

## **DST Dauermagnet-SystemTechnik GmbH**

### **Section 1 Scope of application, form**

1. These General Terms and Conditions of Purchase (GTC) apply to all business relationships with our business partners and suppliers („Seller“). The GTC shall only apply if the Seller is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.

2. The GTC apply in particular to contracts for the sale and/or delivery of movable goods („goods“), irrespective of whether the Seller manufactures the goods himself or purchases them from suppliers (Sections 433, 650 of the German Civil Code (BGB)). Unless otherwise agreed, the GTC shall apply in the version valid at the time of the Buyer's order. The GTC shall also apply to all future deliveries, services or offers to the Seller, even if they are not separately agreed again.

3. These General Terms and Conditions 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 validity in writing. This requirement of consent shall apply in any case, for example even if the Seller refers to his General Terms and Conditions in the order confirmation and we do not expressly object to them.

4. Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order shall take precedence over the GTC. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

5. Legally relevant declarations and notifications by the Seller in relation to the contract (e.g. setting of deadlines, reminders, withdrawal) must be made in writing. Written form within the meaning of these GTC includes written and text form (e.g. letter, email). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, remain unaffected.

6. References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTC.

### **Section 2 Purchases and orders, call-offs**

1. Insofar as our offers (e.g. orders) do not expressly contain a binding period, we shall be bound to our offer for a period of 2 weeks after the date of the offer. Decisive for the timely acceptance is the receipt of the declaration of acceptance by us.

2. The Seller shall notify us of obvious errors (e.g. typing and calculation errors) and incompleteness of the order, including the order documents, for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not to have been concluded.

3. We are entitled to change the time and place of delivery as well as the type of packaging at any time by written notification with a notice period of at least 7 calendar days before the agreed delivery date. The same applies to changes to product specifications, insofar as these can be implemented within the normal production process of the Seller or the Manufacturer without significant additional expense, whereby in these cases the notification period according to the previous sentence is at least 2 weeks. We shall reimburse the Seller for any proven and reasonable additional costs incurred as a result of the change. If such changes result in delivery delays that cannot be avoided in the Seller's normal production and business operations with reasonable efforts, the originally agreed delivery date shall be postponed accordingly. The Seller shall notify us in writing in good time before the delivery date, but at least within 7 working days of receipt of our notification in accordance with sentence 1, of any additional costs or delays in delivery expected by him on the basis of a careful assessment.

4. We are entitled to withdraw from the contract at any time by written declaration stating the reason if

- we can no longer use the ordered products in our business operations or can only use them at considerable expense due to circumstances occurring after conclusion of the contract for which the Seller is responsible (e.g. non-compliance with legal requirements), or
- the financial circumstances of the Seller deteriorate after conclusion of the contract to such an extent that delivery in accordance with the contract cannot be expected.

5. Delivery call-offs from call-off delivery contracts shall become binding at the latest if the Seller does not object within one week of receipt of our delivery call-off. In the case of call-off contracts, a call-off period of 12 months shall be used as

an approximate call-off time. Delivery call-offs can be made in text form (Section 126b of the German Civil Code (BGB)), e.g. by email, fax or remote data transmission.

6. The Seller is obliged to confirm our order in writing within a period of 10 calendar days or, in particular, to fulfil it without reservation by dispatching the goods (acceptance). Delayed acceptance shall be deemed a new offer and requires our acceptance.

### **Section 3 Prices and terms of payment**

1. The price stated in the order is binding. The statutory value added tax is not included in the price and will be charged additionally at the statutory rate.

2. Unless otherwise agreed in individual cases, the price includes 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).

3. The agreed price shall be due for payment within 30 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice. If we make payment within 14 calendar days, the Seller shall grant us a 3% discount on the net amount of the invoice. In the case of bank transfer, payment shall be deemed to have been made on time if our transfer order is received by our bank before expiry of the payment deadline; we shall not be responsible for delays caused by the banks involved in the payment process.

4. We do not owe any interest on arrears. In the event of default of payment, we shall owe default interest in the amount of 5 percentage points above the base interest rate in accordance with Section 247 of the German Civil Code (BGB). The statutory provisions shall apply to the occurrence of our default with the proviso that in any case a reminder in text form with a reasonable notice period of at least 14 calendar days by the Seller is required.

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 permitted 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 services or performances.

6. The Seller shall only have a right of set-off or retention on the basis of legally established, undisputed or recognised counterclaims.

7. Our order number, article number, delivery quantity and delivery address must be stated in all order confirmations, delivery documents and invoices. Should delays occur due to a lack of such information, our payment deadlines shall be extended by the period of the delay.

8. Costs for packaging are included in the price, unless expressly agreed otherwise. If, according to the agreements made, the price does not include the packaging costs and the remuneration for the packaging is not expressly specified, this shall be charged at the verifiable cost price.

### **Section 4 Delivery time and delay in delivery**

1. The delivery time specified by us in the order is binding. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be 2 weeks from conclusion of the contract. The Seller is obliged to inform us immediately in writing if he is unlikely to be able to meet agreed delivery times - for whatever reason. Early delivery is not permitted unless we expressly agree to it.

2. If the day on which the delivery must be made at the latest can be determined on the basis of the contract, the Seller shall be in default at the end of this day without the need for a reminder from us.

3. The receipt of the goods at the place of fulfilment shall be decisive for compliance with the delivery time.

4. If the Seller does not provide his service or does not provide it within the agreed delivery period or is in default, our rights - in particular regarding withdrawal and compensation - shall be determined in accordance with the statutory provisions. The provisions in Section 5 remain unaffected.

5. If the Seller is in default, we may - in addition to further statutory claims - demand lump-sum compensation for our 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 goods delivered late in total. We reserve the right to prove that higher damages have been incurred. The Seller reserves the right to prove that no damage at all or only significantly less damage has incurred.

6. We do not have to reserve an agreed contractual penalty upon acceptance.

## **Section 5 Performance, delivery, transfer of risk, default of acceptance**

1. Without our prior written consent, the Seller is not authorised to have the service owed by him performed by third parties (e.g. subcontractors). The Seller shall bear the procurement risk for his services unless otherwise agreed in individual cases (e.g. limitation to stock).

2. Delivery shall be made within Germany „free domicile“ to the place specified in the order. If the place of destination is not specified and nothing else has been agreed, delivery shall be made to our place of business. The respective place of destination is also the place of fulfilment for the delivery and any subsequent fulfilment (obligation to deliver).

3. Underdeliveries or overdeliveries are not permitted without prior consent. If an excess delivery is made, we have the right to reject the excess quantity and return it at the supplier's expense and risk.

4. A delivery note stating the date (issue and dispatch), contents of the delivery (article number and quantity) and our order reference (date and number) must be enclosed with the delivery. If the delivery note is missing or incomplete, we shall not be responsible for any resulting delays in processing and payment.

5. The risk of accidental loss and accidental deterioration of the goods shall pass to us upon handover at the place of fulfilment, even if shipment has been agreed. If acceptance has been agreed, this shall be decisive for the transfer of risk. The statutory provisions of the law on contracts for work and labour shall also apply accordingly in the event of acceptance. If we are in default of acceptance, this shall be deemed equivalent to handover or acceptance.

6. The statutory provisions shall apply to the occurrence of our default of acceptance. However, the Seller must also expressly offer us his performance 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 his additional expenses in accordance with the statutory provisions (Section 304 German Civil Code (BGB)). If the contract

relates to a non-fungible item to be manufactured by the Seller (customised production), the Seller shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to cooperate.

## **Section 6 Ownership protection**

1. We reserve the right of ownership or copyright to orders and requests, as well as drawings, illustrations, calculations, descriptions and other documents made available to the Seller. The Seller may neither make them accessible to third parties nor use or reproduce them himself or through third parties without our express consent. Such documents are to be used exclusively for the contractual performance under contracts concluded with us. The Seller must return these documents to us in full at our request if they are no longer required by him in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. In this case, any copies made by the Seller shall be destroyed; the only exceptions to this are storage within the scope of statutory retention obligations and the storage of data for backup purposes within the scope of standard data protection.

2. Tools, devices and models which we make available to the Seller or which are manufactured for contractual purposes and charged to us separately by the Seller shall remain our property or shall become our property. The Seller shall mark them as our property, store them carefully, insure them to a reasonable extent against damage of any kind and use them only for the purposes of the contract. The Seller shall notify us immediately of any damage to these tools and models that is not merely insignificant. Upon request, he shall be obliged to return them to us in proper condition if they are no longer required by him for the fulfilment of the contracts concluded with us.

3. Retentions of title by the Seller shall only apply insofar as they relate to our payment obligation for the respective products to which the Seller reserves title. In particular, extended or prolonged retentions of title are not permitted.

4. Any processing, mixing or combination (further processing) by the Seller of items provided shall be carried out on our behalf. The same shall apply in the event of further processing of the delivered goods by us, so that we shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.

5. The transfer of ownership of the goods to us must take place unconditionally and without regard to the payment of the price. However, if in individual cases we accept an offer of the Seller to transfer ownership conditional on payment of the purchase price, the Seller's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. We remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the resulting claim (alternatively validity of the simple retention of title extended to the resale). This excludes all other forms of retention of title, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to further processing.

## Section 7 Confidentiality

1. The Seller is obliged to keep the terms of the order and all information and documents made available to him by us for this purpose (with the exception of publicly accessible information) confidential for a period of 5 years after the time of disclosure and to use them only for the execution of the order. Upon request, he shall return to us immediately the aforementioned documents relating to the execution of the order or the fulfilment of relating enquiries.

2. The Seller shall furthermore be obliged to maintain all commercial and technical information or knowledge which is not in the public domain and which becomes known through our business relationship as business secrets; in particular, models, templates, samples, tools and similar objects may not be handed over or otherwise made accessible to unauthorised third parties. The duplication of such objects is also not permitted except within the scope of operational requirements, subject to deviating regulations.

3. The Seller shall ensure in an appropriate form that the employees, co-workers, freelancers and subcontractors engaged by him in the performance of the contracts concluded with us maintain the above confidentiality. The Seller shall only disclose information as described above in paragraph 1 and paragraph 2 to those of his employees, co-workers, freelancers, consultants etc. who are necessarily involved in the development, design, manufacture and delivery of goods to us. Disclosure also requires that the receiving persons are themselves bound to confidentiality in accordance with this confidentiality provision (Section 7).

4. Without our prior written consent, the Seller may not refer to the business relationship in advertising material, brochures, etc. and may not exhibit delivery items manufactured for us.

5. The Seller shall oblige its subcontractors in accordance with this Section 7.

## Section 8 Warranty claims

1. The statutory provisions and, exclusively in our favour, the following supplements and clarifications shall apply to our rights in the event of material defects and defects of title of the goods (including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the Seller.

2. In accordance with the statutory provisions, the Seller shall be liable in particular for ensuring that the goods have the agreed quality upon transfer of risk to us. In any case, those product descriptions which - in particular by designation or reference in our order - are the subject of the respective contract, or have been included in the contract in the same way as these GTC, shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, the Seller or the Manufacturer.

3. For goods with digital elements or other digital content, the Seller owes the provision and updating of the digital content in any case to the extent required by a quality agreement in accordance with paragraph 2 or other product descriptions of the Manufacturer or on his behalf, in particular on the internet, in advertising or on the product label.

4. We are not obliged to inspect the goods or make special enquiries about any defects upon conclusion of the contract. Partially deviating from Section 442 Paragraph 1 Sentence 2 of the German Civil Code (BGB), we are therefore entitled to claims for defects without restriction even if the defect remained unknown to us upon conclusion of the contract due to gross negligence.

5. The statutory provisions (Sections 377, 381 of the German Commercial Code (HGB) shall apply to the commercial obligation to inspect and give notice of defects with the following proviso: Our obligation to inspect shall be limited to defects which become apparent during our incoming goods inspection through external examination including the delivery documents (e.g. transport damage, incorrect and short

delivery) or which are recognisable during our quality control in the random sampling procedure. If acceptance has been agreed, there is no obligation to inspect. Otherwise, it depends 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 discovered later remains unaffected. Notwithstanding our duty to inspect, our complaint (notification of defects) shall in any case be deemed to be immediate and timely if it is sent within 8 working days of discovery or, in the case of obvious defects, of delivery.

6. Subsequent fulfilment shall also include the removal of the defective goods and reinstallation, provided that the goods were installed in another item or attached to another item in accordance with their nature and intended use before the defect became apparent; our statutory claim for reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs as well as any dismantling and installation costs, 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 unjustified requests to remedy defects shall remain unaffected; however, we shall only be liable in this respect if we recognised or were grossly negligent in not recognising that there was no defect.

7. Notwithstanding our statutory rights and the provisions in paragraph 5, the following shall apply: If the Seller does not fulfil his obligation to provide subsequent fulfilment - at our discretion by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery) - within a reasonable period of time set by us, we may remedy the defect ourselves and demand reimbursement of the necessary expenses or a corresponding advance payment from the Seller. If the subsequent fulfilment by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, risk of operational safety or imminent occurrence of disproportionate damages), no deadline need be set; we shall inform the Seller of such circumstances immediately, if possible, in advance.

8. Otherwise, in the event of a material defect or defect 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 compensation for damages and expenses in accordance with the statutory provisions.

9. Acceptance or approval of samples or specimens submitted shall not constitute a waiver of warranty claims.

## **Section 9 Supplier recourse**

1. We shall be entitled to our legally determined claims for expenses and recourse within a supply chain (supplier recourse pursuant to Sections 478, 445a, 445b or Sections 445c, 327 (5), 327u of the German Civil Code (BGB)) in addition to the claims for defects without restriction. In particular, we are entitled to demand exactly the type of subsequent fulfilment (rectification or replacement delivery) from the seller that we owe our customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. Our statutory right of choice (Section 439 (1) of the German Civil Code (BGB)) is not restricted by this.

2. Before we acknowledge or fulfil a claim for defects asserted by our customer (including reimbursement of expenses pursuant to Sections 445a Paragraph 1, 439 Paragraph 2, 3, 6 Sentence 2, 475 Paragraph 4 of the German Civil Code (BGB)) we shall notify the Seller and request a written statement, briefly explaining the facts of the case. If a substantiated statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by us to our customer shall be deemed to be owed. In this case, the Seller shall be responsible for providing evidence to the contrary.

3. Our claims arising from supplier recourse shall also apply if the defective goods have been combined with another product or further processed in any other way by us, our customer or a third party, e.g. by installation, attachment or integration.

## **Section 10 Product liability**

1. The Seller shall be responsible for all claims asserted by third parties for personal injury or property damage attributable to a defective product supplied by him and shall be obliged to indemnify us against any liability resulting therefrom. If we are obliged to carry out a recall action against third parties due to a defect in a product supplied by the Seller, the Seller shall bear all costs associated with the recall action.

2. The Seller shall maintain product liability insurance at his own expense with a sum insured of at least € 10 million per personal injury/property damage, which, unless otherwise agreed in individual cases, need not cover the recall risk or criminal or similar damages. The Seller shall send us a copy of the liability policy at any time upon request.

3. Further legal claims remain unaffected.

### **Section 11 Property rights**

1. The Seller warrants in accordance with this Paragraph 1 that no industrial property rights of third parties in countries of the European Union or other countries in which he manufactures the products or has them manufactured are infringed by products delivered by him. He shall be obliged to indemnify us against all claims asserted against us by third parties due to such an infringement of industrial property rights and to reimburse us for all necessary expenses in connection with this claim. This shall not apply if the Seller proves that he is neither responsible for the infringement of industrial property rights nor should have been aware of it at the time of delivery if he had exercised due commercial care.

2. The Seller's obligation to pay damages or indemnify shall also extend to such expenses which we necessarily incur from and in connection with the claims asserted by third parties

3. The Seller is obliged to notify us immediately of any risks of infringement of property rights, in particular alleged cases of infringement, of which he becomes aware.

4. Our further statutory claims due to defects of title in the products delivered to us shall remain unaffected.

### **Section 12 Spare parts**

1. The Seller is obliged to keep spare parts for the products delivered to us for a period of at least 10 years after delivery.

2. If the Seller intends to discontinue the production of spare parts for the products delivered to us with or after the expiry of the period specified in Paragraph 1, he shall notify us of this immediately after the decision on the discontinuation. This decision must be made at least 6 months before production is discontinued.

### **Section 13 Assignment**

The Seller is not authorised to assign his claims from the contractual relationship to third parties. This shall not apply insofar as monetary claims are concerned.

### **Section 14 Compliance with laws**

1. The Seller 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, labour and environmental protection regulations. The Seller must ensure that no violations of state sanctions, embargoes etc. or legally binding provisions occur in the procurement of goods.

2. The Seller shall ensure that the products delivered by him fulfil all relevant requirements for placing on the market in the European Union and in the European Economic Area. He shall provide us with proof of conformity upon request by submitting suitable documents.

3. The Seller shall use reasonable endeavours to ensure that his subcontractors comply with the obligations incumbent on the Seller under this Section 14.

4. The Seller is obliged to inform us in the event of state sanctions that could impair his ability to deliver. The same applies to authorisation requirements for exports or re-exports as well as export and customs regulations that must be observed for deliveries or services.

### **Section 15 Limitation period**

1. The reciprocal claims of the contracting parties shall become time-barred in accordance with the statutory provisions, unless otherwise stipulated below.

2. Notwithstanding Section 438 Paragraph 1 No. 3 of the German Civil Code (BGB), the general limitation period for claims for defects is three years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance. The 3-year limitation period shall also apply accordingly to claims arising from defects of title, whereby the statutory limitation period for third-party claims in rem for restitution (Section 438 Paragraph 1 No. 1 of the German Civil Code (BGB)) shall remain unaffected; claims



arising from defects of title shall not become time-barred in any case as long as the third party can still assert the right against us - in particular in the absence of a limitation period.

3. The limitation periods of sales law, including the above extension, shall apply - to the extent permitted by law - to all contractual claims for 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 of the German Civil Code (BGB)) shall apply, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

4. Upon receipt of our written notification of defects by the Seller, the limitation period for warranty claims shall be suspended until the Seller rejects our claims, declares the defect to be remedied or otherwise refuses to continue negotiations on our claims. In the event of replacement delivery and rectification of defects, the warranty period for replaced and repaired parts shall begin anew, unless we must assume from the behaviour of the Seller that he did not consider himself obliged to take the measure, but only undertook the replacement service or rectification of defects as a gesture of goodwill or for similar reasons.

## **Section 16 Choice of law and language, place of jurisdiction**

1. These GTC and the contractual relationship between us and the Seller shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).

2. The contractual language is German.

3. 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 - also international - place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office in Neuenrade. The same shall apply if the Seller is an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB). However, in all cases we shall also be entitled to bring an action at the place of fulfilment of the delivery obligation in accordance with these GTC or an overriding individual agreement or at the Seller's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.