

**1. Terms and Conditions**

1.1 We conclude contracts with entrepreneurs (§§ 310 para. 1, 14 BGB), legal persons under public law and special funds under public law via deliveries and services sourced by us, only to these General Terms and Conditions of Purchase (GTCP). These GTCP apply in particular to contracts for the purchase and / or delivery of movable goods ("goods"), irrespective of whether the seller manufactures the goods himself or buys them from suppliers (§§ 433, 650 BGB).

1.2 Our GTCP also apply to all future contracts in the ongoing business relationship with our Supplier. The Supplier can retrieve and download our purchasing terms and conditions at any time on the Internet at [www.perforator.de](http://www.perforator.de) We can also send it free of charge at any time. For foreign Suppliers, we send the GTCP at the latest with each order and each order confirmation in the contract language.

1.3 Any terms and conditions of business or sale of the Supplier are hereby contradicted. Any conflicting, deviating, supplementary or unilateral terms and conditions of business or purchase of the Supplier to our general terms and conditions, even if they are included in an offer or an order confirmation of the Supplier, do not apply. This also applies if we do not expressly object to them or accept deliveries or services without reservation; unless we have expressly agreed to such conditions in writing in individual cases.

**2. Conclusion of contract**

2.1 If the delivery or service is preceded by our order, the contract shall be concluded by the order confirmation of the Supplier. If the Supplier submits an offer to us or if the order confirmation deviates from our order, the contract shall only come into effect upon receipt of our written confirmation. This is decisive for the scope of the content of the contract.

2.2 If our offer is "subject to confirmation", we may freely revoke it until receipt of the Supplier's declaration of acceptance. The binding effect of an offer submitted by us shall lapse at the latest one week after receipt of the offer by the Supplier, if the Supplier does not confirm the offer in writing or by unconditional dispatch of the goods within this period.

2.3 Our order or order confirmation is decisive for the scope and content of the contract.

2.4 The Supplier is bound to his offer for at least four weeks from receipt by us.

2.5 We may request changes to the design and execution of the delivery item, within the scope of what is reasonable for the Supplier. The effects, in

particular with regard to additional and reduced costs as well as delivery dates, shall be reasonably regulated by mutual agreement.

2.6 The preparation of offers and elaboration of projects by the Supplier is non-binding and free of charge for us.

**3. Prices, payments, due date, cash discount, prohibition of set-off and assignment, import VAT, withholding tax**

3.1 The price stated in our order is binding. This price is "free domicile " DDP (according to Incoterms 2020) including all ancillary services of the Supplier (e.g. assembly or installation) and includes packaging, freight, postage, value protection and transport and liability insurance. The respective statutory value added tax shall be added. In the case of agreed foreign deliveries, the Supplier assumes customs clearance.

3.2 Invoices of the Supplier must be verifiable, comply with the requirements of § 14 UStG, contain our order number and the delivery note number and be set up in the order sequence, stating the product description, price and quantity. Appropriate certificates of performance must be attached.

3.3 Price increases after order until delivery or performance are excluded. Should the Supplier reduce his prices or improve the other conditions in the period between order and delivery or service provision, these reduced prices or improved conditions will apply to our order.

3.4 The beginning of payment and discount periods requires the receipt of the invoice and the complete provision of the delivery or service.

3.5 The agreed price is due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice.

3.6 If we make payment within 14 calendar days after the date stated in Section 3.4, the Supplier grants us a 2% discount on the net amount of the invoice.

3.7 For the timeliness of our payment and the observance of a discount period, the receipt of our transfer order from our bank is adequate if sufficient funds are available.

3.8 If payment is made by special written agreement in another currency, the relevant exchange rate will be the European Central Bank's EURO Reference Rate on the due date of the payment.

3.9 We do not owe any maturity interest. Interest on arrears is limited to 3 percentage points above the respective base interest rate, unless the Supplier proves a higher interest rate damage.

3.10 Rights of set-off and retention as well as the breach of contract for non-fulfilled contract are entitled to us to the legal extent.

3.11 The Supplier may only offset against our claims if its counterclaim is undisputed, has been recognized by us or has been legally established or is ready for decision, unless the counterclaim for offsetting or the counterclaim on which the Supplier's right of retention is based, is mutually dependent on our claim (cf § 320 BGB). The same applies to the assertion of a right of refusal or right of retention. The Supplier may only assert a right to refusal performance or a right of retention if we have not provided adequate security despite a written request from the Supplier.

3.12 The Supplier is not entitled to assign or pledge his claims against us without our written consent, which may not be unreasonably withheld. § 354a HGB remains unaffected.

3.13 If a foreign Supplier makes deliveries or provides services that are subject to VAT in Germany, the tax liability shall pass to us (Section 13 b UStG). The Supplier may not declare German value added tax in invoices for such deliveries and services. If, in the case of the provision of such supplies and services, the Supplier transports goods from a third country to Germany and thereby incorporates import VAT, this shall be borne by the Supplier.

3.14 We shall be entitled to withhold any applicable withholding tax / deduction tax from the price to be paid and to pay it to the Treasury for the account of the Supplier, unless the Supplier provides us with a valid exemption certificate.

#### **4. Delivery, delivery times, delivery delay, lump-sum damages for delay, transfer of risk, contractual penalties, default of acceptance**

4.1 The Supplier is not entitled to have the delivery or service owed by him performed by third parties without our prior written consent, which we may not unreasonably withhold. Partial deliveries are not permitted.

4.2 If the validity of the commercial clauses "Incoterms" is agreed, the version valid at the time of the conclusion of the contract shall prevail. Without agreement, the delivery will be made "free domicile" under the terms of the Incoterms DDP ("Delivered Duty Paid") with destination at the place of performance (see Section 15.1).

4.3 The supplier is to take out appropriate transport insurance at his own expense and provide us with evidence of this insurance upon our request.

4.4. The Supplier bears the procurement risk. In particular, we do not accept any reservation of timely self-delivery. The supplier must ensure that sufficient material and spare parts are available in their warehouse to be able to meet the contractual delivery obligations at all times.

4.5 The delivery shall be accompanied by a delivery order specifying the date (Issue and Shipping), content of the delivery (Item number and Amount) and our order code (Date and Number). In marine shipping, the name of the shipping company and the ship shall be indicated in shipping documents. The Supplier must choose the lowest cost suitable transport option for us. In all shipping notices, delivery notes, packing slips, bills of lading, on the outer packaging, etc., the order numbers and details of the unloading point specified by us must be provided in full. If the delivery order is missing or incomplete, we are not responsible for the resulting delays in processing and payment. A corresponding dispatch note with the same content must be sent to us separately from the delivery bill.

4.6 The delivery time specified in the order is binding. The delivery period shall commence upon conclusion of the contract. Performance before the agreed date entitles us to reject the service until the due date.

4.7 If a delivery or service with assembly/service has been agreed, the handover of the delivery item after proper execution of the assembly/service shall be decisive. If acceptance takes place in accordance with the contract, this shall be decisive for compliance with the agreed delivery date.

4.8 The Supplier is obliged to notify us immediately if circumstances occur or become apparent which indicate that the agreed delivery time may not be met.

4.9 In the event of a delay in delivery, we are entitled to the statutory claims and rights; furthermore, the Supplier is obliged to pay us a flat-rate compensation for delay in the amount of 0,5% of the net order value of the order affected by the delay per completed calendar week of the delay, maximum but 5% of the net order value of the affected order, unless the supplier proves that we have suffered no or only minor damage. This lump-sum compensation for delay is credited towards a further damage caused by delay. Our further legal claims and rights remain unaffected.

4.10 The acceptance of a delayed delivery or service does not constitute a waiver of claims and rights due to the delay.

4.11 The risk of accidental loss and accidental deterioration of the delivery or service is transferred to us at the place of performance. If acceptance has

been agreed, this shall be decisive for the transfer of risk, the burden of proof and the due date of the remuneration. The handover or acceptance is the same if we are in default of acceptance.

4.12 We do not make any penalty claims for non-performance or improper performance. We can assert contractual penalties up to the final payment, without this requiring a prior reservation, in particular in case of acceptance, according to § 341 section 3 BGB.

4.13. The statutory provisions shall apply to the occurrence of our default of acceptance. However, the Supplier must also expressly offer us its performance if a specific or determinable calendar period has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the Supplier may demand compensation for its additional expenses in accordance with the statutory provisions (§304 BGB). If the contract relates to a non-fungible item to be manufactured by the Supplier (custom-made production), the Supplier shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to do so.

## **5. Spare Parts**

5.1 The Supplier shall be obliged to supply us with spare parts for a period of ten years from delivery at standard market prices, but at most at the supplier's respective valid spare part prices, in particular even if the business relationship may have been ended.

## **6. Third party property rights, indemnification**

6.1 The Supplier guarantees that his deliveries and services do not infringe any industrial property rights or other rights of third parties in countries of the EU, USA, China or Great Britain or in countries in which the supplier produces or has produced.

6.2 If claims are asserted against us by a third party due to an infringement of property rights as a result of the deliveries or services of our Supplier,

- we will inform our Suppliers about this without delay,
- our Supplier indemnifies us fully from all legitimate claims of third parties, including reasonable costs of legal defense and / or prosecution, at the first written request,
- The Supplier shall, at its own discretion and at its own expense, either obtain a

right of use for the relevant object of performance or modify it in consultation with us in such a manner that the property right is not infringed, but the object of performance continues to meet the contractual requirements in every respect, unless we are responsible for the infringement of the property rights. Our further statutory claims shall remain unaffected by this.

6.3 The supplier undertakes to inform us immediately of any risks of infringement and alleged cases of infringement of which it becomes aware and to give us the opportunity to counteract such claims by mutual agreement.

6.4 At our request, the supplier shall notify us of the use of registered industrial property rights and applications for industrial property rights to the delivery item.

## **7. Orders, tools, rights of use**

7.1 Processing or transformation of parts provided by us (goods subject to retention of title) by the supplier shall be carried out on our behalf. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing. If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing takes place in such a way that the supplier's item is to be regarded as the main item, it is agreed that the supplier shall transfer co-ownership to us on a pro rata basis. The supplier shall reserve the sole ownership or co-ownership for us.

7.2 We reserve all rights, including copyrights, trademark rights, company rights and rights to know-how, to all models, production facilities, tools, samples, templates, illustrations, brochures, calculations and other documents and supplies. They may not be made accessible, reproduced or distributed by our supplier to third parties without our express written approval. This applies in particular to documents marked as "confidential". They are to be used exclusively for the preparation of quotations or production on the basis of our order. As long as they are not processed, such items must be stored separately at the supplier's expense and marked as our property. After completion of the order or if the order is not placed, they are to

be returned to us without request; copies, including back-up copies are to be completely destroyed / deleted.

7.3 The Supplier is obliged to carry out any necessary maintenance and inspection work as well as all servicing and repair work on our supplies in good time and at its own expense. The Supplier is obliged to take out insurance on the tools, molds and models, etc. that belong to us at new value at its own expense against fire, water and theft damage to the usual extent. He hereby assigns to us all claims for compensation arising from this insurance; we hereby accept the assignment. The Supplier is obliged to carry out any necessary maintenance and inspection work on our tools as well as all servicing and repair work at his own expense and in good time. Markings on our tools which refer to our property may not be changed and must be maintained by the Supplier at its own expense. The Supplier must notify us immediately in written form of any malfunctions.

7.4 Molds, models, tools, films, drawings etc. which have been produced by the Supplier for the execution of the order, shall become our property upon payment, even if they remain in the possession of the supplier. They must be marked by the supplier as our property.

7.5 Illustrations, drawings, calculations, molds, models, tools and other documents shall be handed over to us free of objection upon request, at the latest together with the final delivery.

7.6 We have a non-exclusive, transferable and free right of use to the products delivered by the Supplier during the period of use. Patent rights and other intangible property rights shall remain the property of the Supplier.

## **8. Quality of the goods, warranty, outgoing quality control, inspection and complaint obligations, Supplier recourse**

8.1 The Supplier warrants that the delivery item has no defects affecting its value or suitability, has the agreed quality, is suitable for the use required under the contract, is state of the art, complies with the latest regulations of authorities, in particular the Machinery Directive, in accordance with the Product Safety Law, the applicable safety-technical requirements and the occupational safety and accident prevention regulations as well as the REACH regulation. We do not accept any negative quality agreements.

8.2 The Supplier warrants that all delivered substances, preparations and substances in products

comply with Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18.12.2006 (REACH), as amended, and the Regulation on the Restriction of the Use of Hazardous Substances in Electrical and Electronic Equipment (ElektroStoffV) based on Directive 2011/65/EU (RoHS), as amended. In particular, the Supplier must enclose a Safety Data Sheet in the language of the recipient country with the delivery item in all cases specified in Art. 31 (1) to (3) REACH and shall make it available to us in German.

8.3 In order to safeguard the quality of its deliveries, the Supplier must carry out a documented, quality inspection in accordance with DIN EN ISO 9001 or equivalent, at least one outgoing goods inspection, according to type and scope. He must keep records, in particular regarding his quality checks, and make them available upon request. The Supplier hereby consents to quality audits to assess the effectiveness of its quality assurance system by us or a third party commissioned by us. Our initial sample release does not release the Supplier from this outgoing goods inspection and, like our specifications in the technical delivery conditions or specifications, does not restrict this.

8.4 Our duty of inspection upon delivery is limited to defects that become apparent during our inspection of incoming goods under external inspection of the outer packaging including the delivery documents (transport damage, identity, completeness). Examinations shall be carried out in a reasonable sample. Insofar as acceptance has been agreed, there is no obligation to carry out an inspection. Our notice of defects shall in any case be deemed timely if it is received by the Supplier within a period of three working days, calculated from the complete receipt of the goods or, in the case of hidden defects, from their discovery.

8.5 Statutory claims for defects are unconditional. The subsequent performance by the Supplier shall be effected at our discretion by remedying the defect (repair) or by delivering a defect-free item (replacement delivery), unless the Supplier proves that the subsequent performance variant chosen by us has disproportionate costs and we do not suffer any significant disadvantages as a result of the other subsequent performance variant. If the Supplier fails to fulfill his obligation of supplementary performance within a reasonable period of time set by us, we can remedy the defect ourselves and demand compensation from the supplier for the necessary expenses without prejudice to other claims and rights. The subsequent performance costs to be borne by the Supplier shall also include installation and removal costs. A rectification of defects

by the Supplier shall be deemed to have failed after the first unsuccessful attempt.

8.6 By way of derogation from Section 442 (1) p. 2 of the German Civil Code (BGB), we are also entitled to claims for defects without restriction if the defect has remained unknown to us at the time of conclusion of the contract as a result of gross negligence. Only our positive knowledge of the defectiveness at the time of installation or attachment in/to another item shall be detrimental to the claim for reimbursement of expenses pursuant to Section 439 (3) BGB.

8.7 The limitation period for warranty claims is 36 months, calculated from the transfer of risk, unless mandatory provisions of Sections 478, 479 of the German Civil Code (BGB) intervene or the Supplier grants a longer period of time, or a longer period of time applies by law.

8.8 After remedying the defect, the agreed warranty period for the repaired or replaced delivery items begins again.

8.9 Our statutory recourse claims within a supply chain (Supplier recourse in accordance with §§ 445 a, 445 b, 478 BGB) are in addition to the claims for defects without limitation. In particular, we are entitled to demand exactly the type of supplementary performance (repair or replacement) from the Supplier, which we owe to our customer in individual cases. Our legal right to choose (§ 439 Abs. 1 BGB) is not restricted by this. Before we acknowledge or fulfill a defect claim asserted by our Customer (including reimbursement of expenses according to §§ 445a section 1, 439 sections 2 and 3 BGB), we will inform the Supplier and ask for a written statement, briefly explaining the facts of the case. If a reasoned opinion is not provided within a reasonable period of time and no mutually agreed solution is brought about, the deficiency claim actually granted by us shall be deemed due to our customer. In this case, the Supplier is responsible for proof to the contrary. Our claims from Supplier recourse also exist if the defective delivery item has been further processed by us or another contractor, e.g. by installation in another product.

## **9. Liability of the Supplier, manufacturer's liability, indemnification, insurance, assignment**

9.1 The Supplier's liability is fully in accordance with statutory provisions. The Supplier is responsible for the negligence of his suppliers as well as his own.

9.2 If the Supplier is responsible for any damage, in particular product damage, he shall indemnify

us against claims of third parties insofar as the cause for this was set in his area of control and organization and he himself is liable externally. Within the scope of this indemnification obligation, the Supplier shall reimburse us for expenses pursuant to §§ Sections 683, 670 BGB or in accordance with Sections 830, 840, 426 BGB, which arise from or in connection with a claim by third parties, including recall actions lawfully carried out by us.

9.3 The Supplier shall complete and maintain product liability insurance with a flat rate coverage of at least 10 million EUR per personal injury/property damage and calendar year during the term of this contract, i.e. until the end of the warranty period. The Supplier hereby assigns to us all indemnification claims based on the damage caused by the Supplier arising from this insurance, we hereby accept the assignment. The insurance coverage is provided to us on our request at any time by written confirmation of the insurer.

## **10. Liability of [Perforator GmbH]**

10.1 Claims for damages by the Supplier, regardless of the legal grounds, as well as claims for reimbursement of futile expenses are excluded, unless the cause of the damage is based on a grossly negligent or intentional breach of duty or on an at least negligent breach of contractual obligation, the fulfillment of which makes the proper execution of the contract possible in the first place and on the observance of which the Supplier has relied and was entitled to rely and the culpable non-fulfillment of which jeopardizes the achievement of the purpose of the contract ("essential contractual obligation"); In the latter case, our liability shall be limited to the amount of damage foreseeable and typically occurring at the time of conclusion of the contract.

10.2 The above limitation of liability according to clause 10.1 also applies to the personal liability of our employees, representatives and organs as well as for our vicarious agents.

10.3 The limitations of liability according to the above clauses 10.1 and 10.2 do not apply to personal injury, i.e. to damages resulting from injury to life, limb, health or freedom, in the case of liability under the Product Liability Act or insofar as we have exceptionally assumed a guarantee.

## **11. Retention of Title**

We hereby accept, subject to agreement, that the ownership of deliveries ("Reserved Goods") remains with the Supplier until full settlement of the Supplier's claim in this regard ("Simple Retention

of Title"). Excluded are all other forms of retention of title, in particular the extended, the transferred and extended to the further processing of retention of title.

## **12. Compliance, minimum wage, data protection, change of control**

12.1. Should the Supplier violate the provisions of the MiLoG or the legal ordinance issued on the basis of §3 AÜG, it shall indemnify us against all claims of third parties due to such violations, in particular pursuant to §13 MiLoG. Any such claim shall entitle us to terminate the business relationship with the Supplier without notice.

12.2 The use of our data without our prior consent is only permitted within the framework of the statutory provisions. Like the Supplier, we are obliged to collect and process the data collected in connection with the conclusion and execution of the respective contract, only in accordance with the statutory provisions. For details, please refer to our data protection declaration, which the Supplier can find on our website: [www.perforator.de](http://www.perforator.de). The Supplier shall, without prior request, provide written notification of any universal succession in our business relationship and / or in existing contracts with us and of any change in its company name.

## **13 Supplier Code of Conduct**

13.1 The Supplier is obliged to comply with the human rights and environmental expectations within the meaning of Section 2 (2) to (4) of the German Supply Chain Due Diligence Act (LkSG), which are set out in our Supplier Code of Conduct, and to implement the obligations to take action derived from the risks identified in the specific supply context and defined in the Supplier Code of Conduct, insofar as this does not violate any directly applicable law applicable to the Supplier.

13.2 We are entitled to permanently review the risks in the specific delivery context and the effectiveness of the duties to act imposed on the Supplier and to adjust the Supplier's duties to act accordingly. In particular, we are entitled to adjust the Supplier's obligations to act at least once a year on an ad hoc basis, based on the risk analysis carried out by us. If the Supplier does not agree to an adjustment of the obligations to act to risks identified by us with regard to human rights or environmental expectations, we are entitled to terminate the contract with a notice period of 4 weeks.

13.3 We are entitled to take appropriate remedial measures within the meaning of §7 LkSG with regard to the risks identified in the risk analysis already in the event of an imminent breach. The

Supplier is obliged to cooperate fully with these remedial measures.

13.4 The Supplier undertakes to make its best efforts to contractually impose the agreed obligations on its suppliers and to prove this to us by submitting suitable documents. In any case, when selecting suppliers, the Supplier undertakes to verify their compliance with human rights and environmental expectations and to take this into account when selecting his suppliers.

13.5 Should the Supplier breach its obligations under this clause 13, we shall be entitled to terminate the affected contracts with the Supplier without notice after the fruitless expiry of a reasonable grace period.

## **14. Non-disclosure**

14.1 "Confidential Information" in the sense of the following Confidentiality Statement comprises all information (including data, records, documents, drawings, samples, technical components and know-how) about company bodies, employees, consultants of the Supplier or any other third party acting for it, which is disclosed within the scope of this contract and the negotiations on this contract in particular concerning our company, our customers, our production processes, our pricing, etc., which is marked as confidential or by their nature require confidentiality. Whether and on what medium the confidential information is embodied is irrelevant; In particular, oral information is also included.

14.2 Our Supplier is obliged to treat the confidential information strictly confidentially and not to disclose it to third parties or to make it accessible to third parties without our written consent. Our Supplier will take appropriate precautions to protect confidential information, or at least the safeguards to protect sensitive information about his own business.

14.3 Our Supplier is not entitled to use confidential information disclosed by us for any purpose other than the purpose of the respective performance of the contract.

14.4 In particular, our Supplier is not entitled to reproduce, rebuild, open or disassemble (reverse engineering) samples received or other corresponding information.

14.5 The confidentiality obligations under sections 14.1 and 14.2 shall not apply to such information for which our Supplier can prove that

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- for a specific case we have given our prior written consent to the transfer or use by our Supplier;
- the information was evident before the conclusion of this confidentiality agreement;
- our Supplier has obtained it from a third party prior to the conclusion of this confidentiality agreement or has obtained it from a third party without breach of this confidentiality agreement, provided that the third party has in each case lawfully acquired the confidential information and does not infringe a confidentiality obligation that binds it; or
- our Supplier is obliged to divulge the confidential information by law or in accordance with the rules of a stock exchange or by an enforceable order of a competent court or competent authority.

the greatest extent possible, with the intended purpose of the original clause and remains as far as possible to the purpose of this clause and is effective.

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14.6 This confidentiality agreement comes into force upon conclusion of this contract and ends five years after termination.

## **15. Place of performance, jurisdiction, applicable law**

15.1 Place of performance is our place of business in Walkenried.

15.2 Exclusive jurisdiction for all disputes arising from commercial transactions with general merchants and legal persons under public law is for both parties Göttingen (§ 38 ZPO). This also applies to bill of exchange and check processes. We can also sue our Supplier at its general place of jurisdiction. For procedures exclusively assigned to the local courts, the district court Amtsgericht Göttingen is responsible.

15.3 The law of the Federal Republic of Germany applies to the exclusion of all references to other legal systems and international treaties. The United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG, "Vienna Sales Convention") is excluded.

## **16. Severability clause**

16.1 If Should any individual provisions of these GTPC or of the delivery transaction become invalid in whole or in part, such invalidity shall not affect the validity of the remaining provisions or other parts of said clauses. The nullified clause will be substituted with a provision that aligns, to