



General Terms and Conditions



Article 1 Scope

(1) Any and all supplies, services and offers of CEJN-Product GmbH shall be exclusively performed based on said General Terms and Conditions of Supply. These shall be an integral part of all agreements entered into between CEJN-Product GmbH and its Contractual Partners (hereinafter also referred to as «Principal») on the supplies and services offered. They shall likewise apply to all future supplies, services or offers to the Principal, even if they are not again separately agreed.

(2) Any General Terms and Conditions of the Principal or third parties shall not apply, even if CEJN-Product GmbH does not expressly repudiate their validity in individual cases. If CEJN-Product GmbH refers to a letter containing or making reference to the General Terms and Conditions of the Principal or a third party, this does not constitute acknowledgement of the validity of such General Terms and Conditions.

Article 2 Offer and Conclusion of Agreement

(1) All offers made by CEJN-Product GmbH are without obligation and non-binding, unless they have been explicitly defined as binding or include a specific acceptance period. CEJN-Product GmbH may accept orders or contracts within fourteen days after receipt.

(2) Alterations and amendments to the agreements made, including these General Terms and Conditions of Supply, shall be required in writing in order to be effective. With the exception of company managers and authorized signatories, no employee of CEJN-Product GmbH shall be entitled to enter into deviating verbal agreements. Transmission via telecommunication, especially via fax or email, shall suffice to satisfy the written form requirement, insofar as the copy of the signed declaration is transmitted.

(3) Details given by CEJN-Product GmbH regarding the subject matter of delivery or performance (e.g. weights, dimensions, use value, capacities, tolerance values and technical data as well as representations thereof [e.g. drawings and photocopies]) shall be said to be proximate in nature, unless exact compliance is necessary for the usage stipulated in the Agreement. They shall not constitute any guaranteed characteristics and shall only be viewed as descriptions or depictions of the supply or service. Usual deviations or deviations due to statutory provisions or which constitute technical improvements as well as replacement of components by equivalent parts shall be permissible, unless they impair the usage stipulated in the Agreement.

(4) CEJN-Product GmbH shall reserve the title or copyright to all its offers and quotations as well as drawings, illustrations, brochures, catalogues, models, tools, other documents and other auxiliary materials provided to the Principal. The Principal shall not make accessible or disclose these objects, either in form or in content, to third parties or copy or use them or have them copied or used by third parties without the explicit consent of CEJN-Product GmbH. At request of CEJN-Product GmbH, the Principal shall

return all objects in full and destroy any copies thereof if they are no longer required by him in the course of his ordinary business or if negotiations do not result in the conclusion of an agreement.

Article 3 Prices and Terms of Payment

(1) Prices shall apply to the scope of supplies and services specified in the order confirmation. Additional or special services shall be invoiced separately. Prices are in EURO ex works plus packaging, statutory VAT, customs for export deliveries as well as fees for other public charges.

(2) The minimum order is 500,00 €.

(3) Insofar as the agreed prices are based on the list prices of CEJN-Product GmbH and the supply is to take place more than four months after conclusion of the Agreement, the list prices of CEJN-Product GmbH as applicable at the time of the delivery shall apply (minus any agreed percentage or fixed discount).

(4) Unless otherwise agreed in writing, invoiced amounts are due for payment without deduction within thirty days. The receipt of payment by CEJN-Product GmbH shall be decisive for the date of payment. Cheques shall not be accepted. Should the Principal be in default of payment, CEJN-Product GmbH shall be entitled to demand interest at a rate of 5 percentage points per annum with effect from the due date; this shall not affect the assertion of higher interests and further damages in case of default.

(5) Default interest shall amount to 9 percentage points above the base rate. In the event of default on the part of the Principal, if the latter is not a consumer, CEJN-Product GmbH shall be entitled to payment of a lump sum in the amount of EUR 40.00. This lump sum shall be offset against any owed damage claim insofar as the damage can be attributed to costs for legal actions. This shall not preclude any further claims for compensation due to damages.

(6) The Principal shall only be entitled to offset counterclaims or retain payment due to such claims insofar as the counterclaims are undisputed or have been determined as final and absolute.

(7) CEJN-Product GmbH shall be entitled to provide outstanding supplies or services only against payment in advance or provision of security if, after conclusion of contract, it becomes privy of circumstances which raise serious doubts as to the creditworthiness of the Principal or endanger the payment of outstanding accounts by the Principal to CEJN-Product GmbH which are due under the respective contractual relationship (including other individual orders under the same master agreement).



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Article 4 Delivery and Delivery Time

(1) Delivery shall be ex works.

(2) Deadlines or dates for deliveries and services indicated by CEJN-Product GmbH shall be viewed as proximate, unless a fixed deadline or a fixed date has been explicitly confirmed or agreed. Insofar as shipment has been agreed, delivery deadlines and dates relate to the time of handing over the products to the forwarder, freight carrier or another appointed transport company.

(3) CEJN-Product GmbH may – without prejudice to its rights accruing as a result of default on the part of the Principal – demand that the Principal extend the times allotted for delivery and performance or postpone the deadlines for delivery and performance for the duration of the period during which the Principal fails to fulfil his contractual duties towards CEJN-Product GmbH.

(4) CEJN-Product GmbH shall not be liable for the impossibility of delivery or for delays in delivery insofar as these are attributable to force majeure or other events not foreseeable at the time the Agreement was concluded (for example stoppages and interruptions of whatever kind; difficulties in procuring material; transport delays; strikes; lawful lockouts; lack of workers, energy or raw materials; difficulties in procuring the necessary official approvals; official actions or non-delivery; incorrect or untimely delivery by suppliers) for which CEJN-Product GmbH is not responsible. If, as a result of such events, delivery or performance becomes materially difficult or impossible for CEJN-Product GmbH and said impediment is not merely of temporary duration, CEJN-Product GmbH shall be entitled to rescind the Agreement. In the case of impediments of temporary duration, the times allotted for delivery and performance shall be extended or the deadlines for delivery and performance shall be postponed for the duration of the impediment plus a reasonable lead time. Insofar as it is no longer reasonable, as a result of the delay, for the Principal to accept the supply or service, the Principal may give immediate written notice to CEJN-Product GmbH and withdraw from the Agreement.

(5) CEJN-Product GmbH shall only be entitled to part-deliveries if the part-delivery can be used by the Principal in line with the contractually specified intended use, the delivery of the remaining goods ordered is ensured and the Principal does not incur any significant additional costs or expenses (unless CEJN-Product GmbH declares its willingness to bear these costs).

(6) If CEJN-Product GmbH is in default with delivery or performance or a delivery or performance is impossible, irrespective of on what grounds, the liability for damages on the part of CEJN-Product GmbH shall be limited pursuant to Section 7 of these General Terms and Conditions of Supply.

Article 5 Place of fulfilment, dispatch, packaging, transfer of risk, acceptance

(1) Place of fulfilment for all obligations arising from the contractual relationship shall be Troisdorf, unless stipulated otherwise. In the event installation is also owed by CEJN-Product GmbH, the place of fulfilment shall be the place at which the installation is to be made.

(2) The mode of dispatch and packaging lie within the discretion of CEJN-Product GmbH.

(3) The risk is passed to the Principal at the latest with the transfer of the subject matter of delivery (the start of the shipment process being decisive) to the hauler, forwarder or other third parties assigned with the implementation of transport. This shall likewise apply to any part-deliveries or if CEJN-Product GmbH has committed to provide other services (dispatch or installation). If shipment or hand-over is delayed as a result of a circumstance which is attributable to the Principal, risk will pass to the Principal with effect from the date on which CEJN-Product GmbH is ready to ship and has notified the Principal thereof.

(4) Storage costs incurred after transfer of risk shall be borne by the Principal. For goods stored on CEJN-Product GmbH premises, the storage costs are 0.25% of the invoice amount of the subject matter of delivery stored per completed week. The right for assertion and proof of further or lower storage costs shall be reserved.

(5) CEJN-Product GmbH shall only insure shipment against theft, breakage, transport, fire or water damages or other insurable risks at the express request and at the expense of the Principal.

Article 6 Warranty, Material Defects

1) The warranty period shall be one year and shall start from the date of delivery or, if acceptance has been made, from the date of acceptance.

(2) Upon delivery to the Principal or a third party appointed by him, the supplied items must be immediately and carefully inspected. The goods shall be viewed to have been approved by the Principal if CEJN-Product GmbH has not received any written notification of defect with regard to evident defects or other defects which would have been recognizable at immediate and careful inspection, within seven working days following the delivery. With regard to other defects, the goods shall be viewed to have been approved by the Principal, if CEJN-Product GmbH has not received notification of defect within seven working days after the defect has been detected; if the defect has already been recognizable to the Principal during normal use at an earlier point in time, this earlier point in time shall be decisive for the commencement of the notice period. On request of CEJN-Product GmbH, the claimed subject matter of delivery must be returned freight-paid to CEJN-Product GmbH. In the event of justified notification of defects, CEJN-Product GmbH shall



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reimburse the costs of the most favourable shipping method; this shall not apply if the costs increase because the subject matter of delivery is at another location than the location specified for the intended use.

(3) In the event of material defects in the items supplied, CEJN-Product GmbH shall, as it so chooses and with the choice being made within an adequate period of time, initially have the duty and the right to provide subsequent performance or a replacement delivery. The Principal may rescind the Agreement or demand appropriate reduction of the purchase price in the event of failure, i.e. impossibility, unreasonableness, denial or unreasonable delay of repair or replacement.

(4) If a defect was occasioned by CEJN-Product GmbH, the Principal may demand compensation for damages pursuant to the stipulated conditions as set out in Section 7.

(5) In the event of defects in components delivered by other manufacturers which CEJN-Product GmbH is unable to remedy for licensing or factual reasons, CEJN-Product GmbH shall, as it so chooses, assert its warranty claims against the manufacturers and suppliers for the account of the Principal or assign these claims to the Principal. Based on other conditions and by virtue of these General Terms and Conditions of Supply, warranty claims against CEJN-Product GmbH for such defects shall only be said to exist if the legal enforcement of the aforementioned claims against the manufacturer or supplier has been unsuccessful or is futile, for instance due to insolvency. For the duration of the proceedings, the statute of limitation of the respective warranty claims of the Principal against CEJN-Product GmbH is suspended.

(6) The warranty shall not apply if the Principal, without the consent of CEJN-Product GmbH, modifies the subject matter of delivery or has it modified by third parties and the elimination of defects is impossible or unacceptably impeded. The Principal shall bear any additional costs for the elimination of defects which incur through the modification.

Article 7 Liability for damages due to fault

(1) Liability for damages on the part of CEJN-Product GmbH, irrespective of on what legal grounds, especially as a result of impossibility, delay, defective or wrong delivery, breach of agreement, infringement of duties during contract negotiations or tort, insofar as attributable to fault, shall be limited in accordance to this Section 7.

(2) CEJN-Product GmbH shall not be liable in cases of simple negligence of its bodies, legal representatives, employees or other vicarious agents, unless such infringement relate to an essential contractual obligation. The following obligations shall be deemed essential for the Agreement: duty to timely delivery and installation of the subject matter of delivery without any defects that significantly impair its functionality or fitness for purpose as well as the duty of consultation, care and custody intended

to enable the Principal to use the subject matter of delivery in accordance with the Agreement; or the purpose of which is the protection of limb and life of the Principal's employees or the protection of the Principal's property against significant damage.

(3) Insofar as CEJN-Product GmbH is liable for compensation pursuant to Section 7 (2), this liability shall be limited to damages which CEJN-Product GmbH has anticipated as a result of a breach of agreement or which it should have anticipated under due diligence. Liability for indirect damage and consequential damage resulting from defects in the subject matter of delivery are only eligible for damages insofar as such damages can be typically expected when the subject matter of delivery is used for its intended purpose.

(4) The above disclaimers and liability restrictions shall apply to the same extent to all bodies, legal representatives, employees and other vicarious agents of CEJN-Product GmbH.

(5) Insofar as CEJN-Product GmbH provides technical information or advice and said information or advice is not part of the contractually agreed scope of services owed by the latter, this shall be free of charge, all liability being excluded.

(6) Restrictions pursuant to this Section 7 shall not apply for liability on the part of CEJN-Product GmbH as a result of wilful intent, guaranteed characteristics, in cases of injury to life, limb or health or claims under the Product Liability Act.

Article 8 Extensive reservation of title

(1) The reservation of title agreed in the following serves as security for any and all existing and future claims of CEJN-Product GmbH against the Principal.

(2) Until complete payment of all secured claims, the goods delivered by CEJN-Product GmbH to the Principal shall remain the property of CEJN-Product GmbH. The goods as well as the goods replacing them pursuant to the following provisions under the reservation of title are hereinafter referred to as "reserved goods".

(3) The Principal shall keep the reserved goods for CEJN-Product GmbH free of charge.

(4) The Principal shall be entitled to process or sell the reserved goods within the ordinary course of business until an enforcement event occurs (Section 9). Pledges and chattel mortgage shall not be permitted.

(5) If the Principal processes the reserved goods, it shall be agreed that processing occurs in the name and on the account of CEJN-Product GmbH as manufacturer and CEJN-Product GmbH shall acquire direct ownership or – if material of several owners is processed or the value of the new item is higher than the value of the reserved goods – co-ownership (part-ownership) of the goods in the ratio of the value of the reserved goods to the value of the new item. In the event no such acquisition of



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ownership arises on the part of CEJN-Product GmbH, the Principal here and now assigns his future ownership or – in the aforementioned ratio – co-ownership of the new item to CEJN-Product GmbH by way of security. Should the reserved goods be inseparably combined with other items to produce a uniform item and any of the other items be viewed as the main object, CEJN-Product GmbH shall assign to the Principal, insofar as the main object belongs to him, the co-ownership of the uniform item in the ratio as set forth in Sentence 1.

(6) The Principal shall assign here and now by way of security to CEJN-Product GmbH the claims against the purchaser arising from resale of the reserved goods and, in the event of CEJN-Product GmbH co-ownership of the reserved goods, in the ratio of the corresponding co-ownership share. The same shall apply to other claims replacing the reserved goods or otherwise arising from the reserved goods, such as insurance claims or claims from tort in the event of loss or damage. CEJN-Product GmbH revocably authorizes the Principal to collect claims assigned to CEJN-Product GmbH on his own behalf. This collection authorization may be revoked by CEJN-Product GmbH only in the case of an enforcement event.

(7) In the event of third parties having access to the reserved goods, in particular by way of pledges, the Principal shall immediately point out the ownership of CEJN-Product GmbH and notify the latter accordingly in order to enable enforcement of its property rights. Insofar as the third party is not in a position to reimburse CEJN-Product GmbH for all court or out-of-court costs arising in this connection, the Principal shall be liable for these vis-à-vis CEJN-Product GmbH.

(8) Upon request, CEJN-Product GmbH shall release the reserved goods or the goods or claims replacing them, as it so chooses, insofar as their value exceeds the secured claims by more than 50%. The selection of the goods to be released shall lie with CEJN-Product GmbH.

(9) In the event CEJN-Product GmbH rescinds the Agreement (enforcement event) due to any behaviour that is contrary to the Agreement on the part of the Principal – especially default in payment –, it shall be entitled to demand surrender of the reserved goods.

Article 9 Place of jurisdiction and choice of law

(1) If the Principal is a merchant, a legal entity under public law, a special fund under public law or has no general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for all disputes arising from the business relationship between CEJN-Product GmbH and the Principal shall be Troisdorf as CEJN-Product GmbH so chooses or the registered office of the Principal.

(2) Troisdorf shall be the exclusive place of jurisdiction for any legal action against CEJN-Product GmbH. The Parties are agreed that Germany is the international place of jurisdiction. This provision shall not affect any compelling statutory provisions on exclusive venues.

(3) The relations between CEJN-Product GmbH and the Principal are exclusively subject to the law of the Federal Republic of Germany,

Article 10 Miscellaneous

In the event a provision of the Agreement or these General Terms and Conditions of Supply prove to contain a gap, this omission shall be filled with a legally permissible provision which as closely as possible approaches the economic intent of the Agreement and the purpose of these General Terms and Conditions of Supply and which the contracting parties would have agreed upon if they had given thought to this issue.

Note:

The Principal is aware that CEJN-Product GmbH stores data pertaining to the contractual relationship pursuant to Section 28 of the German Data Protection Act [BDSG] for the purpose of data processing and that CEJN-Product GmbH shall reserve the right to disclose said data to third parties, e.g. insurance companies, to the extent required for the execution of the Agreement.