

## **General Terms and Conditions of Purchase**

### **1. General provisions**

- 1.1 These General Terms and Conditions of Purchase (GTCP) shall apply to all business relationships with business partners and suppliers ("Sellers") of Les Graveurs. These GTCP shall only apply if the Seller is an entrepreneur (Section 14 *BGB* [German Civil Code]), a legal entity under public law or a special fund under public law.
- 1.2 The GTCP shall especially apply to contracts for the sale and/or delivery of movable goods ("Goods"), irrespective of whether the Seller manufactures the Goods itself or acquires them from suppliers (Sections 433, 650 *BGB*). Unless otherwise agreed, the GTCP in the version valid at the time of the purchaser's purchase order or at any rate in the version last notified to it in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
- 1.3 These GTCP shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Seller shall only become part of the contract if and to the extent that we have expressly agreed to their effectiveness in writing. This requirement of consent shall apply in all cases, even if we accept the Seller's deliveries without reservation while being aware of the Seller's general terms and conditions.
- 1.4 Individual agreements made with the Seller on a case-by-case basis (including ancillary agreements, supplements and amendments) shall take precedence over these GTCP in all cases. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
- 1.5 Legally relevant declarations and notifications by the Seller with regard to the contract (e.g. setting a deadline, reminder, withdrawal) shall be made in writing or in text form (e.g. letter, e-mail, fax). Statutory formal requirements and further proof, especially if the legitimacy of the declaring party is in doubt, shall remain unaffected.
- 1.6 References to the applicability of statutory provisions shall be for clarification purposes only. Therefore, even without such clarification, the statutory provisions shall apply, unless they are directly amended or expressly excluded in these GTCP.

### **2. Conclusion of contract**

- 2.1 Our purchase order shall be deemed binding at the earliest upon written submission or confirmation. The Seller shall point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the purchase order including the order documents to us for the purpose of correction or completion before acceptance; otherwise, the contract shall be deemed not to have been concluded.
- 2.2 The Seller shall be required to confirm our purchase order in writing within a period of 5 days or to execute it without reservation by dispatching the Goods (acceptance).
- 2.3 Delayed acceptance shall be deemed to be a new offer and shall be subject to acceptance by us.

### **3. Delivery time and delay in delivery**

- 3.1 The delivery time stated by us in the purchase order shall be binding. If the delivery time is not specified in the purchase order and has not been agreed otherwise, it shall be 2 weeks from the conclusion of the contract. The Seller shall be obliged to inform us immediately in writing if it is unlikely to be able to meet agreed delivery times for whatever reason.
- 3.2 If the Seller fails to perform or fails to perform within the agreed delivery time or if it is in default, our rights, especially to rescission and damages, shall be in accordance with the statutory provisions. The regulations in 3.3 shall remain unaffected.
- 3.3 If the Seller is in default, we shall be entitled, in addition to further statutory claims, to demand lump-sum compensation of losses caused by default in the amount of 3% of the delivery value per completed week, but in total not more than 15% of the delivery value of the Goods delivered late. We shall reserve the right to prove that higher losses have occurred. The Seller shall reserve the right to prove that no losses or significantly lower losses have occurred.

### **4. Performance, delivery, transfer of risk, default of acceptance**

- 4.1 Without our prior written consent, the Seller shall not be entitled to have the work and/or service owed by it carried out by third parties (e.g. subcontractors). The Seller shall bear the procurement risk for its work and services, unless otherwise agreed in individual cases (e.g. limitation to stock).
- 4.2 The Seller warrants that its products, goods, other supplies etc. do not contain any substances that fall within the scope of application of the substance bans set out in EC Directive 2011/65/EU (RoHS). It further warrants that the substances contained in the Goods as well as their use(s) are either already registered or there is no registration obligation under Regulation (EC) No 1907/2006 (REACH Regulation) and that, if required, an authorisation under the REACH Regulation has been obtained. The Seller shall also, if required, draw up the safety data sheet in accordance with Annex II of the REACH Regulation and provide it to us. If Goods are delivered that are to be classified as dangerous goods in accordance with international regulations, the Supplier shall inform us when confirming the order at the latest.
- 4.3 Delivery shall be "free domicile" within Germany to the location specified in the purchase order. If the place of destination is not specified and nothing else has been agreed, delivery shall be made to our registered office in Heimsheim. The respective place of destination shall also be the place of performance for the delivery and any rectification (obligation to be performed at our place of business).
- 4.4 The delivery shall be accompanied by a delivery note stating the date (issue and dispatch), the content of the delivery (item number and quantity) and our order identifier (date and number). If the delivery note is missing or incomplete, we shall not be responsible for any resulting delays in processing and payment. A corresponding dispatch note with the same content shall be sent to us separately from the delivery note.
- 4.5 The risk of accidental loss and accidental deterioration of the item shall pass to us upon handover at the place of performance. Insofar as formal acceptance has been agreed, it shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply accordingly to formal acceptance. If we are in default of acceptance, this shall be deemed equivalent to handover or formal acceptance.



- 4.6 The statutory provisions shall apply to the occurrence of our default of acceptance. However, the Seller shall also expressly offer us its work or service if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the Seller may demand compensation for its additional expenses in accordance with the statutory provisions (Section 304 *BGB*). If the contract relates to a specific item (to be made to specification) to be manufactured by the Seller, the Seller shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to cooperate.

## 5. Prices and payment terms

- 5.1 The price stated in the purchase order shall be binding. All prices shall include the statutory value added tax, unless it is shown separately.
- 5.2 Unless otherwise agreed on a case-by-case basis, the price shall include all services and ancillary services of the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- 5.3 The agreed price shall be due for payment within 60 calendar days of complete delivery and performance (including any agreed formal acceptance) and receipt of a proper invoice. If we make the payment within 14 calendar days, the Seller shall grant us a 3% cash discount on the net amount of the invoice. If the payment is made by bank transfer, it shall be deemed to have been made on time if our transfer order is received by our bank before the expiry of the payment deadline; we shall not be responsible for any delays caused by the banks involved in the payment process.
- 5.4 We shall not owe any interest on maturity. The statutory provisions shall apply to the default of payment.
- 5.5 We shall be entitled to rights of set-off and retention as well as the defence of non-performance of the contract to the extent provided by law. In particular, we shall be entitled to withhold due payments as long as we are still entitled to claims against the Seller arising from incomplete or defective performance.
- 5.6 The Seller shall have a right of set-off or retention only in respect of counterclaims which are undisputed or established as final and absolute.

## 6. Confidentiality and retention of title

- 6.1 We shall reserve the property rights and copyrights to illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other documents. Such documents shall be used exclusively for the contractual performance and returned to us after the contract has been executed. The documents shall not be disclosed to third parties, even after the contract has ended. The confidentiality obligation shall only expire if and to the extent that the knowledge contained in the documents provided has become generally known.
- 6.2 The foregoing 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 which we provide to the Seller for production. As long as they are not processed, such items shall be stored separately at the Seller's expense and insured to a reasonable extent against destruction and loss.

- 6.3 Any processing, mixing or combination (further processing) of provided items by the Seller shall be carried out for us. The same shall apply if we further process the delivered Goods so that we are deemed to be the manufacturer and acquire ownership of the product upon the further processing at the latest in accordance with the statutory provisions.
- 6.4 The transfer of ownership of the Goods to us shall be unconditional and without regard to the payment of the price. However, if we accept, on a case-by-case basis, an offer by the Seller to transfer ownership that is conditional on the payment of the purchase price, the Seller's retention of title shall expire at the latest upon the payment of the purchase price for the delivered Goods. We shall remain authorised to resell the Goods in the ordinary course of business even before payment of the purchase price has been made with advance assignment of the claim arising therefrom (alternatively, the simple reservation of title extended to the resale shall apply). In all cases, this shall exclude all other forms of retention of title, especially the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- 6.5 It shall not be permitted to make reference to a business relationship existing with us for advertising purposes, unless we have given our consent in writing.

## **7. Tool, model and moulding costs, tools provided**

Tools, the drafts and the final drawings shall become our full property, even if the tool costs, draft costs, final drawings are borne proportionally by the Seller. The Seller shall only acquire the sole right to use the tool. The Seller shall not have any claim for the surrender of the tool, draft, final drawing.

## **8. Defective delivery**

- 8.1 The statutory provisions shall apply to our rights in the event of material defects and defects of title of the Goods (including wrong delivery and short delivery as well as improper assembly, defective assembly, operating or user instructions) and in the event of other breaches of duty by the Seller, unless otherwise stipulated below.
- 8.2. According to the statutory provisions, the Seller shall be liable for ensuring that the Goods have the agreed quality when the risk passes to us. In all cases, those product descriptions which, e.g. by designation or reference in our purchase order, are the subject matter of the respective contract or have been included in the contract in the same way as these GTCP shall be deemed to be an agreement on the quality. It shall not make any difference whether the product description comes from us, from the Seller or from the manufacturer.
- 8.3. Notwithstanding Section 442 (1) clause 2 *BGB*, we shall also be entitled to unlimited claims based on defects if the defect remained unknown to us at the time the contract was concluded due to gross negligence.



- 8.4 The statutory provisions (Sections 377, 381 *HGB* [German Commercial Code]) shall apply to the commercial obligation to inspect and give notice of defects, subject to the following proviso: Our obligation to inspect shall be limited to defects which become apparent during our incoming goods inspection under external examination including the delivery papers (e.g. transport damage, wrong and short delivery) or which are recognisable during our quality control in the random sampling procedure. If formal acceptance has been agreed, there shall be no obligation to inspect. Apart from that, it shall depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects identified later shall remain unaffected. Notwithstanding our obligation to inspect, our complaint (notice of defect) shall be deemed to have been made immediately and in due time if it is sent within 10 working days of discovery or, in the case of obvious defects, of delivery.
- 8.5 Rectification shall also include the removal of the defective Goods and re-installation insofar as the Goods have been installed in another item or attached to another item according to their type and intended use; our statutory claim to reimbursement of corresponding expenses shall remain unaffected. The expenses required for the purpose of inspection and rectification shall be borne by the Seller even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognised or were grossly negligent in not recognising that there was no defect.
- 8.6 Without prejudice to our statutory rights and the provisions set out in 8.5, the following shall apply: If the Seller fails to fulfil its obligation to rectify the defect, at our discretion by eliminating the defect (repair) or by delivering a defect-free item (replacement) within a reasonable period of time set by us, we may rectify the defect ourselves and demand reimbursement of the expenses required for this purpose or a corresponding advance payment from the Seller. If rectification by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the Seller of such circumstances without delay, if possible, in advance.
- 8.7 Apart from that, with material defects or defects of title, we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, we shall be entitled to claim damages and compensation for expenses in accordance with the statutory provisions.
- 8.8 If consumer goods are sold, the provisions of Sections 478, 479 *BGB* shall remain unaffected.

## 9. Supplier recourse

- 9.1 We shall be entitled to our legally stipulated recourse claims within a supply chain (supplier recourse according to Sections 445a, 445b, 478 *BGB*) without restriction in addition to the claims based on defects. In particular, we shall be entitled to demand exactly the type of rectification (repair or replacement) from the Seller that we owe our customer in the individual case. This shall not restrict our statutory right of choice (Section 439 (1) *BGB*).
- 9.2. Before we acknowledge or fulfil a claim based on defects asserted by our customer (including reimbursement of expenses according to Sections 445a (1), 439 (2) and (3) *BGB*), we shall notify the Seller and request a written statement, briefly setting out the facts of the case. If there is no substantiated statement provided within a reasonable period of time and if there is no amicable solution brought about, the claim based on defects actually granted by us shall be deemed to be owed to our customer. In this case, the Seller shall have the burden of proof to the contrary.

- 9.3. Our claims arising from supplier recourse shall also apply if the defective goods have been further processed by us or by another entrepreneur, e.g. by installation into another product.

## **10. Manufacturer's liability**

- 10.1 If the Seller is responsible for product damage, it shall indemnify us from and against claims of third parties to the extent that the cause lies within its sphere of control and organisation and the Seller is personally liable in relation to third parties.
- 10.2 Within the scope of its indemnification obligation, the Seller shall reimburse expenses according to Sections 683, 670 *BGB* or according to Sections 830, 840, 426 *BGB* arising from or in connection with a claim by a third party including recall actions carried out by us. We shall inform the Seller about the content and scope of recall measures, where possible and reasonable, and give it the opportunity to comment. Further statutory claims shall remain unaffected.
- 10.3 We shall undertake the necessary notification of the respective responsible supervisory body/authority in accordance with the provisions of the *ProdSiG* [German Product Safety Act] in coordination with the supplier.
- 10.4 The Seller shall take out and maintain product liability insurance with a lump sum coverage of at least EUR 3.0 million per personal injury/property damage.

## **11. Limitation of actions**

- 11.1 The mutual claims of the contracting parties shall become statute-barred according to the statutory provisions, unless otherwise stipulated below.
- 11.2 Notwithstanding Section 438 (1) no. 3 *BGB*, the general limitation period for claims based on defects shall be 3 years from the transfer of risk. Insofar as formal acceptance has been agreed, the limitation period shall commence upon such formal acceptance. The 3-year limitation period shall apply accordingly to claims arising from defects of title; the statutory limitation period for real rights of third parties for the return of goods (Section 438 (1) no. 1 *BGB*) shall remain unaffected. Furthermore, claims arising from defects of title shall under no circumstances become statute-barred as long as the third party can still assert the right against us, especially in the absence of limitation of actions.
- 11.3 The limitation periods including the aforementioned extension shall apply, to the extent provided by law, to all contractual claims based on defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 *BGB*) shall apply, unless the application of the limitation periods of the *BGB* results in a longer limitation period in individual cases.

## **12. Final provisions, choice of law, place of jurisdiction**

- 12.1 We shall only be liable for intent and gross negligence, to a limited extent. We shall be liable in accordance with the statutory provisions if we culpably breach a material contractual obligation; however, the liability for damages shall be limited to the foreseeable damage typical for this type of contract in this case.
- 12.2 These GTCP and the contractual relationship between us and the Seller shall be governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, especially the UN Convention on Contracts for the International Sale of Goods.



- 12.3 Place of performance shall be Heimsheim.
- 12.4 If the Seller is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive, including international, place of jurisdiction for any and all disputes arising from the contractual relationship shall be our registered office in Heimsheim.
- 12.5 In all cases, we shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCP or an individual agreement that has priority or at the general place of jurisdiction of the Seller. Overriding statutory provisions, especially on exclusive jurisdiction, shall remain unaffected.