

# GENERAL TERMS OF PURCHASE

**BADER**<sup>®</sup>

BADER Polska SP. Z O.O., ul. Mostowa 1, PL 59-700 Bolesławiec

## **1. General Provisions**

Legal relations between the Supplier of goods or services and Bader Polska Sp. z o.o. with headquarters in Bolesławiec (hereinafter referred to as: the Orderer) are governed by these General Terms of Purchase (hereinafter referred to as: GTP) and by means of any additional written arrangements between the Parties. These terms also bind the Parties in terms of future business relations.

Changes and additions in the legal relations between the Parties, as well as the exclusion of the application of these GTP in the given transaction, require a written form.

Recourse by the Employer to a letter containing in its content general terms of agreements, templates of agreements, regulations and other similar contractual patterns within the meaning of art. 384 § 1 of the Civil Code used by the Supplier or third parties or reference thereto, does not constitute consent to their validity between the parties. Conclusion of an Agreement with the Supplier is not synonymous with the Orderer expressing consent to the content of standard forms used by the Supplier. Such consent requires a clear statement from the Orderer expressed in writing.

## **2. Offer and Orders**

- 2.1.** The Supplier is obliged to adapt his Offer to the request for proposals of the Orderer, and in the case of deviations in this respect - to clearly indicate them. Offers are free for the Orderer, and for their acceptance, the Orderer must clearly express the shall to conclude an Agreement. In the case of bids submitted to the Orderer, the provision of art. 68<sup>2</sup> of the Civil Code shall not apply.
- 2.2.** Submission of orders, including successive orders for partial deliveries under a collective order, shall take place in written or electronic form via an integrated IT system. Lack of immediate response from the Supplier that the Order is not accepted, deemed to be accepted.
- 2.3.** The Orderer may make changes in the amount and type of ordered goods by submitting the proposed modifications to the Order to the Supplier. The Parties jointly agree on the impact of changes to increase or decrease costs and delivery time. The Supplier is obliged to inform the Orderer about additional costs and to duly document them and inform the Orderer about the guaranteed price. Regulation present in Point 2.2., second sentence applies accordingly.
- 2.4.** The Supplier undertakes to treat the Order as a trade secret, and in the event of any breach of this secrecy, he is liable for the damage caused.
- 2.5.** Partial deliveries require the consent of the Orderer expressed in a documentary or electronic form and must be appropriately marked in the transport documents.
- 2.6.** The Supplier may only use the services of third parties with the prior consent of the Orderer, expressed in writing. The Supplier is responsible for acts or omissions of third parties, whose services he uses in the performance of deliveries, as for his own activities.

### **3. Prices, Shipping, Packaging**

- 3.1.** The prices agreed by the Parties are not subject to change and include delivery and packaging costs. Unless the Parties agree otherwise, deliveries shall take place on the DDP (Delivered Duty Paid) basis according to the rules established in Incoterms 2010. The Supplier shall bear the risk of accidental loss of the item until the goods are released to the Orderer in accordance with the conditions set for the individual order and these GTC.
- 3.2.** If it is exceptionally agreed that the delivery is to take place differently than the DDP (Delivered Duty Paid) rules according to the rules established in Incoterms 2010, the Orderer shall bear the costs of only the most advantageous transport offer. All costs incurred until forwarding the subject of the Order to the Forwarder, including reloading and transport, shall be borne by the Supplier.
- 3.3.** Unless the Parties agree otherwise, the delivered Goods should be packaged in a proper manner and accepted in the relations of a given type, so as to protect them against destruction or deterioration. The Supplier is responsible for damages resulting from defective packaging of the Goods. The packaging must be environmentally friendly and meet the requirements of the Packaging and Packaging Waste Act from June 13, 2013 (Journal of Laws of 2013, Item 888, as amended).
- 3.4.** The Orderer does not bear the costs of transport insurance.

### **4. Delivery Dates, Delay**

- 4.1.** Deadlines agreed between Parties are binding. The delivery shall be deemed completed on the day on which the goods are delivered and delivered to the Orderer. If the Parties decide exceptionally that the delivery is to be effected differently than the DDP (Delivered Duty Paid) rules according to the rules established in Incoterms 2010, the Supplier is obliged to place the product at the disposal of the Orderer appropriately earlier, taking into account the usual time for handling and shipping.
- 4.2.** If the Supplier defaults on the completion of the Order, the Orderer, after the expiration of the additional deadline, is at its own discretion entitled to continue demanding the performance of the obligation and to repair the damage resulting from the delay or to withdraw from the Agreement. This does not exclude the use of other creditor's entitlements in the event of delay of the debtor provided for by law. The Orderer is not obliged to set an additional period, referred to in the first sentence, when the subsequent performance of the Agreement would not have meaning for the Orderer due to the nature of the order or the intended purpose of the Order.
- 4.3.** If the Parties have strictly defined the delivery date, its implementation before the expiry of that period is not admissible.
- 4.4.** Immediately after the Supplier has knowledge about the occurrence or possibility of circumstances indicating that the delivery date shall not be met, the Supplier is obliged to notify the Orderer in writing or via electronic mail.
- 4.5.** Acceptance of a delayed delivery by the Orderer is not tantamount to the resignation of claims for damages against the Supplier, and the Orderer may seek compensation for the resulting damage, including loss of profit, including loss of customers.

## **5. Payment and Invoicing**

- 5.1. The payment shall be only made by bank transfer.
- 5.2. In the case of delivering goods and accepting them before the agreed delivery date, the payment date and the risk of accidental loss of goods which remain relevant for the originally agreed delivery date does not change.
- 5.3. The payment date begins after delivery of the goods in a manner consistent with these GTP and additional arrangements, its receipt by the Employer and receipt by the Orderer of a properly issued and verifiable invoice. The payment should be made within 60 days from the beginning of its run. Unless agreed otherwise, the Orderer shall be entitled to the following discount: in the case of payment within 14 days from the beginning of the payment deadline - 3% discount, within 30 days - 2% discount. The payment after 30 days from the beginning of the payment deadline takes place without taking into account the discount.
- 5.4. In the case of delivery in a manner inconsistent with the Agreement, including in particular in the case of delivery of defective goods, the Orderer has the right to withhold the relevant part of payment until the delivery in a correct manner, in particular until the time of delivery of the product free of defects or their removal .
- 5.5. The Supplier is not entitled to transfer the receivables due to the Orderer, unless the Orderer agrees to this in writing.
- 5.6. The invoice should contain the exact delivery label, order number, order date and the number of the document confirming delivery, on the basis of which the goods were issued. The invoice should be issued in two identical copies and be delivered by post or in electronic form, taking into account the currently applicable provisions on the tax on goods and services. Failure to meet the above requirements, as well as the occurrence of accounting errors in the invoice, shall result in the invoice not being reconciled until the Supplier has delivered the invoice properly supplemented or corrected by the Supplier. Until then, the payment periods referred to in point 5.3 do not apply.

## **6. Reporting Defects**

- 6.1. The Orderer is obliged to notify the Supplier in writing of any defects in the subject of delivery immediately after they have been identified in time and in a manner accepted for a given type, bearing in mind the need to ensure the proper functioning of its business. In such a situation, the Supplier loses the right to raise the accusation of late submission of defects.

## **7. Quality and Documentation**

- 7.1. The Supplier is obliged to comply with the accepted rules of technology and to comply with the safety regulations and technical data agreed by the Parties, both in relation to the properties of the delivered goods as well as the standards of its packaging and transport.

Changes in the subject matter of the delivery subject require prior written consent of the Orderer. When researching the originals of the product, the parties use a publication issued by the VDA Automobile Union, titled: *“Zabezpieczenie jakości dostaw – wybór*

*dostawcy/proces produkcyjny – i dopuszczenie produktu/zachowanie jakości w serii*” including the entry in the “*International Material Data System*” in its current version. Regardless of this, the Supplier is obliged to constantly control the quality of the delivered Goods. The contracting Parties shall inform each other about the possibility of improving the quality of the delivered Goods.

- 7.2.** The Supplier is obliged under its own responsibility to implement an effective Quality Management System (QM-System) in accordance with the PN-EN ISO 9000:2015 standard and additional VDA/QS 9000 requirements. In addition, the Supplier is obliged to keep the quality documentation for all products delivered to the Orderer, confirming in particular who, how and when performed the quality control of the ordered Goods. This documentation must be kept by the Supplier for a period of 20 years and issued at the request of the Orderer, should the need arise. The Supplier is entitled to shorten the storage time of this documentation if is able to exclude the occurrence of health or life risks when using the delivered goods. The Supplier shall oblige the sub-suppliers to keep such documentation within the same scope. The documentation shall be kept according to the recommendations of the VDA Motor Industry Association contained in the publication entitled “Documentation - Guidelines for Keeping Documentation and Archiving of Quality Requirements” in its current version.
- 7.3.** Products being chemical substances or mixtures are subjected to the obligation of marking and description by the Supplier in Polish and in accordance with Polish law. Supplier of products, for which it is mandatory to draw up a safety data sheet for substances or mixtures according to *Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 on the Registration, Evaluation, Authorization and Restriction of Chemicals (REACH) and the creation of a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No. 793/93 and Commission Regulation (EC) No 1488/94, as well as Council Directive 76/769/EEC and Commission Directive 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC* is obliged to provide a card prepared in accordance with the requirements set out in this regulation.
- 7.4.** Chemical substances or mixtures are subjected to the obligation of marking with description by the Supplier in accordance with Polish law. If chemical substances contain substances harmful to the environment, the Supplier is obliged to inform the Orderer at the latest on the day of order confirmation, present the behavior of these substances and the form in which they constitute a threat.
- 7.5.** In cases where this has been specifically agreed, a fire certificate in accordance with EN 10204-3.1 B must be attached to each delivery.
- 7.6.** When delivering machinery and technical equipment, the Supplier is obliged to apply the Polish regulations and standards, in particular, in the field of safety and technical characteristics of machinery and equipment in the phase of their manufacture, assembly and operation. At the commissioning of machinery and equipment, the Supplier and the Orderer draw up a commissioning report. The Supplier is obliged to provide all the required documents with the machine. Machines and technical devices must be manufactured in accordance with the requirements of the so-called “The New Approach” of the European Union and include the CE marking. Documentation of machines and technical devices should always contain a declaration of conformity. At the request of the Orderer, the Supplier is obliged to make full documentation confirming the above circumstances available for inspection. At the commissioning of technical machinery and equipment, the Supplier and the Orderer draw up a commissioning report. Along with the delivery of machinery and technical equipment, the Supplier is also obliged to submit all

documents specified in the Agreement. In addition, the regulations included in the Sales Agreement for these machines and devices shall apply.

**7.7.** In the event that the administrative authorities or courts require the Orderer to provide specific information on the course of production of goods, the Supplier undertakes to provide the Orderer with relevant information. The Supplier shall oblige its sub-suppliers to provide the Orderer with relevant information.

## **8. Warranty**

**8.1.** The Supplier is responsible for the fact that the delivered goods are free from physical and legal defects. Defective goods are also considered to be goods that do not meet certain features and for which no relevant documentation has been attached.

**8.2.** In the case of defects in the subject of delivery, the Supplier first of all is entitled to deliver instead of defective items the same amount of items free of defects or to remove these defects. If the activities referred to in the preceding sentence are not possible or the Supplier fails to execute them immediately, the Orderer has the right to withdraw from the Agreement in the appropriate part and return the goods at the cost and risk of the Supplier. In urgent cases, the Orderer may itself repair or commission the repair of the invalid goods to third parties, whereby the resulting costs are borne by the Supplier. In any case, the Orderer may demand compensation for any damage suffered as a result of defects, including in particular those resulting from a delay in delivery of goods free from defects.

**8.3.** The Supplier shall bear in particular all costs incurred on the part of the Orderer as a result of identifying and remedying the defect, including costs related to testing, disassembly and reassembly, labor and material costs as well as transport costs as well as other costs incurred as a result of replacing the defective goods. The above also applies if the goods have to be delivered to a place other than the place of performance.

**8.4.** If the same product is re-delivered with defects, the Orderer is entitled to withdraw from the Agreement also in the part concerning the goods not yet delivered.

**8.5.** If, despite complying with the requirements of point 6 (reporting defects), the defect is found only after the start of production, repairing the damage referred to in point 8.2. last sentence and point 8.3. also applies to the workload incurred, including in particular the costs of damaged production materials, as well as employees' remuneration for the production of damaged products and for the downtime caused by the defective goods.

**8.6.** Goods to be exchanged by the Supplier shall be issued to him at his request and at his expense.

**8.7.** The rights under the warranty expire 24 months after the delivery of the subject of the delivery, unless the parties have stipulated otherwise.

**8.8.** In the case of delivery of the same quantity of goods free from defects in place of the delivery subject, which has been found to be defective, the rights under the warranty expire 24 months after the date of the ordering the object of delivery free from defects.

**8.9.** The Orderer is entitled to withhold the payment of the sale price and other services due to the Supplier until the defects are removed, and in the case of machines and technical equipment, until the Supplier's guaranteed properties and parameters are met by entities specializing in this area.

**8.10.** Unless the above regulations provide otherwise, the statutory provisions regarding the warranty apply.

## **9. Responsibility / Liability Insurance**

**9.1.** Unless these GTC specify otherwise, the Supplier is obliged to repair, on the basis of the provisions provided for in paragraphs 9.2-9.5, damage suffered by the Orderer as a result of improper performance of the Agreement, including delivery of goods with defects, violation of law or other circumstances for which the Supplier is responsible.

**9.2.** The Supplier is responsible for even the slightest failure to exercise due diligence assessed with regard to specific measures resulting from the professional nature of his business. The burden of proof that the damage occurred despite due diligence rests with the Supplier.

**9.3.** If a third party raises claims against the Orderer resulting from the Supplier's breach of its rights, the Supplier is obliged to release the Orderer from all liability and cover all costs arising for the Orderer in relation to raised claims, including full costs of legal assistance and possible participation in court proceedings .

**9.4.** In the event of occurrence of grounds for the Orderer to raise claims against the Supplier, the Orderer shall notify the Supplier immediately and comprehensively and conduct negotiations with him to resolve the issues at issue amicably. The Orderer shall enable the Supplier to investigate the extent of the damage and the circumstances of its occurrence. The parties shall agree mutually on the rules for further proceedings, aimed in particular at facilitating reaching an understanding by negotiation.

**9.5.** The Supplier is obliged to have civil liability insurance for damage caused to the Orderer in connection with the delivery, with a sum insured of not less than EUR 1,000,000.00. At the request of the Orderer, at any time, the Supplier shall send the Orderer a copy of the civil liability insurance policy.

**9.6.** In the event that the customer or third party shall manage the claim against the Orderer due to defects in the subject of delivery, the Supplier undertakes to release it from the responsibility at the request of the Orderer. The Supplier undertakes to cover all related costs, in particular the costs of legal assistance. In the event of the necessity to withdraw goods from the market, all costs related to this are incurred by the Supplier.

## **10. Protective Rights and Other Rights of Third Parties**

**10.1.** The Supplier is responsible for the fact that no third party rights, including copyrights, industrial property rights, know-how, etc. shall be infringed in connection with its deliveries, in particular in countries where the Supplier produces these goods or orders them to be manufactured.

**10.2.** The Supplier is obliged to release the Orderer from all claims raised by third parties due to violations of the rights referred to in point 10.1. and repair any damage suffered by the Orderer and resulting from the pursuit of claims against it by third parties, regardless of whether the Supplier is guilty.

**10.3.** Documents and all materials provided to the Supplier for the purpose of the Agreement remain the property of the Orderer. The Supplier is obliged to properly secure such documents and materials.

**10.4.** The parties undertake to inform each other about the occurrence of the risk of infringement of rights and take steps to prevent such violations.

## **11. Control of Origin and Export**

**11.1.** The Supplier is obliged to submit a certificate of origin of goods issued by an authorized entity in the Supplier's country at his cost or any other documents, as long as they are required by law in connection with the importation of goods and customs clearance, including those related to the application of preferential rates of adducts from the country of origin. If the goods are covered by the regulation of the Council Regulation (EC) No. 1207/2001 of June 11, 2001, the Supplier systematically supplying the Orderer is obliged to submit a statement on the origin of the goods using the form "Long-term Declaration of the Supplier" in accordance with the requirements provided for in this regulation. The declaration shall be signed by the representative of the Supplier authorized to represent it and delivered to the Orderer annually by the end of the month of January.

**11.2.** The Supplier is obliged to inform the Orderer about export restrictions regarding goods used in the country of production or shipping. The Supplier is obliged to inform the Orderer if the goods require export or re-export authorization according to the law of the United States of America. If the registered office of the Supplier is located in the European Union, it must provide the Orderer with information on existing authorization obligations in the dual-use trade and goods for military use, in accordance with the European export restrictions and implementing regulations in individual countries. In addition, the Supplier should inform the Orderer about the appropriate classification numbers (e.g. "*ECCN-Export Control Classification Number*" for products originating in the United States of America, "*AL-Number*" for goods from the "*German Export List*", etc.), as well as any other required permits in the trade in goods. Information on this subject should be sent directly to the following address: Bader Polska sp. z o.o., ul. Mostowa 1, 59-700 Bolesławiec.

## **12. Force Majeure**

In the case of Force Majeure, the Orderer may evade the performance of the Agreement and apply these GTP in whole or in part or require its implementation at a later date, which does not cause any claims on the part of the Supplier.

## **13. Maintaining the Secrecy**

**13.1.** Any information obtained by the Supplier in connection with the performance of the Agreement, including in particular any organizational, commercial and technical information regarding the Orderer and not made available to the public should be considered confidential and as such they must not be disclosed to third parties. In particular, the Supplier undertakes to treat as confidential information about the volume of trade, applied prices, discounts, product specifications, logistics agreements, technological data.

**13.2.** The Supplier shall also oblige sub-suppliers to respect the confidentiality of information referred to in point 13.1.

#### **14. Data Protection**

The Supplier agrees that in the framework of the concluded Agreement and business relations, the Orderer shall process the data concerning him and use it for his own purposes.

#### **15. Final Provisions**

**15.1.**In the event that one of the parties ceases to settle a payable obligation or if an application for bankruptcy is filed, the other party shall be entitled to withdraw from the Agreement in an unrealized part.

**15.2.**If one or more of the provisions of these GTC and any further arrangements made between the parties were to be invalid, the Agreement between the parties remains in force as to the remaining parts. Invalid provisions shall be replaced with the appropriate provisions of the Act or arrangements between the parties with an equivalent economic effect as the provision being annulled.

**15.3.**The law applicable to the relations established between the Supplier and the Orderer under these GTC and additional arrangements remains exclusively Polish law, unless the parties agree otherwise.

**15.4.**Only Polish courts have exclusive jurisdiction to resolve disputes arising from legal relationships existing between the Supplier and the Orderer under these GTC and additional arrangements.

**15.5.**For the recognition of disputes arising from legal relations existing between the Supplier and the Orderer under these GTP and additional arrangements, only the court in whose district the registered office of the Orderer is located shall be competent.

**15.6.**The parties exclude the possibility of transferring the rights and obligations of the Supplier under this Agreement, including the transfer of claims without prior consent of the Orderer expressed in writing under pain of nullity.

**BADER Polska Sp. z. o.o., May 2019**