otherwise agreed upon in writing are binding.

2. Unless expressly otherwise agreed in writing, deliveries shall be made to the Purchaser's site in D-32278 Kirchlengern, Weststraße 1, or the agreed destination in accordance with Incoterms 2010 or its latest version as from time to time modified, supplemented or revised. The receipt of the contractual goods at the Purchaser's site or the agreed destination shall be relevant with regard to the compliance with delivery dates and times.
3. All deliveries must be accompanied by a delivery note, indicating at least the date (issue and dispatch), the purchase order number and the order date, the article name, the unit of measurement, the quantity, the unit price as well as the total purchase price. If a delivery note is lacking, or if the delivery note contains incomplete or incorrect information, the Purchaser shall not be responsible for the resulting delays in invoice processing and payment.
4. The Seller shall immediately inform the Purchaser of any threatening or existing delay in delivery, the reasons for such delay and the anticipated duration of such delay. The foregoing shall not affect the occurrence of a default in delivery.
5. In case of default in delivery the Purchaser shall reserve all rights under applicable law.
6. If the Seller is in default with a delivery, the Purchaser shall reserve the right – in addition to further statutory entitlements – to demand liquidated damages in the amount of 1 % of the net price per completed calendar week, however, not more than 5 % of the net price of the delayed contractual goods. This shall not affect the Purchaser's right to provide evidence of a higher amount of damages. The Seller shall retain the right to prove that the Purchaser did not suffer any damage whatsoever or only significantly less damage.
7. Part deliveries and premature deliveries shall require the Purchaser's prior written consent.

## **VII. Transfer of Risk**

The risk of accidental loss or accidental deterioration of the contractual goods passes to the Purchaser upon delivery at the agreed place of delivery.

## **VIII. Indemnification, Insurance**

1. The Seller shall, upon first demand, indemnify and hold harmless the Purchaser from and against any and all liability or claims of third parties based on the manufacture, delivery, storage, or use of the delivered contractual goods. The abovementioned indemnification shall not apply if the claim is based on the Purchaser's intentional or grossly negligent breach of duties.
2. The Seller shall maintain comprehensive liability insurance with a reputable insurance company which shall include product liability coverage, in the minimum coverage of EUR 5,000,000.00 (in words: five million euro) per occurrence for damage and/or injury to property as well as for damage, injury and/or death to persons. The coverage for all events of damage, injury and/or death shall at least amount to EUR 10,000,000.00 (in words: ten million euro) in any single insurance year. Such insurance shall cover all affiliates of the Seller to the extent that these are engaged in any of the services falling under this contract. Further damages shall remain unaffected.
3. The Seller shall, on an annual basis, provide the Purchaser with certificates of insurance evidencing such coverage. Each certificate shall indicate the coverage represented thereby.

## **IX. Liability, Warranty, Adherence to U.S. Regulations**

1. The Purchaser shall reserve all rights and remedies for non-conformity provided by applicable

law. The Purchaser shall especially be entitled, upon its discretion, to claim remedy of defects, redelivery of conforming goods and damages.

2. In case of imminent danger the Purchaser shall be entitled, after giving notice to the Seller, to remedy the defects at the Seller's cost.
3. Warranty claims shall be time-barred after 36 months of the transfer of risk.
4. The Seller is also obliged to observe the provisions of Section 1502 b Dodd Frank Wall Street Reform and Consumer Protection Act (hereinafter referred to as "**Dodd-Frank Act**"). The Seller shall not apply the conflict raw materials in the contractual goods, which are defined in Section 1502 (1) and (4) of Dodd Frank Act. The Seller shall be obliged to take and implement the appropriate measures to refrain from acquisition and use of the conflict raw materials. If the Seller uses the conflict raw materials in the contractual goods, it shall prove to the Purchaser on a yearly basis that it is not in violation of the prohibition on use of the conflict raw materials.

#### **X. Warranty of Title**

1. The Seller warrants that the contractual goods are free from rights of third parties and that delivery of the contractual goods does not violate any rights of third parties. The Seller shall indemnify the Purchaser, upon first demand, from any claims of third parties in this regard.
2. Claims based on defect in title shall be time-barred pursuant to Section IX.3. of these GTC.

#### **XI. Retention of Title**

The Purchaser expressly objects to any retentions of title with regard to the contractual goods. Any retention of title by the Seller requires the express written agreement by the Purchaser in order to be valid.

#### **XII. Confidentiality**

1. The parties will maintain strict confidentiality for all non-evident operational, financial and technical information disclosed or otherwise obtained due to the legal relationship and will treat such information as business and trade secrets.
2. The Seller shall impose corresponding confidentiality obligations on third parties who need to obtain knowledge or access to such business and trade secrets.
3. Production tools, drawings, outlines, construction data and similar objects, which are provided by the Purchaser, may not be provided or otherwise made accessible to unauthorised third parties, except if expressly agreed upon by the Purchaser in writing; in addition, any third party shall be bound to confidentiality obligations corresponding to those outlined in Section XII. of these GTC. Copying such objects shall only be permitted within the scope of operational requirements and the applicable laws after the prior written consent of the Purchaser.

#### **XIII. Rescission and Termination**

1. In addition to the statutory rights of rescission and/or termination under the applicable law, the Purchaser is also entitled to terminate this contract for good cause, if
  - a. the Purchaser has ceased the supply to its customers;

- b. there is or threatens to be a fundamental deterioration to the financial circumstances and/or the production and business situation of the Seller, which severely endangers the Seller's ability to fulfil its obligations under this contract;
  - c. the Seller enters into bankruptcy, liquidation, dissolution, comparable debt settlement or the similar procedures according to the applicable laws;
  - d. any force majeure event pursuant to Section XVI. of these GTC lasting for more than 30 days causes the failure to continue performing this contract;
  - e. the Seller is in violation of its obligations of supply to the Purchaser, failing to rectify it upon receipt of the written notice of default from the Purchaser.
2. Any additional statutory rights and claims shall not be limited and excluded by the regulations in Section XIII. of these GTC.

#### **XIV. Import/Export Requirements**

1. The Seller shall comply with all applicable import and export control, customs, foreign trade regulations and other requirements, and shall furnish to the Purchaser, upon request, information or documentation of the Seller's compliance. The Seller shall be liable for any expenses and/or damage incurred by the Purchaser due to any breach of the abovementioned obligations, unless the Seller is not responsible for such breach.
2. The Seller shall also provide the Purchaser with the documents and data of the contractual goods, including but without limitation to country of origin, export or import license (if any).

#### **XV. Intellectual Property**

1. The Seller warrants that the contractual goods do not violate or infringe any patents, copyright, trademarks, trade secrets, service marks, registered designs, design rights or other intangible property rights or alike of third parties (hereinafter referred to as "**Intellectual Property Rights**").
2. The Seller shall fully indemnify the Purchaser from and against any claims, liabilities, actions, demands, damages, loss, costs and expenses (including, without limitation, legal costs on an indemnity basis) in respect of any alleged or actual infringement by any of the contractual goods of any Intellectual Property Right including but not limited to patents, copyright, trademarks, service marks, registered designs, design rights or other third party rights. The Seller shall at its own costs and expenses defend or settle all such claims or actions or proceedings brought or threatened to be brought against the Purchaser.
3. Without prejudice to any of the foregoing, if any of the contractual goods is held or claimed to be infringing third party Intellectual Property Rights, the Seller shall at its own costs and expenses use its best efforts to procure the right for the Purchaser to continue using or receiving the infringing contractual goods. If the Seller is unable to do so, then the Seller undertakes at its own costs and expenses to:
  - a. replace or modify the infringing contractual item so that they are no longer infringing; or
  - b. if the Seller is unable to replace or modify the infringing contractual item, refund in full all payments made by the Purchaser for the infringing contractual goods and reimburse the Purchaser upon demand for all additional loss, costs and expenses incurred by the Purchaser in purchasing any substitute product.
4. The Purchaser shall own all Intellectual Property Rights arising from modifications and customizations of the contractual goods, made by Seller for the Purchaser, or by the Purchaser itself.

The Purchaser reserves all its rights in drawings and in goods produced according to its instructions as well as in any processes developed by it.

#### **XVI. Force Majeure**

1. A party will not be liable to the other for any delay in delivery or failure to perform its obligations as a result of any cause beyond its reasonable control, including acts of terrorism, acts of war or threat thereof, fire, flood, explosion, power failure resulting from fires, explosions and other acts of God, infectious diseases, epidemics or government action. If any such delay is caused by the delay of a subcontractor of the Seller, and is beyond the control and without the fault or negligence of both the Seller and such permitted subcontractor, the Seller shall incur no liability for such delay unless the contractual goods to be furnished by such permitted subcontractor were obtainable from other sources in sufficient time to meet the required delivery hereunder. The Seller shall notify the Purchaser immediately upon learning of any event which may result in any delay.
2. If such delay or failure continues for at least 30 days, both the Purchaser and the Seller shall be entitled to forthwith terminate this contract by written notice in which event no party shall have any claim against the other in respect of such force majeure.

#### **XVII. Final Provisions**

1. If one provision of this contract should in whole or in part not be legally effective or enforceable, or later lose their legal effectiveness or enforceability, the validity of the remaining provisions of this contract shall not be affected.
2. This contract shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods. The Incoterms 2010 or its latest version as from time to time modified, supplemented or revised shall govern the interpretation of delivery clauses.
3. This contract is the entire agreement between the parties and shall supersede any previous communications, representations or agreements, whether verbal or written, with respect to the subject matter hereof and may not be changed unless explicitly agreed in writing by both parties.
4. The place of performance shall be the Purchaser's designated site in D-32278 Kirchlengern, Weststraße 1, or the agreed destination.
5. The Seller shall, in connection with the supply and delivery of the contractual goods to the Purchaser, comply with all applicable laws, rules, regulations, guidelines and requirements and with all other orders, decrees, policies and directives issued by applicable governmental authorities.