

## **General Terms and Conditions of Purchase of extrutec GmbH based in Moos**

*(As of December 2021)*

### **1. General, scope**

- 1.1 All deliveries, services (including the production of works) and offers to extrutec GmbH ("**extrutec**") by suppliers are made exclusively on the basis of these General Terms and Conditions of Purchase for domestic transactions ("**Conditions of Purchase**"). Unless otherwise agreed, the Conditions of Purchase in the version valid at the time of the order placed by extrutec or at least in the version last communicated in text form apply as a framework agreement also for similar future contracts, without extrutec having to refer to them again in each individual case.
- 1.2 The Conditions of Purchase apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the supplier or third parties only become part of the contract if and to the extent that extrutec has expressly agreed to their validity. This approval requirement applies in any case, for example even if extrutec accepts the delivery without reservation, knowing the terms and conditions of the supplier. In addition, the applicability of conflicting or additional terms and conditions of the supplier is excluded, even if extrutec does not expressly contradict them. Even if extrutec refers to a letter that contains or refers to the terms and conditions of

the supplier or a third party, this does not constitute consent to the validity of those terms and conditions.

- 1.3 Legally relevant declarations and notifications (e.g. withdrawal) that are to be submitted by the supplier after the contract has been concluded must be in writing or text form (e.g. letter, email, fax) to be effective. Statutory formal requirements and further evidence, especially in the case of doubts about the legitimacy of the declaring party, remain unaffected by this provision.

- 1.4 References to the validity of legal regulations in the Conditions of Purchase are only for clarification purposes. The statutory provisions also apply without such a reference, unless they are changed or excluded in these Conditions of Purchase.

### **2. Conclusion of contract, content of the contract**

- 2.1 An order placed by extrutec is considered binding at the earliest when it is submitted or confirmed in writing. The supplier must point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion prior to acceptance; otherwise the contract is deemed not to have been concluded.
- 2.2 The supplier is required to confirm an order placed by extrutec in writing within a period of 14 days or, in particular, to execute it without reservation by sending

the goods (acceptance). The receipt of the confirmation or goods at extrutec is decisive for the expiry of the period. A late acceptance counts as a new offer and requires acceptance by extrutec.

2.3 Additions or changes to the order require written confirmation by extrutec.

2.4 extrutec is entitled to change the time and place of delivery as well as the type of packaging at any time by giving written notice of at least 10 calendar days before the agreed delivery date. The same applies to changes to product specifications, insofar as these can be implemented within the framework of the normal production process of the supplier without significant additional effort, whereby in these cases the notification period is at least one month. The proven and reasonable additional costs resulting from the change will be reimbursed by extrutec. If such changes result in delivery delays which cannot be avoided in the normal production and business operations of the supplier with reasonable efforts, the originally agreed delivery date will be postponed accordingly. The supplier will notify extrutec in writing of the additional costs or delays in delivery that it can expect from a careful assessment in good time before the delivery date, but at least within 7 working days after receipt of the notification.

2.5 The supplier is not entitled to subcontract third parties (e.g. subcontractors) without the prior consent of extrutec. The unauthorized subcontracting of third

parties entitles extrutec to withdraw from the contract in whole or in part or to terminate it and to demand compensation.

2.6 The supplier bears the procurement risk for its services, unless otherwise agreed in individual cases (e.g. limitation to stock).

2.7 extrutec is entitled to withdraw from the contract at any time by means of a written declaration stating the reason if after the conclusion of the contract the products ordered by extrutec can no longer be used due to circumstances for which the supplier is responsible (such as failure to comply with legal requirements) or can only be used with considerable expenditure or if the financial circumstances of the supplier deteriorate to such an extent after the conclusion of the contract that a delivery in accordance with the contract cannot be expected.

### **3. Delivery and service deadlines and dates**

3.1 The delivery time specified by extrutec in the order is binding. If the delivery time is not specified in the order and not otherwise agreed, it is 14 days from the conclusion of the contract. The supplier is obliged to inform extrutec immediately in writing if the agreed delivery times - for whatever reason - can probably not be met.

3.2 For the timeliness of deliveries or services - subject to a different delivery address - the receipt at extrutec is decisive.

- 3.3 Advance deliveries and advance services as well as deliveries and services after the agreed date are only permitted with the consent of extrutec. The acceptance of a delayed delivery or service does not imply a waiver of compensation claims by extrutec.
- 3.4 extrutec is not obliged to accept partial services or partial deliveries. In the case of agreed partial deliveries or partial services, the remaining quantity still to be delivered must be listed on the delivery note.
- 3.5 If the supplier does not provide his service or does not perform within the agreed delivery time or if it is in default, the rights of extrutec - in particular to withdraw from the contract and to claim damages - are determined in accordance with the statutory provisions. The regulations in Clause 3.6 remain unaffected.
- 3.6 If the supplier is in default, extrutec can - in addition to further legal claims - demand lump-sum compensation for damage caused by default in the amount of 1% of the net price per completed calendar week, but not more than 5% of the net price of the delayed goods. extrutec reserves the right to provide evidence that greater damage has occurred. The supplier reserves the right to provide evidence that no or only significantly less damage has occurred or that it is not responsible for the damage. If the corresponding reservation is not made when the delivery, service or

supplementary performance is accepted, the contractual penalty can still be asserted up to the final payment. extrutec is entitled to claim a contractual penalty in addition to performance. Further claims and rights are reserved.

**4. Scope of delivery, shipping, transfer of risk, acceptance and transport insurance**

- 4.1 Delivery within Germany is "free domicile" to the location specified in the order. If the destination is not specified and nothing else has been agreed, the delivery must be made to the registered office of extrutec in Moos. The respective destination is also the place of performance for the delivery and any subsequent performance (obligation to provide).
- 4.2 The delivery must be accompanied by a delivery note stating the date (issue and dispatch), the content of the delivery (article number and quantity) and the order identifier (date and number) of extrutec. If the delivery note is missing or incomplete, extrutec is not responsible for any resulting delays in processing and payment. A corresponding dispatch note with the same content must be sent to extrutec separately from the delivery note.
- 4.3 The risk of accidental loss and accidental deterioration of the item is only transferred to extrutec when it is handed over to extrutec at the place of performance, even if shipping has been agreed. If acceptance has been agreed, this is decisive for the transfer of risk. In

addition, the statutory provisions of the law on contracts for work and services apply accordingly in the event of acceptance. The handover or acceptance is deemed to be performed if extrutec is in default of acceptance. The fictitious acceptance regulated in Section 640 (2) sentence 1 of the German Civil Code (BGB) is excluded.

4.4 For the occurrence of the default of acceptance by extrutec the legal regulations apply. However, the supplier must also expressly offer its service if a specific or definable calendar time has been agreed for an action or participation by extrutec (e.g. provision of material). If extrutec is in default of acceptance, the supplier can demand reimbursement of its additional expenses in accordance with the statutory provisions (Section 304 BGB). If the contract concerns a non-fungible item to be manufactured by the supplier (individual production), the supplier is only entitled to further rights if extrutec is obliged to cooperate and extrutec is responsible for the failure to cooperate.

4.5 If extrutec cannot meet its performance obligations due to force majeure (e.g. war, acts of terrorism, riot, pandemic or similar events) or other events that at the time of the conclusion of the contract were unforeseeable, unavoidable and beyond the control and responsibility of extrutec (e.g. operational disruptions of all kinds, difficulties in the procurement of materials or energy, transport delays, strikes, lawful lockouts, lack of labor, energy or raw materials, difficulties in

obtaining the necessary official permits or official measures or the lack of, incorrect or late delivery by suppliers, attacks by third parties on the IT system of extrutec despite taking the usual care, obstacles due to applicable regulations of foreign trade law), extrutec is exempt from the acceptance obligation for the duration of these events. extrutec will notify the supplier of this in good time. If such an event lasts for a longer period, extrutec is entitled to withdraw from the contract in whole or in part without the supplier being entitled to any claims for compensation, regardless of the reasons. Alternatively, extrutec is entitled to determine the time of acceptance without resulting in a prepayment for claims of the supplier, provided that the determination is not unreasonable for the supplier.

4.6 The supplier must properly pack, dispatch and insure its deliveries and comply with all relevant packaging and dispatch regulations. The supplier is liable for all damages that arise from improper or inadequate packaging, shipping or insurance.

4.7 The supplier is obliged to comply with the relevant export restrictions.

## **5. Prices**

5.1 The price stated in the order is binding. All prices include the statutory value added tax, if this is not shown separately.

5.2 Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the supplier (e.g.

assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).

- 5.3 If, according to the agreement made, the price does not include the packaging and the remuneration for the packaging - which is not only made available on loan - is not expressly determined, this is to be calculated at the proven cost price. At the request of extrutec, the supplier must take back the packaging at his own expense.

## **6. Terms of payment**

- 6.1 The supplier's invoices must contain all the information required in the order for each delivery and must be sent to the email address `invoice@extrutec-gmbh.de`.
- 6.2 Payments by extrutec are made subject to invoice verification by transfer to the account specified by the supplier. extrutec is not obliged to pay for deliveries and services which have not been carried out in accordance with the order.
- 6.3 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. If extrutec makes payment within 14 calendar days, the supplier shall grant extrutec a 3% discount on the net amount of the invoice. In the case of bank transfers, payment shall be deemed to have been made in time if the transfer order is received by extrutec's bank before the payment

deadline has expired; extrutec is not responsible for delays caused by the banks involved in the payment process. If the end of the payment deadlines specified in s. 1 and 2 falls on a Saturday, Sunday or public holiday, payment shall be made on the following working day.

- 6.4 extrutec does not owe any maturity interest. The statutory provisions apply to default in payment.
- 6.5 Set-off and retention rights as well as the defense of the non-fulfilled contract are available to extrutec to the extent permitted by law. In particular, extrutec is entitled to withhold payments due as long as extrutec are still entitled to claims against the supplier for incomplete or defective performances.
- 6.6 The supplier only has a right of set-off or retention for counterclaims that have been established by declaratory judgement or are undisputed.
- 6.7 In the event of a disagreement between extrutec and the supplier, extrutec is entitled to withhold payment of disputed invoices until the disagreement has been resolved.

## **7. Confidentiality**

- 7.1 Orders from extrutec are to be treated confidentially. In addition, the supplier undertakes to keep secret any commercial and technical information and documents that are not generally known and that become known to it through the business relationship and to

use them exclusively for the performance of the ordered deliveries.

7.2 The supplier may name, depict or otherwise use the company name, logo or trademarks of extrutec in the context of advertising materials, when specifying references or in other publications, provided that extrutec has given prior written consent.

7.3 extrutec reserves the right of ownership and copyrights to images, plans, drawings, calculations, execution instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and to be returned to extrutec after the contract has been completed. The documents are to be kept secret from third parties, even after the termination of the contract. The confidentiality obligation only expires if and to the extent that the knowledge contained in the documents provided has become generally known.

7.4 The above provision shall apply accordingly to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that extrutec provides to the supplier for production. Such objects - as long as they are not processed - are to be stored separately at the supplier's expense and insured to a reasonable extent against destruction and loss.

7.5 The supplier must oblige any sub-suppliers to comply with the above provisions.

7.6 extrutec is entitled to demand compliance with additional safety regulations.

## **8. Obligation to examine, defectiveness, notification of defects, rights of extrutec in the event of defects, statute of limitations**

8.1 The statutory provisions apply to the rights of extrutec in the event of material defects and defects of title in the goods (including incorrect and short deliveries as well as improper assembly, inadequate assembly, operating or operating instructions) and in the event of other breaches of duty by the supplier, unless otherwise specified below.

8.2 According to the statutory provisions, the supplier is particularly liable for ensuring that the goods have the agreed quality at the time of transfer of risk to extrutec. In any case, those product descriptions which - in particular by designation or reference in the order from extrutec - are the subject of the respective contract or are included in the contract in the same way as these Conditions of Purchase shall be considered as an agreement on the quality. It makes no difference whether the product description originates from extrutec, the supplier or from the manufacturer.

8.3 When the contract is concluded, extrutec is not obliged to examine the goods or to



make specific inquiries about any defects. Partially deviating from Section 442 para. 1 sentence 2 BGB, extrutec is therefore also be entitled to unlimited claims for defects, even if extrutec was not aware of the defect at the time the contract was concluded due to gross negligence.

8.4 The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial inspection and notification obligation with the following stipulation: The inspection obligation of extrutec is limited to defects that emerge during the incoming goods inspection of extrutec under external examination including the delivery papers (e.g. transport damage, wrong and short delivery) or that are recognizable during the quality control of extrutec in the random sampling procedure. If acceptance has been agreed, there is no obligation to examine. In all other respects, it depends on the extent to which an investigation is feasible in the normal course of business, taking into account the circumstances of the individual case. The obligation to give notice of defects discovered later remains unaffected. Irrespective of extrutec's obligation to inspect, the complaint (notification of defects) shall be deemed to be prompt and timely if it is sent within 8 working days of discovery or, in the case of obvious defects, of delivery.

8.5 Upon receipt of the written notification of defects by the supplier, the limitation period for warranty claims by extrutec is suspended until the supplier rejects the

claims or declares the defect eliminated or otherwise refuses to continue negotiations on the claims of extrutec. In the case of replacement deliveries and the rectification of defects, the warranty period for replaced and rectified parts shall start anew, unless extrutec had to assume, based on the behavior of the supplier, that the supplier was not obliged to take the measure, but only carried out the replacement delivery or rectification of defects as a gesture of goodwill or for similar reasons.

8.6 Subsequent performance shall also include the removal of the defective goods and their re-installation, provided that the goods were installed in another item or attached to another item in accordance with their type and intended use; extrutec's statutory right to reimbursement of corresponding expenses shall remain unaffected. The supplier shall bear the expenses required for the purpose of testing and subsequent performance even if it turns out that there was actually no defect. The liability for damages in the event of an unjustified request to remedy defects remains unaffected; In this respect, however, extrutec is only liable if extrutec has recognized or grossly negligently failed to recognize that there was no defect.

8.7 Without prejudice to the legal rights of extrutec and the regulations in paragraph 5, the following shall apply. If the supplier does not fulfil its obligation of supplementary performance - at the option of extrutec by removal of the defect (rectification) or by delivering a

defect-free item (replacement delivery) - within a reasonable period of time set by extrutec, extrutec can remedy the defect itself and demand from the supplier reimbursement of the expenses required for this or a corresponding advance payment. If the supplementary performance by the supplier has failed or is unreasonable for extrutec (e.g. due to particular urgency, threat to operational safety or threatening occurrence of disproportionate damage), no deadline shall be required; extrutec shall inform the supplier of such circumstances immediately, if possible in advance.

8.8 Apart from that, in the event of a material defect or a defect of title, extrutec is entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, according to the statutory provisions, extrutec is entitled to compensation for damages and expenses.

8.9 The supplier is responsible for defects under a purchase contract or a contract for work and services for a period of three years from the transfer of risk. If an acceptance has been agreed, the statute of limitations begins with the acceptance. In addition, claims based on defects of title do not expire as long as the third party can still assert the right against extrutec - especially in the absence of a statute of limitations. Longer statutory limitation periods remain unaffected.

8.10 By accepting or approving submitted samples or samples, extrutec does not waive any warranty claims.

## **9. Producer liability**

9.1 The supplier must carefully check its deliveries for defects and do everything possible to avoid product liability.

9.2 If the supplier is responsible for product damage, it shall indemnify extrutec from third party claims insofar as the cause lies in its sphere of control and organization and it is itself liable in the external relationship.

9.3 As part of its indemnification obligation, the supplier has to reimburse expenses in accordance with §§ 683, 670 BGB, which result from or in connection with claims by third parties including recall campaigns carried out by extrutec. extrutec shall inform the supplier about the content and scope of recall measures - as far as possible and reasonable - and give it the opportunity to comment.

9.4 The liability for damages in the context of Clause 9 also includes the costs of a precautionary recall campaign to prevent damage if this was considered to be feasible in the respective situation. Further legal claims remain unaffected.

## **10. Quality and safety**

10.1 The supplier shall comply with the recognized rules of technology, relevant safety regulations and the agreed technical data and standards for his deliveries and services.



- 10.2 The supplier is obliged to comply with the relevant statutory provisions in connection with the contractual relationship. This applies in particular to anti-corruption and money laundering laws as well as antitrust, labor and environmental protection regulations.
- 10.3 The supplier guarantees that it will always meet all requirements of the German Minimum Wage Act (MiLoG), as amended, for all services and work to be performed in Germany and to request and monitor this from its sub-suppliers. On request, it shall submit suitable information and confirmations to this effect. In the event of a violation of the MiLoG, the supplier shall release extrutec from all third-party claims upon first request and shall be liable for any damages that may arise.
- 10.4 The supplier shall be obliged to inform extrutec about special, not generally known treatment and disposal requirements and to send a manufacturer's declaration or a declaration of conformity (CE) within the meaning of the relevant directives of the European Union or other statutory provisions for each goods delivered.
- 10.5 The supplier will make reasonable efforts to ensure that his sub-suppliers comply with the obligations that apply to the supplier under this Clause 10.
- 10.6 The supplier bears the costs of declarations of conformity, certificates of origin or other proof of certification. The declarations of conformity must be submitted to extrutec immediately with every delivery in German and English.
- 10.7 extrutec is entitled to control and monitor the current business operations of the supplier and its quality assurance measures if a notice period is given in good time during normal business hours. If there is a legitimate interest in extrutec, extrutec also has the right to inspect the relevant documents of the supplier. In this context, the supplier is not obliged to disclose trade secrets.
- 11. Spare parts and readiness for delivery**
- 11.1 The supplier is obliged to deliver spare parts to extrutec at reasonable conditions for the period of the normal technical useful life, but at least ten years after the last delivery.
- 11.2 If the supplier stops delivering the goods after the expiry of the period specified in Paragraph 1 or during this period, he must point this out to extrutec and give extrutec the opportunity to place a final order on reasonable terms.
- 12. Intellectual property rights**
- 12.1 In accordance with paragraph 2, the supplier guarantees that the products it supplies do not infringe any third-party intellectual property rights in countries of the European Union or in other countries in which it manufactures the products or has them manufactured.
- 12.2 The supplier is obliged to indemnify extrutec from all claims that third parties raise against extrutec due to the infringement of intellectual property rights

mentioned in paragraph 1, and to reimburse extrutec for all necessary expenses in connection with this claim. This does not apply if the supplier can prove that it is neither responsible for the infringement of intellectual property rights nor should have been aware of it at the time of delivery if it had exercised due commercial care.

12.3 Further legal claims due to defects of title in the products delivered to extrutec shall remain unaffected.

### **13. Assignment**

The supplier is not entitled to assign its claims from the contractual relationship to third parties. This does not apply insofar as monetary claims are concerned.

### **14. Retention of title**

14.1 Processing, mixing or combining (further processing) of provided items by the supplier shall be carried out for extrutec. The same shall apply in case of further processing of the delivered goods by extrutec, so that extrutec shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest with the further processing in accordance with the statutory provisions.

14.2 The transfer of ownership of the goods to extrutec must take place unconditionally and regardless of the payment of the price. However, if in individual cases extrutec accepts an offer of transfer of ownership by the supplier conditional on the payment of the purchase price, the supplier's retention of title expires at the

latest with the payment of the purchase price for the goods delivered. In the normal course of business, even before the purchase price is paid, extrutec remains authorized to resell the goods with advance assignment of the resulting claim (alternatively, validity of the simple retention of title extended to the resale). In any case, all other forms of retention of title are excluded, in particular the extended retention of title, the forwarded retention of title, and the retention of title extended to further processing.

### **15. Software**

15.1 If the delivery item contains software created for extrutec, the supplier shall grant extrutec the right to use the software throughout the group, to reproduce it as desired and to make it available to third parties worldwide free of charge together with the delivery item.

15.2 For the purpose of maintenance and further development, extrutec shall be entitled to retranslate the software.

15.3 Any agreed remuneration for software services is only due when a formal acceptance procedure is carried out with a written acceptance declaration by extrutec.

### **16. Place of jurisdiction, applicable law, severability clause**

16.1 The exclusive place of jurisdiction for all legal disputes arising from or in connection with the contractual relationship between the contracting parties shall be Moos (Federal Republic of Germany), the registered office of

extrutec. Deviating from sentence 1, however, extrutec is also entitled to sue the supplier in the courts at the place of performance of the delivery obligation in accordance with these Conditions of Purchase or a prior individual agreement or at the general place of jurisdiction of the supplier. Overriding statutory provisions, in particular those relating to exclusive jurisdiction, shall remain unaffected.

Einkaufsbedingungen) shall be relevant. If the order is made in English language, exclusively the English version of these General Terms and Conditions shall be relevant.

16.2 The law of the Federal Republic of Germany shall apply to these Conditions of Purchase and the contractual relationship between the contracting parties, excluding the United Nations Convention on the International Sale of Goods of April 11, 1980 (CISG).

16.3 Insofar as the contract or these Conditions of Purchase contain loopholes, those legally effective provisions shall be deemed to have been agreed on to fill these loopholes, which the contracting parties would have agreed on according to the economic objectives of the contract and the purpose of these Conditions of Purchase if they had been aware of the loopholes.

16.4 Our contracts with the Supplier shall be made exclusively in the German or English language, in each case depending on whether extrutec makes the relevant purchase in English language or in German language. Therefore, if the order is made in German language, exclusively the German version of these General Terms and Conditions (Allgemeine