

General Terms and Conditions of Purchase of ebm-papst Muldingen GmbH & Co. KG and its affiliated companies as per §§ 15 ff. AktG (hereinafter only "ebm-papst" or "we" or "us") (Version of 01.04.2021)

1. Scope of Application; Defence Clause

- 1.1 These Terms and Conditions of Purchase (hereinafter only the "Conditions") apply to all our purchase orders placed with our suppliers (hereinafter only "Supplier"). These Conditions shall apply in particular (but not limited to) to the purchase of tangible goods, irrespective of whether these goods are manufactured by the Supplier itself or are procured by the Supplier via subcontractors or sub-suppliers (hereinafter also referred to as "Goods"), as well as to the performance of services/works (*Dienst-/Werkleistungen*) (hereinafter also referred to as "Services"). Goods and/or Services are hereinafter also referred to as "Deliverables".
- 1.2 These Conditions shall apply exclusively. Any conflicting, deviating or supplementary terms and conditions of the Supplier are hereby rejected and shall not become part of the Contract unless we expressly agree to their validity.
- 1.3 These Conditions shall apply in their respective current version also as a framework agreement for future contracts with the Supplier without us having to (again) refer to these Conditions.
- 1.4 English language terms used in these Conditions describe German legal concepts only and shall not be interpreted by reference to any meaning attributed to them in any jurisdiction other than Germany.

2. Purchase Orders; Order Confirmation; Changes

- 2.1 Goods and Services shall be supplied or performed, as the case may be, exclusively on the basis of individual or frame purchase orders (in the form of so-called "quantity contracts" or "delivery schedules") (hereinafter collectively also referred to as "Orders"). Orders shall be placed in text form (e.g. EDI, e-mail, fax or via our Supplier Portal) to be effective.
- 2.2 Unless shorter deadlines have been agreed (e.g. Kanban call-offs), Orders shall become binding and form a binding contract between the Supplier and us for the supply of the Goods and/or Services so ordered ("Confirmed Order" or "Contract"), unless the Supplier objects in writing or provides a deviating order confirmation within five working days (Monday to Friday with the exception of public holidays at the Supplier's registered office).
- 2.3 The Supplier shall inform us of without delay if and insofar as the Supplier is unable to confirm our Order (in whole or in parts), giving a conclusive explanation of the reasons and stating the extent to which the Order can be performed by the Supplier. We shall then decide whether to maintain or cancel the Order.
- 2.4 Frame orders in the form of quantity contracts and delivery schedules only serve as information for the Supplier and are only binding for us in the context of subsequent individual orders (in the case of quantity contracts) or delivery schedule call-offs (in the case of delivery schedules).
- 2.5 The Supplier shall check and verify our Order and any associated documents, requirements, specifications, etc. in its own responsibility and shall notify us without delay of any inaccuracies, ambiguities, incompleteness, contradictions or deviations from the state of the art and any other concerns of the Supplier, if any.
- 2.6 We may request reasonable changes to the Deliverables even after conclusion of the Contract. The Supplier shall inform us immediately of any consequences to the Contract resulting from such changes, in particular with regard to any additional or reduced costs as well as a postponement of the delivery times.

3. Suspension and Cancellation of Orders

- 3.1 We are entitled to suspend a Confirmed Order at any time. At our request, the Supplier shall immediately suspend the execution of a Confirmed Order. Goods shall be stored at our request for a maximum period of six (6) months at the Supplier's own expense and risk.
- 3.2 We are entitled to cancel Confirmed Orders in whole or in part for good cause (e.g. if our customers cancel their orders with us on which the Order is based).
- 3.3 In case of force majeure, industrial disputes, operational disruptions through no fault of our own, official measures and other unavoidable events, we are entitled to cancel Confirmed Orders in whole or in part, if such disruptions are not only of insignificant duration and result in a significant reduction of our de-

mand or if the Deliverables can no longer be utilized by us in an economically reasonable manner.

4. Supply of Goods/Services; Transfer of Risk; Personnel

- 4.1 Unless otherwise agreed, FCA (Incoterms in the latest published version) shall apply to all deliveries of Goods. The place of performance for all deliveries of Goods is the destination specified in our Order. If such a place is not expressly stated in our Order, the place of performance shall be our registered office. Unless otherwise agreed, deliveries of Goods may only be made during regular business hours at the respective place of performance.
 - 4.2 The Goods shall be packed in a manner customary in the business and to adequately protect the Goods against transport damage. The Supplier shall take back packaging material at our request and at its own expense.
 - 4.3 All order confirmations, delivery notes and invoices shall contain at least the order number, the order date, the deliverable designation, the purchasing group, the supplier number, material and drawing numbers, the delivery quantity, the delivery date and the delivery address. Delivery notes must also contain the drawing index. If missing information result in a delay in processing, the payment terms pursuant to Sec. 7.3 shall be extended by the period of the delay.
 - 4.4 Premature and/or partial supply of Goods and/or performance of Services may be rejected by us. Any return shipment shall be at the Supplier's expense and risk.
 - 4.5 The risk of accidental loss and deterioration of the Goods shall not pass to us until the Goods are handed over to us at the place of performance. This shall also apply if it has been agreed (in deviation of Sec. 4.1) that the Goods are to be shipped to us. If an acceptance has been agreed or is required, the risk shall only pass upon successful acceptance.
 - 4.6 In relation to the supply of Goods that need to be specifically packaged, transported, stored, used or disposed of due to laws, regulations or other provisions or due to their composition or their impact on the environment, the Supplier shall provide us with a safety data sheet in accordance with DIN 52900 and an accident sheet (transport) in the language applicable at the registered office of the company receiving the Goods, but at least in English. In the event of changes to the materials or the legal situation, the Supplier shall provide us with updated data and information sheets without being requested to do so.
 - 4.7 The Supplier shall perform the Services under its own direction and responsibility. Only the Supplier is authorized to issue instructions to its employees. The Supplier shall ensure that the personnel employed by it will not be considered as being integrated into our or our group companies' organization.
 - 4.8 Insofar as the Services are performed on our premises, the Supplier shall comply with the safety regulations and information guidelines applicable at our premises, which we will make available to the Supplier upon request. When accessing our information and telecommunication technology, the Supplier must strictly observe any applicable information security guidelines.
 - 4.9 The Supplier shall be obliged to pay to its employees the minimum wages according to the statutory provisions and collective bargaining agreements, in particular the German Employee Posting Act (*Arbeitnehmerentsendegesetz*) and the relevant collective bargaining agreements (*Tarifverträge*), as well as agreed surcharges including social security contributions, employment promotion and social security expenses to employees and marginal part-time employees. In the event of any violations of these obligations, the Supplier shall indemnify us immediately upon first request.
- 5. Delivery/Performance Times; Delay; Penalty**
- 5.1 Any delivery/performance times specified in the Order are binding for the Supplier. If no delivery/performance times are specified in the Order, the Goods shall be supplied, and the Services be performed without delay.
 - 5.2 The Supplier shall immediately inform us of any likely delay of delivery/performance times and the reason thereof and the expected duration of the delay. The Supplier shall, at its own expense, make all reasonable efforts (e.g. accelerated transport, etc.) to eliminate or minimize the delay.
 - 5.3 The Supplier may only claim the absence of necessary documents, information etc. to be provided by us as the cause for such delay if the Supplier has requested us in writing to provide such documents, information etc. in good time and has not received them from us within a reasonable period.
 - 5.4 In the event of doubts regarding the Supplier's ability or willingness to supply the Goods or perform the Services or the

Supplier's adherence to the delivery dates, we may request the Supplier to confirm and submit sufficient evidence of the Supplier's ability or willingness to timely supply the Goods or perform the Services within a deadline to be set by us, combined with the warning to withdraw from the relevant Contract after unsuccessful expiry of the deadline.

- 5.5 If the Supplier is in default with the supply of the Goods or the performance of the Services, we are entitled to charge a penalty amounting to 0.2% of the net value of the delayed Goods and/or Services for each commence working day, up to an aggregate of 5%. The penalty shall exist in addition to our claim for performance and shall serve as a minimum amount of compensation. The penalty may be claimed until the final payment is due. The reservation of the penalty can also be declared in such a way that the forfeited penalty is deducted from a payment due in the future. We reserve the right to assert further rights and claims, in particular further damages. Any penalty paid shall be offset against any additional claim for damages based on the same cause of damage.

6. Acceptance

- 6.1 If the Services consists of a work performance (*Werkleistung*) or work delivery (*Werklieferung*), a formal acceptance is required. We will carry out the acceptance after receipt of the Supplier's notification of completion of the Services and hand-over of all documents pertaining to the Service. If the verification of the Service provided by the Supplier requires a commissioning or use of the Services for test purposes, acceptance shall only take place after successful completion of such tests.
- 6.2 The acceptance shall be followed by a formal acceptance protocol. Formal acceptance shall not occur until the Supplier has remedied any identified defects. The rectification of defects shall take place immediately, at the latest within the period set by us.
- 6.3 Any fiction of acceptance shall be excluded. In particular, acceptance shall not be deemed to have occurred by our use of the Services of the Supplier in whole or in part due to operational necessities or by payment of the remuneration.
- 6.4 Partial acceptance shall be excluded unless expressly agreed.

7. Prices; Payment Terms

- 7.1 Unless otherwise agreed, the prices stated in our Order are fixed prices and in EUR plus statutory value added tax (if any).
- 7.2 Unless otherwise agreed, the prices include all ancillary services (e.g. assembly/erection, installation, commissioning, set-up/adjustment, preparation of any supplementary offers) as well as all ancillary costs (e.g. packaging, transport, insurance of the Goods), taxes, customs duties and other charges. Travel and waiting times as well as travel costs and expenses shall not be remunerated separately.
- 7.3 Unless otherwise agreed, we will pay without deduction within 30 days or within 14 days with a 3% discount on the net invoice amount. The payment period commences upon receipt of a lawful invoice, but not before the supply of the Goods and/or performance of the Services in full, including all documents, and acceptance (if acceptance is required). The deadline is considered met if our payment transfer order is received by our bank in due time.
- 7.4 Invoices shall be sent separate from the Deliverables immediately after supply/performance of the Goods/Services and separately for each order.
- 7.5 Unconditional payment by us shall not be deemed to constitute an acknowledgement that the Deliverables are in accordance with the Contract.
- 7.6 We do not owe any maturity interests. Unless a lower rate has been agreed, default interest shall be five (5) percent per year. A default in payment shall be determined by the applicable statutory law, however, a reminder by the Supplier being necessary in any case, regardless of statutory law.
- 7.7 Unless otherwise agreed, preparation of drafts, cost estimates and similar preparatory work by the Supplier shall be free of charge.

8. Retention of Title of the Supplier; Manufacturer's Clause

- 8.1 Title to the Goods shall pass to us in full, unconditionally and irrespective of payment of the purchase price, upon handover to us or to a third party designated by us (not: carrier).
- 8.2 If, contrary to Sec. 8.1, a retention of title by the Supplier exists in individual cases, being expressly agreed or due to a retention of title by the Supplier prevailing in accordance with mandatory law, the retention of title by the Supplier shall expire at the latest upon our payment of the purchase price for the relevant Goods.

- 8.3 In case of Sec. 8.2, in the ordinary course of business and before payment of the purchase price, we are entitled to:

8.3.1 resell the Goods by assigning our respective purchase price claim in advance to the Supplier (thus a simple retention of title by the Supplier which is extended to the resale of the Goods shall apply alternatively). Excluded are all other forms of retention of title, in particular (i) the extended, (ii) the forwarded and (iii) the extended retention of title for further processing;

8.3.2 process, redesign, combine, mix and blend the reserved Goods as manufacturers in our own name and for our own account. We thereby acquire ownership at the latest in accordance with the respective statutory provisions.

9. Quality Assurance; Production and Product Release

- 9.1 The required quality of the Goods and/or Services shall be determined according to the latest revision version of the specifications, drawings and other documents ("Specifications") provided by us to the Supplier. The Supplier warrants that its Goods and/or Services comply with the Specifications and any further requirements and guidelines mentioned in the Specifications.
- 9.2 The Supplier shall have and maintain during the term of the Contract a sufficient and documented quality and environmental management system corresponding to the latest state of the art which at least meets the requirements of DIN EN ISO 9001 or, if required by us, IATF 16949 and DIN EN ISO 14001. Insofar as the Goods and/or Services are intended for automotive applications, the VDA publication series "Quality Management in the Automotive Industry" as well as the VDA standard recommendation - Defective Part Analysis Field shall also apply.
- 9.3 Insofar as the Supplier uses materials or services provided by us or by third parties for the performance of the Contract, such materials and services shall be included in the Supplier's quality management system in the same way as its own production materials.
- 9.4 The Deliverables and, if applicable, its components may be required by us to be subject to a release procedure (e.g. PPAP, PPF) prior to the start of (series) delivery. For this purpose, the Supplier shall submit the necessary release documents in accordance with the requested submission level, including initial samples in conformity with the drawings/specifications, in good time prior the agreed release date. Unless otherwise agreed, the number of initial samples shall be five (for multiple molds per cavity or row). Initial samples shall be taken from a representative production run from series facilities. If more than two initial sampling runs are required for reasons for which the Supplier is responsible, we shall be entitled to withdraw from the Contract.
- 9.5 Any changes to the Deliverables, in particular to its specifications or changes to its production process including changes to production materials, test equipment and methods, production facilities or production environment, relocation of the production process to another production site (also within the same premises), changes of or at sub-suppliers or subcontractors, etc. shall require prior written approval by us and shall be notified by the Supplier without undue delay, at least twelve (12) months in advance. If the Supplier makes changes to the Deliverables without our written approval, we shall be entitled to terminate all affected Contracts for cause without notice.
- 9.6 Our releases, of whatever kind, do not release the Supplier from its obligation to ensure the quality of the Deliverables in its own responsibility.
- 9.7 The Supplier shall ensure the traceability of the Goods at all times in order to be able to trace batches in the event of damage. For this purpose, the Goods shall be marked at least with a consecutive serial number and the date of manufacture. The Supplier shall ensure that the labelling of the packaged Goods is also visible during transport and storage.
- 9.8 We are entitled - if necessary together with our customers - to verify the Supplier's compliance with the principles and requirements of this Sec. 9, in particular the Supplier's quality and environmental management system, at the Supplier's premises at any time.
- 9.9 The Supplier is obliged to pass on the principles and requirements of this Sec. 9 to its sub-suppliers, subcontractors and other agents in tort and vicarious agents and to monitor their compliance on a regular basis. The Supplier shall be liable for non-compliance with this Sec. 9 by its sub-suppliers, subcontractors and other agents in tort and vicarious agents.

10. Production Resources; Provided Materials

- 10.1 Unless otherwise agreed, the Supplier shall be solely legally and economically responsible for procuring and maintaining the resources necessary and suitable for supply the Goods and/or performing the Services, such as e.g. personnel, tools, machines, molds, facilities, devices, measuring and testing equipment, software and all other necessary items and documents ("Production Resources").
- 10.2 If necessary, we may loan to the Supplier individual Production Resources ("Provided Materials"). Sec. 24 shall apply accordingly to such Provided Materials.
- 10.3 If such Provided Materials are to be manufactured for us by the Supplier (or on its behalf) at our expense, the Supplier shall develop and manufacture the Provided Materials (or have them manufactured) in its own responsibility within the agreed timeframe. The Supplier transfers title to such Provided Materials (including the tooling documentation) in its respective state of manufacture - insofar as legally permissible - to us in advance and we accept such transfer of title. The transfer of possession of the Provided Materials shall be replaced by the Supplier possessing and keeping the Provided Materials for us for the purpose of manufacturing or performing the Deliverables for us. Sec. 16 shall apply accordingly with regard to any industrial property rights (including know-how) made by the Supplier, its employees, subcontractors or other agents in tort and vicarious agents in the development or manufacture of these Provided Materials.
- 10.4 The Supplier shall mark the Provided Materials as our property (in the case of tools additionally with a tool number) and store them with diligence and free of charge for us. The Supplier shall also insure the Provided Materials against damage and loss (fire, water and theft) at their current value and provide proof of such insurance at our request by presenting the insurance documents. Unless otherwise agreed, the Supplier shall carry out timely inspection, servicing, maintenance and repair work in relation to the Provided Materials at its own expense.
- 10.5 The Supplier shall use the Provided Materials exclusively for the fulfilment of our Orders; the Provided Materials shall not be passed on to third parties.
- 10.6 Upon termination or expiry of the Contract or otherwise upon our request, the Supplier shall return the Provided Materials to us or to a third party designated by us without undue delay and in perfect condition. The place of performance for the claim for return is the place of performance of the respective Contract pursuant to Sec. 4.1. We may demand the Provided Materials to be sent to another location; in this case, the Supplier shall be entitled to reimbursement of the associated necessary costs for transport, freight and packaging. Any right of retention of the Supplier (if any), irrespective of the legal grounds, is excluded unless the counterclaim of the Supplier is undisputed (*unstreitig*) or has been finally confirmed by a competent court (*rechtskräftig festgestellt*).
- 10.7 If the Provided Materials are processed or transformed by the Supplier, such processing is always carried out for us as manufacturer in our name and for our account, so that we directly acquire ownership. If the processing or transformation is carried out using materials from several owners, or if the value of the newly created object is higher than the value of the Provided Materials, we shall acquire co-ownership (fractional ownership) of the newly created object in the ratio of the value of the Provided Materials to the value of the other processed/transformed materials at the time of the processing/transformation. If the Provided Materials are connected, mixed or blended with other items not belonging to us, we shall acquire co-ownership in accordance with the statutory provisions or - if the Provided Materials is to be regarded as the main item - sole ownership of the newly created object.
- 11. Rights in case of Defects and other Breaches**
- 11.1 With regards to our rights in the event of material defects (*Sachmangel*) and defects of title (*Rechtsmangel*), the statutory provisions shall apply unless otherwise agreed in these Conditions.
- 11.2 The Supplier warrants that the Deliverables have the agreed quality, correspond to the state of the art, are fit for the contractual purpose intended by us or the customary purpose and - in the case of Goods - do not deviate from the initial samples released by us. The Supplier further warrants that the Deliverables comply with all statutory legal provisions and technical standards applicable at the place of performance. If the Deliverables are to be used at another location and if this is known by or communicated to the Supplier, the Deliverables shall also comply with the relevant legal provisions and technical standards at such location. The Supplier further warrants that Goods are new and, in particular, that new production material has been used.
- 11.3 Insofar as under statutory regulations there is an obligation for us to inspect the Deliverables supplied by the Supplier, such obligation to inspect is limited to defects which become apparent by a visual incoming goods inspection including the delivery documents (e.g. transport damage, delivery of the wrong items and delivery of less quantity than requested). Insofar as the Deliverables consists of a work performance (*Werkleistung*) or a work delivery (*Werkleistung*) or an acceptance has otherwise been agreed, there shall be no obligation for us to inspect the Deliverable. Unless a longer period for giving notice of defects is provided for by law or in accordance with relevant case law (e.g. as per Art. 39 CISG), we shall notify the Supplier of any defects within eight (8) working days from receipt of the Deliverable (in the case of obvious defects) or from discovery (in the case of latent defects).
- 11.4 If the Goods are defective, we may, at our discretion, demand subsequent performance either by way of remedying the defect (subsequent improvement) or by delivery of a defect-free product (replacement delivery). If the Supplier does not remedy the defect of the Goods within a reasonable deadline set by us, we may remedy the defect by ourselves (self-remedy) and request reimbursement of the necessary expenditures or a corresponding advance payment from the Supplier. If subsequent performance by the Supplier has failed or cannot be reasonably expected by us (e.g. owing to particular urgency, danger to operational safety or impending disproportionate loss), it will not be necessary to set a (if applicable, new) deadline; we shall inform the Supplier of such circumstances without delay, if possible prior to self-remedying the defect. Subsequent performance of the Supplier shall be deemed to have failed after the first unsuccessful attempt. Return deliveries of defective Goods shall always be made carriage forward against return debit of the invoiced value of the Goods.
- 11.5 If the defective Good is part of a group of delivered Goods (hereinafter referred to as "Lot") and if an inspection of each Good of this Lot would incur more than only insignificant costs, we shall be entitled to return the Lot as a whole to the Supplier or to demand an inspection of the entire Lot by the Supplier at the place of performance. The Supplier may deliver defect-free Goods from this Lot again to us after the Goods have successfully passed inspection and been marked accordingly.
- 11.6 The Supplier shall bear the costs of subsequent performance, also insofar as these have been incurred by us or our customers, in particular the costs for the examination and analysis of a defect, for installation and removal, for the deployment of own or external personnel, costs for parts, sorting actions, lawyers' fees, overnight accommodation costs, travel costs or transport costs. We can also demand compensation from the Supplier for the necessary expenses which we have to bear vis-à-vis our customers for the purpose of subsequent performance (in particular transport, travel, labour and material costs as well as dismantling and installation costs).
- 11.7 The costs incurred by the Supplier for the purpose of inspection and subsequent performance - including any dismantling and installation costs - shall be borne by the Supplier 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; however, we shall only be liable if we have recognized (or have, in a gross negligent conduct, not recognized) that there was actually no defect.
- 11.8 If the material defect or defect of title is attributable to a deliverable (in particular a component) of a third party delivered to or used by the Supplier, we may demand the Supplier to assert its warranty claims against the third party for our account or assign such warranty rights to us. Any of our (warranty) rights against the Supplier shall remain unaffected. For the duration of the - also out-of-court - assertion of claims against the third party, the limitation of our warranty claims against the Supplier shall be suspended. In the event of an assignment of warranty claims against the third party, the Supplier shall support us to the extent necessary in each case and at its own expense.
- 11.9 With regards to the relationship with the Supplier, the provisions of §§ 445a, 478 of the German Civil Code (BGB) shall also apply if the Goods received from the Supplier comprise only parts or components and such parts or components have caused the defect of the intermediate or end product manufactured by us.
- 11.10 We are entitled to claim damages incurred by our group companies against the Supplier as if they were our own damages.
- 11.11 We object to any provisions of the Supplier limiting its warranty or liability.
- 12. Infringement of Third Party Rights**
- 12.1 Without prejudice to the Supplier's liability for defects of title in accordance with Sec. 11, the Supplier represents and war-

rants that the use of the Deliverables will not infringe the rights of third parties.

- 12.2 If a claim is made against us, our affiliated companies or our customers owing to an actual or alleged infringement of third party rights and if the claim is based on the supply of the Goods or performance of the Services by the Supplier, the Supplier is required to reimburse all expenses, costs and damages (including the costs of appropriate legal action or defence) incurred by us, our affiliated companies or our customers and to indemnify us, our affiliated companies and our customers from and against all third party claims arising therefrom.
- 12.3 Sec. 12.2 shall not apply insofar as the Supplier proves that it the Supplier neither responsible for the infringement nor was aware of the infringement despite having exercised due commercial care at the time of supply of the Goods or performance of the Service.

13. Termination

- 13.1 Insofar as the Services consists of a service (*Dienstleistung*), we may, unless otherwise agreed, terminate the Contract or separable parts thereof in writing with one month's notice to the end of the calendar quarter (or any shorter period set forth by the applicable law).
- 13.2 Insofar as the Services consists of a work performance (*Werkleistungen*), we may, unless otherwise agreed, terminate the Contract or separable parts thereof at any time.
- 13.2.1 If the Supplier is responsible for the reasons for our termination, we shall only pay for finished and proven Services performed in accordance with the Contract up to the date of our termination and only insofar as these Services may be utilized by us. The assertion of claims for damages by us shall remain unaffected.
- 13.2.2 If the Supplier is not responsible for the reasons for our termination, we shall reimburse the Supplier for the expenses demonstrably incurred by the Supplier up to the termination of the Contract and directly resulting from the Contract, including the costs resulting from obligations towards third parties which cannot be terminated by the Supplier. Further claims for performance or damages of the Supplier shall be excluded.
- 13.3 Any rights to the work results created up to the termination shall be transferred to us in accordance with Sec. 16.
- 13.4 The right to terminate the Contract for good cause shall remain unaffected.

14. Statute of Limitation

- 14.1 Unless otherwise set out below, the statute of limitations (*Verjährung*) shall be governed by the statutory provisions.
- 14.2 Unless a longer limitation period is set forth by virtue of law, the general limitation period for contractual claims owing to material defects and defects of title shall be three (3) years from the delivery or performance of the Deliverables to us at the place of performance. Insofar as the Deliverables consist of a work performance (*Werkleistung*) or an acceptance has been agreed, the limitation period shall commence only upon acceptance of the Deliverable.
- 14.3 If, for the reselling of processed or unprocessed Deliverables by us to third parties, a longer limitation period than the limitation period specified in Sec. 14.2 is set forth by virtue of law, such longer limitation period shall also apply between us and the Supplier.
- 14.4 Upon receipt of our written notice of defect by the Supplier, the limitation period for claims based on defects shall be suspended until the Supplier finally rejects our claims or the continuation of negotiations thereon or finally declares the defect eliminated. Suspensions of the limitation period occurring by virtue of law shall remain unaffected. With the elimination of a defect or subsequent delivery of a defect-free Deliverable, the limitation period shall recommence with respect to the repaired or previously defective replaced parts.
- 14.5 Irrespective of Sec. 14.2, claims owing to defects of title shall not become time-barred for as long as the third party as the owner of the claim or right giving rise to the defect of title is able to assert the claim or right against us - in particular if the third-party claim is not statute-barred.

15. Product/Producer Liability

- 15.1 If the Deliverables may result in danger to life and limb or other damage including financial losses, we are entitled – insofar as the Supplier by itself would be liable – to take all measures at the Supplier's expense to which we are obliged or which are otherwise appropriate to avoid such risk, such as public warnings and recall actions. We will inform the Supplier

– if possible and deemed reasonable – as soon as practicable and give the Supplier an opportunity to state its case. The Supplier will cooperate with us in a relationship of trust to remedy the risks arising from its Deliverables as quickly and effectively as possible.

- 15.2 If the Supplier has indications that its Deliverables may lead to risks to life or limb or other damage, including financial loss, the Supplier shall immediately inform us thereof. The Supplier shall also inform us immediately if official measures are taken at or against the Supplier in connection with its Deliverables.
- 15.3 If a claim is made against us, our affiliated companies or our customers by a third party owing to product/producer liability and if the claim is based on the delivery of performance of the Deliverables of the Supplier, Sec. 12.2 shall apply accordingly.

16. Rights in Work Results

- 16.1 Industrial property rights (in particular patents and registered designs, inventions and technical improvements) and copyrights as well as the know-how created by the Supplier alone or in part in connection with the performance of the Contract (together "New IPR") shall be exclusively owned by us. New IPR are hereby – to the extent permitted by law - transferred to us in advance by the Supplier in its current state; we hereby accept such transfer. We have the exclusive and unlimited right to use and exploit the New IPR.
- 16.2 Insofar as the transfer of rights in accordance with Sec. 16.1 is not possible, the Supplier hereby grants to us the unrestricted, irrevocable, exclusive, worldwide, royalty-free, permanent, sublicensable and transferable right to use the New IPR in all known and unknown types of use. We hereby accept such transfer.
- 16.3 The Supplier shall ensure by appropriate contractual agreements with its employees, subcontractors and other agents in tort and vicarious agents used by the Supplier for the performance of the Contract that the rights as set out in this Sec. 16 can be granted to us for an unlimited period of time and without additional remuneration (including a possible inventor's compensation) or other restrictions.
- 16.4 Insofar as the use of the New IPR by us requires a right of use to the rights of the Supplier which have not been transferred in accordance with Sec. 16.1 or to which a right of use has been granted in accordance with Sec. 16.2, the Supplier hereby grants to us a non-exclusive, unlimited, worldwide, unrestricted, and royalty-free right to use these rights. This right of use is transferable and sublicensable for us and includes the right to use the rights in all known types of use.

17. Deliverables as Spare Parts

- 17.1 The Supplier warrants that, for a period of at least ten (10) years after the last delivery of the Deliverables to us, the Deliverables are produced as replacement products/spare parts and can be delivered to us by the Supplier.
- 17.2 The price last agreed for the Deliverables as replacement products/spare parts shall continue to apply for a period of three (3) years after the last delivery. For the period thereafter, the price for the Deliverables as replacement products/spare parts shall be agreed separately. If the parties cannot reach an agreement, we are entitled to determine the price at our reasonable discretion.

18. Subcontracting

- 18.1 Without our prior consent, the Supplier is not permitted to have the Deliverables provided or performed in whole or in part by third parties (e.g. subcontractors, suppliers).
- 18.2 The involvement of third parties shall not relieve the Supplier of its responsibility towards us. The Supplier shall be liable for any fault on the part of its employees, subcontractors and other agents in tort and vicarious agents as well as for the manufacturers and sub-suppliers of the Deliverables or production materials, parts and components used by the Supplier for the manufacture of the Deliverables and other services of third parties as for its own fault. In particular, the Supplier may not exculpate itself merely by providing evidence of the proper selection and supervision of the third party.

19. Set-Off and Retention

- 19.1 The Supplier is not entitled to assign or pledge any rights or claims arising from the Contract or to have them collected by third parties without our prior written consent. This shall not apply insofar as monetary claims are concerned.
- 19.2 We are entitled to assign rights or obligations under the Contract to affiliated group companies without the prior consent of the Supplier.

20. Set-Off and Retention

- 20.1 With regards to our rights to offset and to withhold claims, the statutory provisions shall apply. We are, in particular, entitled to withhold payments as long as we are entitled to claims owing to incomplete or defective Deliverables under the relevant Contract; this shall apply unless the withholding of payment would be considered to be contrary to good faith according to the individual circumstances, in particular considering the relative insignificance of the defect or the incompleteness of the Deliverable.
- 20.2 We are also entitled to offset claims of the Supplier against claims of our affiliated companies, irrespective of whether the claim or counterclaim is due. In such case, the offsetting shall be made on the basis of the value date (*Wertstellung*).
- 20.3 The Supplier is entitled to offset and to assert a right of retention only insofar as its counterclaim is either undisputed (*unstreitig*) or finally determined by a competent court (*rechtskräftig festgestellt*).
- 21. Special Right of Withdrawal in case of Suspension of Payments etc.**
- We are entitled to withdraw from the Contract in particular (not limited to) in the following events: (a) the Supplier ceases payments to its creditors; (b) the Supplier applies for the opening of insolvency proceedings; (c) insolvency proceedings against the Supplier's assets are, in a permitted way, applied for by us or another creditor; (d) such insolvency proceedings are – also on a provisional basis – opened; or (e) the application is rejected for lack of assets.
- 22. Insurance**
- 22.1 The Supplier shall procure sufficiently insurance at its own expense against all risks arising from the Contract with us by taking out a business and producer/product liability insurance policy which is at least common in the industry. The Supplier will provide us with evidence of such insurance policy annually without being requested to do so. The insurance must provide at least the following amounts of cover: EUR 5 million per personal injury and property damage, EUR 1 million for financial losses and EUR 3 million for recall costs.
- 22.2 The provision of insurance cover shall not affect the responsibility and liability of the Supplier towards us.
- 23. Compliance; Auditing**
- 23.1 The Supplier assures to comply with all laws and regulations which relate to it and the business relationship with us, that it will not commit any acts and will refrain from acts if such could lead to a criminal act owing to fraud or a breach of trust, an insolvency criminal act, a criminal act against competition, granting benefit or passive bribery by individuals employed by us or other third parties.
- 23.2 The Supplier assures that it will comply with the RBA Code of Conduct (Responsible Business Alliance) (Internet: <https://www.ebmpapst.com/de/de/support/downloads/purchase.html>). Upon our request, the Supplier will immediately provide written information on its compliance with the RBA Code of Conduct. Compliance with the RBA Code of Conduct constitutes an essential contractual obligation of the Supplier.
- 23.3 The Supplier is required to contractually pass on the principles and requirements of the RBA Code of Conduct to its sub-suppliers, sub-contractors and other agents in tort and vicarious agents. The Supplier is liable for non-compliance with the principles and requirements of the RBA Code of Conduct by its sub-suppliers, sub-contractors and other agents in tort and vicarious agents. We are entitled to verify compliance with the principles and requirements of the RBA Code of Conduct by the Supplier, its sub-suppliers, sub-contractors and other agents in tort or vicarious agents at their business premises during usual business hours.
- 24. Reservation of Rights; Confidentiality**
- 24.1 We reserve all property rights, copyrights and industrial property rights to all documents, materials and other items (e.g. order documents, plans, drawings, illustrations, calculations, product descriptions and specifications, manuals, samples, models and other physical and/or electronic documents, information and items) provided by us to the Supplier.
- 24.2 The Supplier may not make such items accessible or disclose them as such or their contents to third parties, exploit them, reproduce them or change them without our prior written consent. The Supplier shall use such items exclusively for the purpose of the Contract and return them to us in full at our request and destroy (or delete) any existing (including electronic) copies insofar as they are no longer required by the Supplier in the ordinary course of business and in accordance with statutory storage obligations. At our request, the Supplier shall confirm the completeness of the return and destruction/deletion or state which of the above-mentioned documents, materials and items the Supplier still believes to need for the aforementioned reasons.
- 24.3 The Supplier is obliged to treat all commercial or technical details, which are not public knowledge and which become known to the Supplier through the business relationship, as confidential ("Confidential Information"), to protect such Confidential Information from access by third parties and not to use such Confidential Information for any purpose other than the performance of the Contract. In particular, the Supplier shall not use such Confidential Information for the registration of industrial property rights; the Confidential Information may not be reconstructed, dismantled, decompiled, disassembled, reverse-engineered or deconstructed, emulated or observed or examined outside the contractual purpose. The Supplier shall ensure that its employees, sub-suppliers, subcontractors and other agents in tort or vicarious agents are accordingly required to maintain confidentiality. Reference to the business relationship with us requires our prior consent.
- 25. Choice of law and place of jurisdiction**
- 25.1 These Conditions and the business relations between us and the Supplier shall be governed by the laws of the Federal Republic of Germany.
- 25.2 The court having jurisdiction for our registered office shall have exclusive jurisdiction for all disputes arising from or in connection with these Conditions or the business relationship between us and the Supplier. We are also entitled to commence legal action at the Supplier's registered office. Mandatory statutory provisions, in particular regarding exclusive places of jurisdiction, shall remain unaffected.
- 26. Final Provisions**
- 26.1 Legally relevant declarations and notifications made by the Supplier after conclusion of the Contract (e.g. setting of deadlines, reminders, declarations of withdrawal) must be in writing to be effective.
- 26.2 Any oral agreements made or promises given by us prior to the conclusion of the written Contract shall not be legally binding and shall be fully replaced by the written Contract.
- 26.3 Individual – also oral – contractual agreements shall always take precedence over these Conditions. With regards to the proof of the content of such individual or oral agreements, any written agreement or, if no such agreement exists, our written confirmation shall be decisive, subject to the proof of the contrary.
- 26.4 Should any provisions of these Conditions be or become void or ineffective in whole or in part, the validity of the remaining provisions shall not be affected thereby. Insofar as provisions have not become part of the Contract or are invalid, the content of the Contract shall primarily be governed by the statutory provisions. Only in other respects and insofar as no supplementary interpretation of the Contract takes precedence or is possible, the parties shall replace the void or ineffective provision with an effective provision that comes as close as possible to it in economic terms.