

**General Purchasing Terms and Conditions of A. W. Faber Castell Produktion GmbH,
A.W. Faber-Castell Vertrieb GmbH and A.W. Faber-Castell Cosmetics GmbH,
Stein**

1. Applicability

- a. These Purchasing Terms and Conditions shall exclusively apply to all our purchases, including all information and follow-up transactions, except as explicitly and individually agreed otherwise in writing with the supplier. They shall take effect upon express confirmation of our order, or at the latest upon its fulfillment in part or in whole. Any provisions to the contrary in the supplier's agreements or terms and conditions shall not apply. This shall be the case even if we do not expressly reject terms and conditions to the contrary, or if we accept deliveries without reservation in the knowledge that the supplier's terms and conditions contain provisions to the contrary.
- b. Orders placed orally, amendments and additions to contracts, and other auxiliary agreements shall be binding only if we issue or confirm them in writing (for example, by telefacsimile), by telex, or via an electronic document carrying an electronic signature.
- c. Suppliers may engage sub-suppliers only with our prior written permission.

2. Formation of Contract

- a. Our orders constitute an offer to purchase subject to these Purchasing Terms and Conditions.
- b. If a supplier does not accept our order within two (2) weeks after receipt thereof, we shall be entitled to withdraw the order.

3. Prices

- a. The prices stated in the order shall be binding.
- b. If the order does not state a price, the price must be stated in the supplier's order confirmation. In this case the price shall be deemed accepted only if we provide express written confirmation.
- c. Unless expressly agreed otherwise in writing, all prices are understood as including delivery to the destination or place of use, and shall comprise all costs of packaging, shipping and transportation, insurance, customs duties, and other incidental charges, as well as any value-added tax required by law. Invoices shall disclose the value-added tax separately. If by exception we agree to pay incidental charges, these shall be billed at the documented cost.

4. Delivery Dates, Delayed Delivery, Partial Delivery

a. The delivery dates indicated in our orders shall be binding. Compliance with the delivery dates is a primary contractual obligation of the supplier.

b. Partial deliveries and early deliveries shall be permissible only if we have expressly consented to them in writing in advance. In the case of early deliveries, we shall be entitled to store the goods in question, at the supplier's expense, until the agreed delivery date. Goods will be accepted only subject to proviso regarding their quality, condition and quantity. Inspection of goods at the supplier's plant or warehouse shall not be deemed to constitute either delivery or acceptance. Deliveries in quantities larger or smaller than specified will be acknowledged only in accordance with the existing agreements.

If packages arrive in damaged condition, we shall be entitled to refuse acceptance of the shipment without examining the contents. Return delivery shall be at the supplier's risk and expense.

c. If the supplier has reason to assume that it cannot perform before the agreed delivery date, it must inform us without delay.

d. If the supplier is in default of delivering, we shall be entitled, after a fair and reasonable grace period has expired without results, to demand damages in place of performance and/or to withdraw from the agreement. Additionally, we shall be entitled to engage a third party to fulfill the agreement, and may demand compensation from the contractor for any necessary expenses and additional costs incurred.

Once we demand damages in place of performance or withdraw from the agreement after the grace period has expired, the supplier shall have no right to perform thereafter, nor shall we have any obligation to accept performance. The same shall apply if we obtain a replacement through our own action.

Irrespective of the above rights, in the event of default in delivery we shall be entitled to charge 1 % (one percent) of the value of the order per week , but not more than 10 % (ten percent) in all, as lump-sum damages, or to refuse payment in this amount, unless the supplier demonstrates that the loss or damage to us has been less. The supplier shall be obligated to hold us harmless at first demand from claims for damages (including any necessary legal costs associated therewith) asserted against us by third parties as a consequence of delinquent delivery by the supplier.

e. In cases of force majeure, government restrictions, strikes, lock-outs, transportation impediments, energy shortages or power failures, or shortages or unavailability of raw materials, and in general in circumstances that prevent or adversely affect delivery or reception of the delivered items, we shall be entitled to suspend or postpone reception or payment until the reason for the impediment has ceased. Additionally, we shall be entitled to withdraw from the agreement if the reason for the impediment persists for more than six (6) months.

f. If we declare our willingness to accept the goods despite delinquent delivery, any additional costs shall be assumed by the supplier.

5. Reservation of Ownership

Goods shall not be delivered to us subject to any extended or expanded reservation of ownership by the supplier.

6. Packaging

Goods shall be delivered in packaging appropriate to the product. Appearance, labeling and contents must comply with the requirements of law in the destination country named in the order (including environmental regulations). The supplier shall take back disposable packaging at its own expense. If reusable packaging is used, the supplier must make the packaging available as a loan. Return delivery shall be at the supplier's risk and expense.

7. Product Liability, Indemnification for Liability, Product Liability Insurance

a. If the supplier or any of its agents is responsible for damage to a product, the supplier shall indemnify us at first demand against third-party claims for damages (including any necessary legal costs associated therewith), to the extent that the cause of the damage lies within the supplier's sphere of control and organization and the damage was not caused by us through willful misconduct or gross negligence. The same shall apply for any damages which we may originally have been willing to pay, of course taking due account of the supplier's interests.

b. In the cases indicated under a. above, the supplier shall also be obligated to indemnify us for all expenses associated with recall actions we carry out. We shall inform the supplier of the contents and scope of such recall measures and provide the supplier with an opportunity to state its formal position.

c. The supplier gives assurance that it will comply with all legal requirements, regulations and other provisions associated with the delivered goods, including but not limited to EN 71, CE norms and all provisions relevant to safety and the environment. This compliance shall also extend to agreements with shippers and provisions for the shipping of hazardous materials.

d. The supplier shall through ongoing inspections and other suitable measures ensure and document that any and all safety requirements established for the goods to be supplied are met, and shall furnish us with appropriate documentation on request at any time. The documents needed for this purpose shall be preserved for the life of the delivered goods, and in no case for less than six (6) years after the last delivery to us.

e. The supplier shall maintain expanded product liability insurance coverage of at least five million euros (€ 5,000,000) per claim of personal injury or property loss or damage. This provision shall not affect the right to assert further claims for damages. The supplier must document the existence of insurance coverage upon demand.

f. We will not take out shipping insurance for deliveries. Insurance premiums paid by the supplier will be reimbursed only when we have expressly requested in our written order that insurance be taken out. We will take out no insurance for personnel, tools or materials employed by the contractors engaged in filling our orders.

8. Invoices, Terms of Payment

- a. We will process invoices only if they state the order date and our order number. The supplier shall furnish separate invoices for each order.
- b. Invoices shall be made out in euros unless expressly agreed otherwise.
- c. Unless expressly agreed otherwise in writing, payment shall be performed at fourteen (14) days less a discount of three percent (3 %), or at thirty (30) days net, after receipt of the goods and the invoice. If by exception we accept early deliveries, the due date of the associated payment shall be calculated from the delivery date originally agreed.
- d. The supplier may assign its claims against us to third parties only with our prior written consent. The same shall apply for factoring. For assignments under an extended reservation of ownership agreed upon between the supplier and one of its own suppliers, our consent shall be deemed as given in advance, provided that we shall also be permitted to offset counterclaims acquired after notification of the assignment.

9. Notification of Defects / Warranty

- a. We will examine the supplied goods for external intactness and completeness within a reasonable time. Notice of patent defects shall be deemed as timely if given within two (2) weeks after receipt of the goods. Notice of latent defects shall be deemed in time if given within two weeks after discovery of the defect. Payment for goods shall not signify that they are approved as conforming to contract and free from defects.

Prior to receipt, we shall be entitled to inspect and examine the ordered goods at any location, including their place of manufacture, provided we advise the supplier of this inspection or examination a reasonable time in advance. For this purpose the supplier shall allow us to have access during normal business hours to its location where the goods are made or stored.

- b. We shall be entitled to assert all product warranty rights provided by law. Irrespective thereof, we shall be entitled to demand, at our discretion, that the supplier correct the defect or supply a defect-free item. The supplier shall assume all expenses necessary to correct the defect or to furnish a faultless replacement, including but not limited to costs of shipping and transport, costs of labor and costs of materials.

- c. Should any correction of a defect requested by us still be unsuccessful after a fair and reasonable grace period has expired, we may demand a reduction of the purchase price, withdraw from the contract in whole or in part, and/or demand damages or compensation for lost expenses in place of performance. The foregoing shall not affect our further warranty entitlements and claims for damages, including consequential damage. In particular, we may demand compensation for costs we incur for testing or inspections if above-average defect rates compel us to perform reception testing above and beyond the usual testing of random samples. A grace period may be dispensed with in the cases provided by law under § 323 (2), § 326 (5), and § 440 of the German Civil Code ("BGB").

d. In cases where delay would entail a risk of loss or damage, and in other urgent cases, we may also correct defects ourselves at the supplier's expense. In such cases we shall not be entitled to withdraw from the agreement or reduce the purchase price unless the attempted replacement ultimately proves fruitless. So far as possible, we will inform the supplier of the steps taken to provide a replacement.

e. We may either keep objectionable goods in storage or return them to the supplier at the supplier's risk and expense. Ownership shall revert to the supplier on the date on which we send advice of the return shipment of the objectionable goods. Our storing the goods on the supplier's behalf shall be equivalent to delivery.

f. In the case of defects which by their nature cannot be discovered until the goods are processed, worked or used, we shall also be entitled to demand reimbursement for the associated lost expenses.

g. The warranty period shall be two (2) years from the date of transfer of risk, and shall begin at the time of transfer of risk to our customers. Notification of a defect shall have the effect of suspending the warranty period.

When the defect has been corrected or a defect-free replacement has been delivered, the warranty period for the reworked part or replaced item shall commence anew.

h. Quality agreements (e.g., concerning ppm, zero defects) shall not affect our claims as set forth above.

i. The standard for the supplier's liability for contractual and non-contractual claims shall be as defined by law.

10. Quality

The supplier warrants that the supplied goods comply with the agreed specifications, include no defects adversely affecting their value or fitness for use, and lack none of the assured characteristics. The supplier furthermore gives assurance that the supplied goods are free from defects in design, materials and workmanship and conform to the latest state of the art (= product liability).

11. Third-Party Rights

The supplier gives assurance that the goods it delivers will not infringe the rights of third parties, especially industrial property rights such as patents, utility patents and registered designs, and mark rights, and furthermore that the goods will otherwise comply with all fair-competition and other government requirements; this shall in particular include any labels, descriptions or advertising claims regarding the goods, either issued or associated with the goods by the supplier. The liability indemnification under Sec. 7 a. above shall apply accordingly.

12. Drawings, Tools, Designs

a. We reserve ownership and copyright in all illustrations, drawings, calculations and any other document that we make available to the supplier. These documents shall be kept confidential from third parties, shall not be reproduced, and shall be used solely for filling our orders. The supplier shall return the documents to us immediately upon completion of the order, without being expressly requested to do so.

b. Tools, samples, drawings and other auxiliary resources prepared for filling orders and billed separately by the supplier shall become our property at the time of their production. Surrender shall be replaced by the supplier's storing these materials on our behalf at no charge; they may be used only in filling our orders, and if we so request shall be relinquished to us immediately at no charge upon completion of the contract or in the event of difficulties with delivery. The supplier shall clearly label the aforesaid items as our property, and shall call our ownership rights to the attention of any third party who wishes to assert claims regarding these items. The supplier shall inform us immediately of any such events. Any costs of intervention shall be assumed by the supplier.

c. The supplier undertakes to service and maintain the aforesaid items, and to repair normal wear and tear; the expense thereof is included in the purchase price of these items. We shall be entitled to enter the supplier's business premises at any time during normal business hours to view the above items and examine the supplier's documentation regarding them.

d. If, subject to our consent (Sec. 1. c), the supplier engages a subcontractor to make tools and samples for filling our orders, the supplier shall assign to us its claims against the subcontractor for surrender of ownership of the tools and samples.

e. Designs and samples – of any kind whatsoever – developed and prepared for us by the supplier shall become our property, together with all rights. Section 11 above shall apply accordingly.

13. Advance Payments and Supplied Materials

a. The supplier undertakes to employ advance payments or materials supplied by us solely for filling our orders.

b. The supplier shall keep our supplied materials separate, and shall indicate our ownership on the items themselves and in its business books. Goods produced for our orders and for which we have provided advance payments or materials shall become our property. The delivery of possession shall be replaced by the supplier's storing the goods for us, at no charge, with the reasonable care of a prudent person of business. For this purpose, the supplier shall store the produced goods separately from other inventories and shall indicate our ownership on the goods themselves and in its business books. The supplier shall confirm this to us in writing. Furthermore we shall be entitled to assure ourselves on location of the separate storage and proper identification of the goods or supplied materials.

c. Assumption of ownership by the supplier shall not be possible in cases where our supplied materials are processed to make a new item. Any processing shall be deemed as performed by the supplier for us. If the supplier acquires joint ownership through connection or combination with other matter, the supplier hereby assigns its share in the joint ownership to us. Transfer of possession shall be replaced by the supplier's storing the item for us at no charge.

d. The supplier shall advise us without delay of any seizure by third parties of the goods belonging to us, and shall support us in every way in intervening, the cost of which shall be assumed by the supplier. This notification obligation shall apply accordingly in the event that proceedings for bankruptcy or composition with creditors are initiated. There shall in no case be any right to withhold the goods in compensation for other claims.

14. Advertising

Our orders shall not be used for advertising or promotional purposes, including as a reference, without our express prior written consent.

15. Confidentiality and Non-Use

The supplier shall employ the knowledge, experience, production processes, and working methods that it acquires in filling our orders exclusively for filling orders of Faber-Castell companies, and shall not use them, directly or indirectly, for its own benefit or that of third parties outside the scope of the engagement as agreed with us. With regard to third parties, the supplier shall maintain absolute confidentiality concerning the business matters that become known to the supplier and the results it has developed by filling the order; such information is to be understood in the broadest sense, including but not limited to data, requirements, patterns, drawings and designs. This shall not apply for information among the above that is quite obviously and recognizably intended for the public or that was already available to the public without restriction. The supplier shall have the obligation to demonstrate such intent or availability.

16. Business Regulations

The supplier gives assurance that all persons that it consults or engages in filling our orders will comply with the house rules applicable at our locations, and with the instructions issued in conjunction therewith, when they enter our premises. It shall suitably inform the appropriate groups of individuals in order to ensure compliance with these obligations.

17. Export Regulations

At our express written request, identifying the specific markets where we are to deliver the goods to be produced by the supplier, the supplier shall be obligated to inform us in writing which raw materials, components, assemblies, devices, equipment, etc., are subject to export or re-export restrictions under the foreign-trade regulations of the Federal Republic of Germany or, if applicable, U.S. export regulations.

18. Place of Performance, Sole Jurisdiction and Applicable Law

a. Unless mandatorily required otherwise by the specific legal nature of the obligation, the place of performance for all obligations resulting from the contractual relationship shall be Stein bei Nürnberg, or the place of business of the Faber-Castell company that placed the order, provided this place of business is not Stein bei Nürnberg.

b. Unless there is a basis for another jurisdiction and venue, in all transactions with merchants (*Kaufleute*) as defined under German law, government entities having their own legal personality, or special assets of the government, the sole jurisdiction and venue for all controversies arising directly or indirectly from the contractual relationship shall be Nuremberg or, as the case may be, the jurisdiction competent for the Faber-Castell company that placed the order, or, at our discretion, the jurisdiction competent for the supplier's principal place of business if the supplier is a merchant as defined under German law.

c. The laws of the Federal Republic of Germany alone shall apply, to the exclusion of conflict of laws rules, except as expressly agreed otherwise in writing.

19. Storage of Data

Without the supplier's consent, and in exercise of the authorizations provided by law, we will gather from the supplier only such data as is necessary for processing the order and carrying out the contract, and shall otherwise use such data only for purposes for which the supplier has given its consent.

20. Incidental Agreements, Severability Clause

a. These provisions represent the full general Purchasing Terms and Conditions. There are no incidental agreements, oral or written.

b. We expressly reserve the right to amend and/or expand these Purchasing Terms and Conditions, but undertake to advise the supplier of such modifications as soon as possible. Any orders still pending but unfilled at the time of the change or addition shall be governed by the previous version of these Purchasing Terms and Conditions.

c. Should one or more of the above provisions prove invalid or without effect, the validity of the remaining provisions shall not be affected thereby. The ineffective or invalid provision shall be deemed by the joint intent of the parties as being replaced by a provision that is in compliance with the law and whose economic import approximates that of the invalid provision as closely as possible.

d. These General Purchasing Terms and Conditions are executed in a German and English version, in the event of any discrepancy or deficit, the German version shall prevail.