

## General Terms and Conditions of Purchase of WALTHER-WERKE Ferdinand Walther GmbH

### 1. Scope of application

1.1 These General Terms and Conditions of Purchase (“Terms and Conditions of Purchase”) of WALTHER-WERKE Ferdinand Walther GmbH, Ramsener Strasse 6, 67304 Eisenberg/Federal Republic of Germany (“Walther”) apply exclusively to companies within the meaning of Section 14 *BGB* [German Civil Code] i.e. natural persons or legal entities, also under public law and under special public law funds, which, in respect of the delivery of the goods, are acting in the performance of their commercial or independent professional activities (“Supplier”).

1.2 These Terms and Conditions of Purchase shall apply exclusively. Walther does not acknowledge any general terms and conditions of the Supplier which are contrary to or differ from these Terms and Conditions of Purchase unless Walther has expressly approved their validity in writing or in text form. These Terms and Conditions of Purchase shall also apply if Walther accepts or pays for deliveries of products and services of the Supplier (“Goods”) in the knowledge of terms and conditions of the Supplier which are contrary to or differ from these Terms and Conditions of Purchase. Terms and conditions of the Supplier shall not apply even if Walther does not separately object in individual cases to their validity.

1.3 These Terms and Conditions of Purchase shall also apply to all deliveries and services by the Supplier to Walther in the future until new terms and conditions of purchase apply.

### 2. Purchase orders/Conclusion of contracts

2.1 Purchase orders from Walther and amendments to or modifications of purchase orders from Walther must be made in writing or text form.

2.2 The Supplier must send an order confirmation in respect of purchase orders from Walther in writing or text form within one week, stating a delivery date. Until receipt of such an order confirmation, Walther shall have the right to revoke the purchase order free of charge. Individual call-offs for delivery shall be binding unless the Supplier objects to them within one week of receipt.

2.3 If the order confirmation deviates from the purchase order, the Supplier must indicate this clearly on the order confirmation, by describing the respective deviations. Walther shall be bound by a deviation only if Walther has expressly approved this in writing or text form. The unconditional receipt of Goods shall in no case be deemed approval.

2.4 Cost estimates of the Supplier are binding and shall not be remunerated, unless otherwise expressly agreed.

### 3. Periods and consequences of periods being exceeded

3.1 Agreed periods for deliveries and services are binding. The specification of non-binding or “approximate” delivery dates by the Supplier is not admissible. Compliance with the delivery date or delivery period shall be determined, unless otherwise agreed in writing or in text form, by receipt of the Goods at Walther.

3.2 If delays are anticipated or arise, the Supplier must notify Walther immediately in writing or text form, stating a binding extension of time for delivery. This shall be deemed agreed if accepted by Walther in writing or text form. The unconditional receipt of a late delivery or service shall not constitute a waiver of compensation claims, to which Walther is entitled due to the late delivery or service. This shall apply until the remuneration owed by Walther for the delivery or service in question has been paid in full.

3.3 If the Supplier fails to deliver or perform within the agreed extension of time, Walther shall have the right, also without warning, to refuse to take delivery, rescind the contract or claim damages for non-performance. Walther shall also have the right of rescission if the delay is not the fault of the Supplier. The additional costs incurred by Walther owing to the default, especially owing to other necessary procurement as a result, shall be borne by the Supplier.

3.4 Walther reserves the right to claim a contractual penalty for failure to perform properly (Section 341 *BGB*) until the final payment.

3.5 If the Supplier culpably defaults in the delivery, Walther shall have the right to claim lump-sum damages due to default in the amount of 0.2% of the net remuneration agreed for the delayed delivery and/or service per working day (Monday to Saturday) of default but at most 5% of the agreed net remuneration for the delayed delivery without further proof of damage. The Supplier shall, however, have the opportunity to prove that Walther has not incurred any damage or considerably less damage. This shall not affect further

legal and contractual claims of Walther. The above-mentioned lump-sum damages shall be set off in full against any further damage claim.

### 4. Prices and terms of payment

4.1 Prices are fixed prices. They include all expenses of the Supplier in connection with the deliveries and services to be provided by the Supplier.

4.2 Unless otherwise agreed, prices are free works, duty and tax paid (DDP pursuant to Incoterms© 2020) including packaging. Value added tax is not included.

4.3 Unless otherwise specifically agreed, Walther shall pay invoices either within 14 days less a 3 % cash discount or within 30 days without deduction as of the due date of the request for payment and receipt of both the invoice and the Goods resp. provision of the service at Walther.

4.4 Invoices that are not correctly submitted (i.e. accurate, complete, valid and auditable) shall be deemed received by Walther only when correct. The term of payment for invoices shall begin upon receipt of a complete, valid, correct and auditable invoice and the agreed certificate.

4.5 Payments shall not constitute any recognition of the delivery or service as being in accordance with the contract. In the event of incorrect or incomplete delivery or service, Walther shall have the right, notwithstanding other rights, to withhold payments in respect of claims arising from the business relationship to the appropriate extent until proper performance.

4.6 If the Supplier requires a payment on account resp. prepayment (advance payment) for its delivery or service, the Supplier shall issue a prepayment invoice and submit a bank guarantee to Walther for the net invoice amount. The bank guarantee shall be returned only after final acceptance.

4.7 Assignment of the Supplier’s claims against Walther to third parties is excluded.

### 5. Processing and delivery

5.1 The Supplier warrants the use of the best, suitable and brand-new material, execution according to professional standards and according to the drawing, appropriate construction and faultless assembly. The Supplier shall constantly check the quality of the Goods. The Supplier shall notify Walther of potential improvements immediately. The Supplier shall also inform Walther of recognisable errors in specifications and foreseeable complications.

5.2 The Supplier may award sub-contracts only with Walther’s consent, unless it is only a matter of supplying marketable parts. Walther shall refuse consent only for an objective reason e.g. because the sub-supplier does not guarantee a proper delivery or is not approved by Walther as supplier. Call-offs for delivery shall be binding in terms of the nature and quantity of the Goods called off and the delivery time.

5.3 Each delivery must be accompanied by a delivery note which specifies Walther’s purchase order number and describes the content according to type and quantity. Walther shall take delivery only of the ordered quantities or numbers of items. Excess or short deliveries and partial deliveries shall only be admissible after prior written agreement with Walther.

5.4 Delivery shall be made, unless otherwise agreed in writing or text form, in non-reusable standard packaging customary in the trade. In the case of non-reusable packaging, specification of the recycling partner (e.g. Interseroh). Where reusable packaging is used, the Supplier shall provide the packaging on loan. It shall be returned at the Supplier’s expense and risk.

5.5 Where raw materials (e.g. diverse metals, aluminium, brass, plastic granulate materials etc.) or Goods comprising such materials (e.g. screws) are supplied, the Supplier shall send a material test report with each delivery.

5.6 In the case of equipment, a technical description and instructions for use (at least in German or English) shall be included with the delivery free of charge. For software products, the supply obligation shall only be met when (system-related and user) documentation has been provided in full, the complete functional test has been performed and written approval granted by Walther. In the case of programs specially created for Walther, the program including source code must in addition also be supplied.

### 6. Safety, environmental protection

6.1 The Supplier’s deliveries and services must comply with statutory provisions, especially safety and environmental standards (“REACH” requirements) including the *Verordnung über gefährliche Stoffe* [Ordinance on Hazardous Substances], the *ElektroG* [German Electrical and Electronic Equipment Act] and safety recommendations of the competent German specialised bodies or professional

associations e.g. VDE, VDI, DIN. The Supplier shall deliver only RoHS compliant goods and products to Walther. Relevant certificates, test certificates and proof shall be included with the delivery free of charge.

6.2 The Supplier is obliged to identify and comply with the current status of the directives and laws relevant for its products in respect of substance restrictions. The Supplier is obliged not to use prohibited substances. The Supplier must state substances to be avoided and hazardous substances according to applicable laws and directives on the specifications. If applicable, the safety data sheets must be submitted already with the quotations and for the respective first-time delivery with the delivery note (at least in German or English). Information on the exceeding of substance restrictions and delivery of prohibited substances must be notified to Walther immediately.

6.3 The Supplier alone shall be responsible for complying with accident prevention regulations when making deliveries and providing services. Protective devices required according to them and any instructions of the manufacturer must be included with the delivery free of charge.

#### **7. Import and export regulations, customs**

7.1 In the case of deliveries and services from an EU member outside Germany, the Supplier's EU Value Added Tax Identification No must be specified.

7.2 Imported Goods shall be delivered duty paid. The Supplier is obliged under Regulation (EC) No 1207 / 2001 (amended by Regulation (EC) No 1617/2006 and Regulation (EC) No 75/2008) to issue required (supplier's) declarations and information at its expense, to permit checks by the customs authorities and to provide necessary official confirmations.

7.3 The Supplier is obliged to notify Walther of any authorisation requirements for (re-)exporting pursuant to German, European and US export and customs regulations as well as export and customs regulations of the country of origin of the Goods and services in detail and in writing or text form.

#### **8. Passing of risk, acceptance, title rights**

8.1 The risk shall pass to Walther, unless otherwise agreed in writing or text form, in the case of delivery without installation or assembly, upon receipt at the delivery address stated by Walther, and, in the case of delivery with installation or assembly, upon successful completion of the installation or assembly and acceptance by Walther. Commissioning or use shall not replace the declaration of acceptance.

8.2 Title to the Goods supplied shall pass to Walther with the passing of risk. The Supplier shall have no rights to retention of title.

#### **9. Obligation to inspect and give notice of defects, degree of inspection**

9.1 The Supplier shall carry out quality assurance and outgoing goods inspection appropriate in nature and scope and corresponding to state-of-the-art technology and shall provide Walther with proof of this upon request. The Supplier shall conclude a corresponding quality assurance agreement with Walther if Walther deems this necessary. In the light of the foregoing, an incoming goods inspection shall take place at Walther only to a limited extent and in respect of obvious defects, such as in particular transport damage, deviations in quantity or identity and obviously recognisable damage. Walther shall give notice of hidden defects as soon as they are identified according to the circumstances of the ordinary course of business. The Supplier shall waive the objection of a delayed notice of defects for all defects notified within one month of identification.

9.2 If Walther returns defective deliveries to the Supplier, Walther shall have the right to charge back to the Supplier the invoice amount plus a lump sum for expenses of 5 % of the net price of the defective delivery. Walther reserves the right to prove higher expenses. The right remains reserved for the Supplier to provide proof of lower or no expenses incurred by Walther.

#### **10. Warranty for material defects and defects of title**

10.1 Defective deliveries must be immediately substituted for deliveries free of defects and defective services must be repeated free of defects.

10.2 The Supplier shall at Walther's option rectify its delivery or service or provide the delivery or service again (supplementary performance). During the period, in which the object of the delivery or service is not in the custody of Walther, the Supplier shall bear the risk.

10.3 If the Supplier fails to remedy the defect, also within a reasonable extension of time set for the Supplier, Walther can at its own option rescind the contract or reduce the remuneration and additionally claim damages in each case.

10.4 Walther is entitled to the rights of recourse determined by law within a supply chain (recourse against suppliers pursuant to Sections 445a, 445b, 478 BGB) without restrictions in addition to the claims for defects. Walther shall have the right in particular to obtain from the Supplier precisely the type of supplementary performance (rectification or replacement) which Walther owes to its customer in the individual case. This shall not restrict Walther's legal right of choice (Section 439 (1) BGB).

10.5 In urgent cases (in particular where there is a risk to operational safety or to avert exceptionally high damage), to remedy minor defects and in the case of the Supplier's default in remedying a defect, Walther shall have the right, after prior notification of the Supplier and expiry of a short extension of time appropriate to the situation, to remedy the defect and any damage incurred as a result itself at the Supplier's expense or have this remedied by a third party at the Supplier's expense. This shall also apply if the Supplier delivers or performs late and Walther has to remedy defects immediately in order to avoid its own default in delivery.

10.6 The limitation period for claims arising from material defects is 36 months as of the passing of risk pursuant to paragraph 8.1; the limitation period for Walther's claims arising from defects of title is ten years as of the passing of risk pursuant to paragraph 8.1.

10.7 The running of the limitation period shall be suspended for the period which begins with receipt of Walther's notice of defects by the Supplier and ends with fulfilment of the claim for defects.

10.8 If the Supplier has to deliver or perform according to Walther's drawings or other special requirements, the conformity of the delivery or service with the requirements shall be deemed expressly warranted.

10.9 Further legal rights shall otherwise remain unaffected.

#### **11. Repeated impairment of performance**

If the Supplier provides essentially the same or similar deliveries or services again or in a defective manner or late after written warning, Walther shall have the right of immediate rescission. The right of rescission shall also include in such case deliveries and services which the Supplier is still obliged to provide to Walther in the future arising from this or another contractual relationship.

#### **12. Indemnification in the event of material defects and defects of title / Product recall**

The Supplier shall indemnify Walther against any claims which third parties assert against Walther, for whatever legal reason, due to a material defect or defect of title or other fault in a delivery by the Supplier and shall reimburse Walther for the necessary costs of legal defence in that respect. The Supplier undertakes to keep such risk adequately insured and to provide proof of this upon request. If a claim is asserted against Walther for violation of official safety regulations or by reason of domestic or foreign product liability regulations or laws because of the defectiveness of a product which is attributable to the Supplier's Goods, Walther shall then have the right to claim compensation for this damage from the Supplier if this was caused by the Goods delivered by the Supplier. This damage shall also include the costs of a precautionary recall. The Supplier shall furthermore insure itself for an adequate amount against all risks arising from product liability including the risk of recall and upon request submit the insurance policy to Walther for inspection.

#### **13. Technical documents, tools, manufacturing equipment**

13.1 Documents provided by Walther (technical documents, tools, work standard specification sheets, manufacturing equipment etc.) shall remain the property of Walther. All trademark rights, copyrights and other property rights shall remain unchanged with Walther. The Supplier shall return all documents provided to Walther, including all duplicates made, immediately after execution of the purchase order, without being requested to do so. In this respect, the Supplier is not entitled to assert a right of retention. The Supplier may use the above-mentioned documents only to execute the purchase order and may not provide them to unauthorised third parties or otherwise make them accessible. Duplication of the above-mentioned documents shall be admissible only to the extent that this is necessary to execute the purchase order. Duplicates are subject to the same obligation of secrecy.

13.2 If the Supplier prepares the documents stated in sentence 1 of paragraph 13.1 for Walther in whole or in part, at Walther's expense, paragraph 13.1 shall apply accordingly, whereby Walther shall, upon the preparation, accordingly

become (co-)owner according to Walther's share in the manufacturing costs. The Supplier shall retain such documents for Walther free of charge. Walther can assert its rights to the documents at any time and request their return.

13.3 The Supplier is obliged to take care of and maintain the above-mentioned documents free of charge and to remedy normal wear and tear. If, to execute the purchase order, the Supplier commissions a sub-supplier, with Walther's approval, to produce documents, the Supplier shall herewith assign its claims against the sub-supplier for transfer of ownership of the documents to Walther. Walther herewith accepts the assignment.

13.4 The scope of delivery shall include without special charges the product-specific and/or technical documentation, certificates of conformity and other documents and certificates required for the Goods or their use as well as the marking of the parts and product and/or its packaging required by law.

#### **14. Provision of materials**

14.1 Materials provided by Walther shall remain the property of Walther and shall be held in safekeeping by the Supplier free of charge and with the due diligence of prudent commercial judgment separate from other items of the Supplier and labelled as the property of Walther. It may be used only to perform the purchase order. The Supplier must make good any damage to the materials provided.

14.2 If the Supplier processes or transforms the materials provided, this activity shall be carried out on behalf of Walther. Walther shall immediately become the owner of the new items resulting from this. If the materials provided constitute only part of the new items, Walther shall be entitled to co-ownership of the new items in the percentage corresponding to the value of the materials provided and contained therein.

14.3 A copy of the delivery note must be sent to Walther immediately after receipt and examination of the delivery of materials provided by fax or electronically to [einkauf@walther-werke.de](mailto:einkauf@walther-werke.de).

14.4 Walther can require an inventory of the materials provided at any time. This must then be carried out immediately by the Supplier and transmitted to Walther in writing.

#### **15. Confidentiality**

15.1 The Supplier is obliged to treat all commercial and technical details not in the public domain, which become known to the Supplier as a result of the business relationship, as confidential and not to disclose them to third parties.

15.2 The manufacture for third parties, the presentation of products manufactured especially for Walther, in particular according to plans, drawings or other special requirements of Walther, relating to the purchase orders and services as well as reference to this purchase order vis-à-vis third parties, shall require the prior written consent of Walther.

#### **16. Data protection**

16.1 The parties are responsible for compliance with all relevant statutory data protection provisions, in particular the General Data Protection Regulation (GDPR) and the *Bundesdatenschutzgesetz (BDSG)* [German Federal Data Protection Act] as well as for the legality of the data transfer and data processing of personal data. The parties undertake to process reciprocally provided personal data exclusively in a lawful and transparent manner and exclusively for the processing of the contractual supply and service relationship.

16.2 Further information about data protection is given in Walther's privacy policy at: <https://www.walther-werke.de/en/data-protection/>

#### **17. Code of conduct for the Supplier**

17.1 The Supplier is obliged to comply with all laws of the respectively applicable legal system(s). In particular, the Supplier shall not participate, either actively or passively, directly or indirectly, in any form of bribery, the violation of the fundamental rights of its employees or child labour. The Supplier shall furthermore assume responsibility for the health and safety of its employees in the workplace, observe environmental laws and provisions on the legal minimum wage e.g. according to the *MiLoG* [German Minimum Wage Act] and require and call for compliance with this code of conduct from its suppliers.

17.2 If the Supplier culpably violates this obligation, Walther shall have the right, notwithstanding further claims, after prior notice, to rescind the contract or terminate the contract.

#### **18. Miscellaneous**

18.1 Place of performance is the delivery address respectively specified.

18.2 Exclusive place of jurisdiction is Kaiserslautern, Federal Republic of Germany. Otherwise the statutory place of jurisdiction shall apply.

18.3 The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the UN Sales Convention. Language of the contract is German.

18.4 Verbal agreements after conclusion of the contract, especially subsequent amendments and modifications of these Terms and Conditions of Purchase, including this written form clause and collateral agreements of any kind, shall only be valid when confirmed by Walther in written or text form. This shall not affect the precedence of the individual agreement pursuant to Section 305b *BGB*.

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