

# **General Terms and Conditions of Purchase**

**BADER GmbH & Co. KG, Metzgerstrasse 32 – 34, 73033 Göppingen, Germany**

## **1. Governing conditions**

The legal relationship between Supplier and Bader GmbH & Co. KG, Göppingen – “Buyer” – is governed by these Terms and Conditions and any other pertinent agreements.

The regulations and provisions of these General Terms and Conditions of Purchase apply equally for all purchase orders submitted by other companies within BADER Group (Bader Group), provided the company has expressly cited the applicability of these General Terms and Conditions of Purchase when submitting the purchase order, at the latest.

These Terms and Conditions apply equally for all future business relations even if not expressly agreed again. Amendments and additions must be executed in writing. Other general terms and conditions of business do not apply, even if no explicit objection is raised to them in individual instances. Any reference by Buyer to correspondence containing or referring to terms and conditions of business of Supplier or a third party must not be construed as consent to the applicability of such terms and conditions of business. Acceptance without reservation or payment of deliveries or performance must not be construed as consent to any general terms and conditions of sale of Supplier.

## **2. Quotations, purchase orders, amendments to shipments**

2.1 When submitting quotations, Supplier must adhere to Buyer’s request for quotation and expressly flag any deviations. Quotations must be submitted to Buyer free of charge and without obligation.

2.2 Supply contracts (purchase order and acceptance) and call-offs must be executed in writing, as must any amendments or additions to the same. They are valid if noted accordingly on the order form, even without signature. Acceptance of any online purchase orders must be confirmed by email. The installation of a data connection to Supplier eliminates the written form requirement. Text form is adequate if transferred via electronic remote data transmission system.

2.3 If Supplier fails to confirm a purchase order within 3 weeks from receipt, Buyer is entitled to revoke the order. Call-offs become binding if Supplier has not objected at the latest within 2 weeks from receipt.

2.4 Buyer is entitled to demand modifications by Supplier to the delivery item as long as they are within reasonable limits. The impacts of such modifications, particularly with regard to higher or lower costs and shipping dates, must be reasonably agreed to both parties' satisfaction. Supplier must notify in writing and provide evidence of any higher or lower prices.

2.5 Supplier must treat purchase orders as business secrets and must not disclose them. Supplier is liable for any and all damages arising from breaches of this obligation.

2.6 Partial shipments must be approved by Buyer and must be marked accordingly in the shipping documents.

2.7 Supplier is not permitted to transfer its contractual rights and obligations to third parties without the express written consent of Buyer.

### **3. Prices, shipping, packaging, insurance**

3.1 Agreed prices constitute binding fixed prices and always apply inclusive of delivery to Buyer's designated destination or factory and packaging.

3.2 If, exceptionally, a price is agreed ex works or ex warehouse, Buyer will only pay the cheapest freight cost. Supplier is responsible for all costs incurred up to transfer to the carrier, including loading and carriage.

3.3 Unless otherwise agreed, goods must be wrapped in standard and appropriate packaging for shipment. Supplier is liable for any damages arising from inadequate packaging. Packaging must be environmentally compatible and disposable with normal household waste. At Buyer's request, Supplier agrees to accept return of the packaging at the latter's expense.

3.4 Buyer is not responsible for paying transport insurance nor packaging.

### **4. Shipping dates and deadlines, delays**

4.1 Agreed dates and deadlines are binding. Adherence to a shipping date or deadline is determined by the date on which Buyer receives the goods. If shipment including delivery to

Buyer's factory has not been agreed, Supplier is responsible for making sure the consignment is delivered on time, bearing in mind the normal time required for loading and shipment.

4.2 If Supplier is late delivering, Buyer is entitled to first set a reasonable deadline and, after expiry of the same, to choose whether to demand subsequent delivery and damages on grounds of non-performance or to cancel the contract. The granting of an extension can be waived if unreasonable for Buyer. Notwithstanding the above, delays are governed by statutory provisions. Supplier is responsible for any additional costs, especially relating to the need to cover requirements.

4.3 Premature deliveries are not permitted. Supplier undertakes to notify Buyer immediately in writing of any changes in circumstances that render adherence to delivery dates impossible. Acceptance without reservation of any delayed deliveries must not be construed as waiving the right to claim compensation.

4.4 Buyer reserves the right to charge all damages suffered by Buyer or Buyer's customer, including lost profit, to Supplier.

## **5. Payment and invoicing**

5.1 Payment must be effected by transfer or check.

5.2 If early deliveries are accepted, the due date for payment is governed by the agreed delivery date.

5.3 Payment is due upon contractually compliant receipt of the goods and an appropriate and verifiable invoice, at the following terms and conditions at Buyer's choice:

Unless otherwise agreed, 14 days with 3% discount, 30 days with 2% discount, or 60 days net.

5.4 If a delivery is incorrect, Buyer is entitled to withhold the corresponding portion of payment until performance has been duly rendered.

5.5 Supplier is not entitled to assign any claims against Buyer or have them collected by third parties without Buyer's prior written consent, which shall not be unreasonably withheld. In the event of extended retention of title, such consent is deemed to have been given.

5.6 Invoices must be issued in duplicate and sent separately by post. They must indicate the precise reference, purchase order, order date and delivery note. Duplicates must be clearly marked as such. Failure to comply with these regulations will result in invoices being deemed to be not issued and not establishing any maturity until Supplier has provided clarification / complete documentation.

## **6. Liability for defects, notification of defects**

6.1 Supplier must warrant that delivered items are free of material or legal defects.

6.2 As soon as Buyer detects defects in a delivery during the course of normal business, it must notify Supplier immediately and in writing. In this respect, Supplier waives any plea on grounds of late notification.

## **7. Quality and documentation**

7.1 Supplier must observe best engineering practice and safety regulations and must adhere to the agreed technical specifications for its delivered items. Modifications to the delivery item must be approved in advance by Buyer in writing. First sample testing must conform to VDA publication "Supplier quality assurance – supplier selection/supplier's production process – and product release/quality performance during production" (Sicherung der Qualität von Lieferungen – Lieferantenauswahl/-Produktionsprozess – und Produktfreigabe/ Qualitätsleistung in der Serie), including IMDS input, as amended in each case. Irrespective of the aforementioned, Supplier must constantly monitor the quality of delivery items. The contract partners agree to exchange suggestions for improving quality.

7.2 In addition, Supplier must take sole responsibility for implementing an effective quality management (QM) system as per EN ISO 9000 ff. that incorporates the additional requirements of the VDA series / QS 9000 to ensure that the necessary quality assurance is performed and that appropriate mention is made in its quality records for all products of when, how and by whom the delivered items were manufactured without defects. This documentation must be kept for 20 years and submitted on request. Supplier is entitled to shorten the retention period of this documentation if it can rule out any risks to life and health when using the products. To the extent legally permissible, Supplier agrees to obtain the same level of commitment from its subcontractors. VDA publication "Certification – how to document and archive quality requirements" (Nachweisführung – Leitfaden zur Dokumentation und Archivierung von Qualitätsforderungen), as amended, can be used as a guideline.

7.3 When submitting its quotation or, at the latest, its order confirmation, Supplier must provide Buyer with a completed safety data sheet as per 91/155/EEC-2001/58/EC for any materials requiring special treatment with regard to packaging, transport, storage, handling and waste disposal by virtue of statutory regulations, ordinances and other provisions or of their composition and environmental impact. Updated data and information sheets must be provided immediately if the composition of the materials or their impact on the environment changes.

7.4 Chemicals are subject to mandatory labeling by Supplier. If the chemicals contain environmental pollutants as defined in the German Water Resources Act (WHG), Supplier must notify Buyer by order confirmation, at the latest, and instruct Buyer on the behavior and risk potential of these substances.

7.5 A material test certificate as per EN 10204-3.1 B must be included with each delivery as specifically agreed.

7.6 Deliveries of machinery and technical plant are subject to the regulations issued by the trade association for the German leather industry (Deutsche Lederindustrie Berufsgenossenschaft). Moreover, compliance with the most recently updated accident prevention regulations (UVV) and the regulations issued by both the trade supervisory authority and VDE/VDI is mandatory. The manufacture of machinery and plant must also comply with CE regulations. A declaration of conformity must be included with the machinery and plant documentation. Supplier must allow inspection of the CE documentation on request. When commissioning machinery and plant, a commissioning report must be drawn up by Buyer and Supplier. Supplier must supply all contractually agreed documentation when delivering the machinery. The agreements in the Sale and Purchase Agreement also apply.

7.7 If public authorities or courts require insight into Buyer's production process and audit documentation in order to verify certain requirements, Supplier agrees to grant them the same rights at its own facilities and to provide all reasonable support. To the extent legally permissible, Supplier agrees to obtain the same level of commitment from its subcontractors.

## **8. Warranty**

8.1 If faulty goods are delivered, Supplier must first be given the opportunity to sort them out, rework or replace them prior to the start of production unless this is not reasonable for Buyer. If Supplier is unable to do so or does not render subsequent performance without delay, Buyer is entitled to cancel the contract and return the goods to Supplier at the latter's risk. In

cases of urgency, Buyer can perform the repairs itself or engage a third party. The associated cost must be borne by Supplier.

8.2 Faulty goods also include merchandise with defects that encompass the failure to assure guaranteed data and the absence of guaranteed properties.

Upon Buyer's request, Supplier must remedy these defects without delay and free of charge, including any ancillary costs, whereby Buyer may choose between reworking or replacing the faulty parts, or delivery or production of new parts.

Supplier must, in particular, bear all costs incurred by Buyer in connection with the detection and rectification of defects, including, in particular, costs associated with testing, dismantling and renewed assembly, labor and material costs, transportation and any other costs relating to the replacement of faulty parts.

This applies equally to any higher expenses as a result of moving the delivered goods to a location other than the agreed place of performance.

8.3 If the same goods are repeatedly found to have defects, Buyer must first issue a written warning upon receipt of another faulty consignment before being entitled to withdraw from the contract and from any scope that has not been fulfilled.

8.4 If – despite honoring the obligation in 6 above (notification of defects) – a fault is not detected until after production has commenced, Buyer is entitled to demand compensation for additional outlay above and beyond the regulations in 8.1 and 8.2 above.

8.5 Buyer must make goods whose replacement it is demanding from Supplier available to the latter without delay and at Supplier's expense.

8.6 Warranty lapses at the end of 24 months after delivery to the Buyer, unless otherwise agreed.

8.7 If the delivery item is replaced in part or whole to remedy defects, the warranty period lapses at the end of 24 months after replacement or partial delivery to Buyer.

8.8 Buyer is entitled to retain both the purchase price and any ancillary costs until such time as the defect has been remedied or guaranteed parameters of machinery and technical plant have been certified by a publicly recognized engineering firm.

8.9 Unless otherwise governed by the above, warranty is based on statutory regulations. Buyer is fully entitled to assert legal claims for defects.

## **9. Liability / Product liability insurance**

9.1 Unless governed otherwise by a liability clause elsewhere in these Terms and Conditions, Supplier is only liable under 9.2 – 9.6 above to replace the damage suffered by Buyer directly or indirectly as a result of a faulty delivery, of a breach of official safety regulations or of any other legal grounds for which Supplier is culpable under national or international law.

9.2 The duty of compensation only applies if Supplier is responsible for the damage. Supplier must otherwise prove that it is not responsible.

9.3 If claims are asserted against Buyer pursuant to compulsory liability laws towards third parties, Supplier must indemnify Buyer to the extent to which it would itself be directly liable. The principles of Section 254 German Civil Code (BGB) apply accordingly to the compensation of damages between Buyer and Supplier. The same applies if claims are made directly against Supplier.

9.4 If Buyer intends to assert claims against Supplier on grounds of the above, Buyer agrees to notify and consult with Supplier in detail without delay. Buyer must give Supplier the opportunity to examine the damage. The contract partners must agree on the steps to be taken, especially in the case of settlement negotiations.

9.5 Supplier undertakes to maintain product liability insurance at its own expense, such insurance to provide at least EUR 1 million in cover but not to cover the risk of recalls or criminal or other damages, unless otherwise agreed in individual instances. Supplier agrees to provide Buyer with a copy of the insurance policy at any time at the latter's request.

9.6 If claims are asserted against Buyer by a customer or third party on grounds of product liability, Supplier undertakes to exempt Buyer at first request from such claims if and to the extent that the damage is caused by a faulty delivery item. In such instances, Supplier must pay all costs and expenses, include the cost of any legal proceedings and the engagement of legal counsel.

In the event that a recall is necessary or ordered by the authorities, Supplier must pay all costs and expenses related to the recall.

## **10. Property rights**

10.1 Supplier warrants that no property or copyrights of third parties in the EU, North America or other countries in which it manufactures or commissions the production of the goods have been breached in connection with its delivery. The same applies to property rights published abroad.

10.2 Supplier undertakes to exempt Buyer from any and all claims asserted by third parties against Buyer on grounds of the infringement cited in 10.1 above of industrial property rights, and to reimburse all expenses incurred by Buyer in connection with such claims. This right to reimbursement is regardless of whether Supplier is responsible or not.

10.3 Literature, data and materials provided by Buyer to Supplier for the purpose of fulfilling an order remain the property of Buyer and must be treated with care by Supplier. Buyer alone holds all associated rights.

10.4 The contract partners undertake to notify each other as soon as they gain knowledge of any risks of breaches or alleged breaches, and to work together within reasonable limits to defend against such claims of breaches.

## **11. Origin and export controls**

11.1 Supplier must provide a declaration of origin for its goods using the "long-term supplier's declaration" wording specified in Regulation (EC) No. 1207/2001. The long-term supplier's declaration must be signed by an authorized representative of Supplier and submitted to Buyer by the end of each January.

11.2 Supplier must notify Buyer of any export restrictions on the goods applicable in the country of production or the shipping destination. Supplier must notify Buyer if the goods are subject to export/re-export approval under US laws. If the vendor is domiciled in the European Union, it must notify Buyer of existing authorization requirements relating to dual use goods and armaments pursuant to European export restrictions and their implementation in national laws. Supplier must, moreover, notify Buyer of the relevant classification number (e.g., ECON Export Control Classification Number for US products, the "AL" number for goods on the German export list, etc.) and of any possible exceptional licenses for goods. Such notices must be



addressed directly to the Central Transport and Logistics department at BADER GmbH & Co. KG.

## **12. Force majeure**

In cases of force majeure, Buyer may cancel all or part of the contract or request deferral of performance to later, without Supplier deriving any entitlement to claims therefrom.

## **13. Confidentiality**

13.1 The contract partners undertake to treat as business secrets all commercial and technical details that are not in the public domain and of which they gain knowledge through the business relationship.

Supplier agrees to only use the confidential information provided by Buyer for the intended purpose.

13.2 Subcontractors must enter into the same commitment.

13.3 Breaches of confidentiality survive beyond the termination of the supply relationship. At the end of the supply relationship, Supplier undertakes to relinquish to Buyer all of Buyer's business secrets of which it has gained knowledge and which exist in physical form or are stored on electronic media. Supplier agrees to erase all business secrets relating to the supply relationship from its data processing systems. Duplicates must be destroyed.

## **14. Corporate responsibility and Code of Conduct**

Efficient, sustainable action with respect to social, economic and ecological matters, based on our responsibility towards people, society and the environment is established practice at BADER and a constituent part of our corporate policy. In this connection, the Buyer refers you to the "Code of Conduct for Business Partners" which applies within the BADER Group and can be viewed at <http://www.bader-leather.com/agb>. The Buyer expects the Supplier to acknowledge the rules and principles set out therein and to promote compliance with them. In particular, the Supplier gives their assurance that they will obligate their subcontractors to do the same. At the request of the Buyer, the Supplier will provide proof of compliance with the aforementioned assurance.

## **15. Retention of title**

Supplier retains title to delivered goods until paid in full.

**16. Data protection**

Supplier consents to Buyer digitalizing, storing and using FOR ITS OWN PURPOSE ALL SUPPLIER'S DATA NEEDED TO CONDUCT THE BUSINESS RELATIONSHIP AND ALL CONTRACTS AGREED WITH SUPPLIER.

**17. Cancellation, severability clause, choice of jurisdiction, venue**

17.1 If a contract partner ceases payment or application for insolvency or court or out-of-court settlement proceedings is filed against it, the other contract partner is entitled to withdraw from the contract.

17.1 If one of the provisions of these Terms and Conditions and any other agreements is or becomes invalid, this shall not affect the validity of the remaining contract. The contract partners undertake to replace the invalid provisions with an effective regulation that most closely serves the original commercial purpose.

17.2 The laws of the Federal Republic of Germany apply exclusively, unless otherwise agreed. Application of The Hague Convention relating to a Uniform Law on the International Sale of Goods, the UN Convention on Contracts for the International Sales of Goods (CISG), laws governing conflicts of interests and any other conventions is excluded.

17.3 Place of performance for Supplier's delivery obligations is the point of receipt or use designated by Buyer.

Place of performance for Buyer's payment obligations is Buyer's relevant registered office.

Göppingen is the competent court of jurisdiction.

Buyer is also entitled to sue Supplier at its general court of jurisdiction if it chooses.

**BADER GmbH & Co. KG, valid from June 2020**

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