

## **Terms and Conditions of Purchase of Fritz Finkernagel Drahtwerk GmbH & Co. KG**

By accepting the order, the supplier acknowledges the following terms and conditions.

### **1. Application of the Terms and Conditions**

**1.1** Subject to differing agreements made in the individual case, these terms and conditions apply exclusively. We do not acknowledge terms and conditions of the supplier that are contrary to or vary from our terms and conditions of purchase, unless we have explicitly agreed in writing to their application. Our terms and conditions of purchase apply even when we accept without reservation the delivery of the supplier while being aware of terms and conditions of the supplier that are contrary to or vary from our terms and conditions of purchase. Our terms and conditions of purchase also apply to all future transactions with the supplier.

**1.2** All agreements which are made between us and the supplier for the purpose of fulfilling this contract are to be specified in writing in this agreement.

**1.3** Our terms and conditions of purchase apply only for companies in accordance with §310 para.4 German Civil Code (*Bürgerliches Gesetzbuch, BGB*).

### **2. Offers**

**2.1** The supplier is obliged to accept our order within a period of two weeks.

**2.2** We reserve rights of ownership and copyright to all materials specifications, drawings, models and other documents. It is not permitted to make these accessible to third parties without our explicit approval in writing. They are to be used exclusively for production on the basis of our order. After completion of our order, they are to be returned to us without prompting. They are to be kept confidential from third parties. The provisions of section 10.2 apply additionally.

### **3. Delivery and transfer of risks, hazardous substances**

**3.1** Deliveries are to be made pursuant to the delivery clause “DDP” in accordance with Incoterms 2010, including packaging, to the shipping address specified in our order.

**3.2** Auditable delivery notes are to be provided with each delivery. In addition, for third party deliveries, a dispatch notice or a copy of the delivery note must be delivered in good time. Delivery notes and dispatch notices may not contain any pricing information. Invoices are to be submitted separately for each delivery, in duplicate.

**3.3** Truck deliveries take place from Mondays to Thursdays from 6:00 to 14:00 and on Fridays from 6:00 to 12:00. Delivery in external truck- trailers etc. are permissible only with weighing ticket and by explicit agreement in advance. We are not obliged to accept unannounced goods shipments.

**3.4** The supplier must ensure compliance with the EU Chemical Regulation REACH (Regulation (EC) No. 1907/2006, EU Official Journal dated 30/12/2006) – hereinafter referred to as “REACH” – in particular both preregistration and registration must be made in good time. We are under no circumstances obliged to carry out the (pre)registration. The supplier is aware that the products may not be used if the requirements of REACH are not completely and properly fulfilled. In fulfilling its contractual obligations, the supplier must also comply with all statutory legislation and official regulations regarding environmental protection.

### **4. Delivery dates**

**4.1** The delivery dates and periods specified by us are binding insofar as nothing different is explicitly agreed in writing.

**4.2** We are to be notified without delay as soon there is a risk that the delivery schedule will not be maintained.

**4.3** In case of delayed delivery, we are entitled to require overall compensation for delay amounting to 1% of the value of the delivery for each complete week, but not more than 5%. Further legal entitlements are reserved. The supplier is entitled to demonstrate to us that no

damage or a significantly lesser damage resulted from the delay.

## **5. Inspection for defects and liability**

**5.1** The supplier must apply the industry's customary regulations of quality management systems – for instance DIN EN ISO 9001 – and exercise general due diligence to ensure that the goods it supplies to us do not have any defects. To avoid an unnecessary double check, we restrict our goods receipt inspection to the following features: - identity and quantity, but only on the basis of the delivery documents without material testing; - externally recognisable defects and transport damage. In particular we are not obliged to unroll wire rolls. For deliveries where any existing defects are not immediately recognisable through the material receipt inspection criteria cited above, or if their condition in compliance with the contract cannot be recognised in this way immediately after delivery, we reserve the right to notification of defects. In this respect, the supplier waives any objection based on delayed notification of defects with regard to our restricted material receipt inspection.

**5.2** We are entitled to the legal rights for defects without reduction. In any event we are entitled to require from the supplier, at our discretion, rectification of the defect or replacement delivery. We explicitly reserve the right to compensation for damage, particularly to compensation for damage instead of delivery.

**5.3** We are entitled to undertake the rectification of the defect ourselves, at the cost of the supplier, if there is danger in delay or if there is a particular need for haste.

**5.4** The limitation period is 36 months from the transfer of risk.

## **6. Prices**

We understand prices submitted to us as inclusive of normal packaging and delivery to the specified delivery location specified by us. The price stated in the order is binding. Statutory VAT is to be itemised separately (VAT rate and amount).

## **7. Payment terms**

**7.1** Within 30 days from receipt of invoice.

**7.2** Within 10 weeks from receipt of invoice with 3% rapid payment discount.

**7.3** Invoices can only be processed when these – in accordance with the specifications in our order – quote the order number stated therein. The supplier is responsible for all non-observance of this obligation insofar as it does not prove that this is not its fault.

**7.4** We are entitled to rights of retention and offsetting to the legally prescribed extent.

## **8. Product liability**

**8.1** Insofar as the supplier is responsible for product damage, it is obliged to indemnify us against claims of third parties for compensation for damage on first demand insofar as the source of the damage is within the sphere of its responsibility and organisation and it is liable in external relations.

**8.2** Within the framework of its liability for cases of damage in the sense of section 8.1, the supplier is also obliged to reimburse any expenses in accordance with §§ 683, 670 *BGB* as well as with §§ 830, 840, 426 *BGB* that arise from or in connection with a recall action carried out by us. We will notify the supplier of the content and scope of the recall measures to be carried out - insofar as reasonable and possible - and give it the opportunity to respond. Our other legal entitlements remain unaffected.

**8.3** The supplier undertakes to maintain product liability insurance cover of EUR 10 million – overall – per personal injury/damage to property. Where we are entitled to further claims for compensation for damage, these are unaffected.

## **9. Property rights**

**9.1** The supplier is responsible for ensuring that no third party rights are infringed in connection

with its deliveries.

**9.2** If claims are made against us in this connection by a third party, the supplier is obliged to indemnify us against these claims on first written demand. We are not entitled to make any agreements or to conclude a settlement with the third party without the consent of the supplier.

**9.3** The obligation of the supplier to indemnity extends to all expenses that necessarily arise for us from or in connection with the assertion of claims by third parties.

**9.4** The limitation period is ten years from the conclusion of the contract.

## **10. Retention of ownership and confidentiality**

**10.1** The ownership of the objects of supply transfers unrestrictedly and unencumbered to us on handover. A simple retention of ownership in the GTCs of the supplier is, however, accepted.

**10.2** The supplier is obliged to keep all provided items, diagrams, drawings, calculations and other documents and information received strictly confidential. They may be disclosed to or reproduced for third parties only with our explicit approval. The obligation to maintain confidentiality continues to apply after completion of this contract. It expires when and insofar as the manufacturing knowledge contained in the diagrams, drawings, calculations and other documents provided becomes generally known.

**10.3** Insofar as the security interests to which we are entitled in accordance with section 10.2 and/or section 10.3 do not exceed the purchase value of all retained goods for which we have not yet paid by more than 10%, we are obliged, on the request of the supplier, to release the security interests at our discretion.

## **11. Minimum wage**

**11.1** The supplier guarantees that in its capacity as contractor, it and – if applicable – its subcontractor comply with the respective latest statutory regulations regarding minimum wages. Insofar as the supplier performs work on behalf of us or provides services, it hereby undertakes an obligation to provide us with proof that it and – if applicable – its subcontractors pay the minimum wage. We are allowed to examine the supplier's anonymised wage and salary list and – if applicable – its subcontractors. We are entitled to a right of termination at any time if the supplier and/or its subcontractors do not pay the minimum wage.

**11.2** The supplier releases us from any and all claims that are enforced against us in the event of a violation by the supplier and/or its subcontractors against the minimum wage or other statutory regulations or collective bargaining agreements which we are obliged to comply with pursuant to § 14 of the law concerning the posting of employees (*Arbeitnehmerentsendegesetz*) and/or other comparable regulations.

## **12. Place of fulfilment and place of jurisdiction**

**12.1** Insofar as the supplier is a merchant, the place of jurisdiction is our headquarters in Altena (Westph.), Germany. However, we are also entitled to file a lawsuit against the customer at the court of its place of residence.

**12.2** The law of the Federal Republic of Germany applies. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

**12.3** Insofar as nothing different arises from the order, our headquarters in Altena (Westph.), Germany, is the place of fulfilment.

## **13. Final provisions**

**13.1** Should any of the above provisions be or become ineffective, this does not affect the effectiveness of the remaining provisions.

**13.2** All our previous terms and conditions of purchase are hereby replaced.

## **Statement in accordance with § 33 German Data Protection Act**

**(Bundesdatenschutzgesetz, BDSG): data of the supplier will be electronically processed.**

**Fritz Finkernagel Drahtwerk GmbH & Co. KG 58762 Altena, Germany**