

# Stengel GmbH General Terms and Conditions of Purchase

## 1. Scope

1. These General Terms and Conditions of Purchase (hereinafter the **"General Terms"**) apply to all business transactions between Stengel GmbH (hereinafter referred to as **"Stengel"**) and the supplier. They apply accordingly to works and services. The acceptance of the products delivered will then be replaced by the acceptance of works and services.
2. Should the supplier's terms conflict with, add to or deviate from these General Terms, the supplier's terms shall not be deemed contract terms unless Stengel has agreed to their validity in writing. These General Terms also apply if Stengel unconditionally accepts a delivery from the supplier in full knowledge of the supplier's conflicting, additional or deviating terms and conditions.
3. Any agreements conflicting with, adding to or deviating from these General Terms that are concluded between Stengel and the supplier for the purposes of implementing the contract must be put into writing. The same also applies to a revocation of this written form requirement.
4. Rights to which Stengel is entitled under the statutory provisions or other agreements and which exceed these General Terms shall remain unaffected.

## 2. Contract conclusion, contract changes, contract implementation

1. Offers, drafts, plans, quotes and samples provided by the supplier shall be free of charge for Stengel. At Stengel's request they shall be taken back by the supplier without delay and at the supplier's own expense.
2. An order shall only become binding if it has been placed by Stengel in writing or, if an order is placed orally, duly confirmed in writing by the supplier. If an order is created with the help of automatic devices and lacks a signature and individual name, such order shall be deemed to be in writing. Insofar as an order contains obvious errors, spelling or calculation errors, it shall not be binding on Stengel.
3. Prior to the conclusion of the contract, the supplier shall inform Stengel in writing if the products ordered are subject to export controls or other restrictions on marketability in accordance with the regulations applicable in the Federal Republic of Germany. If the information provided is not correct, particularly if it is lacking altogether or is incorrect, incomplete or not timely, Stengel shall be entitled to rescind the contract upon the unsuccessful expiry of a reasonable deadline set by Stengel and regardless of any fault on the part of the supplier. The same shall apply if the products are subject to export controls or other restrictions on marketability. Any further claims Stengel may have shall remain unaffected.
4. The supplier shall issue a written order confirmation without delay, no later than one week after receiving the order; such confirmation shall expressly state the price and delivery time. Should the order confirmation deviate from the order, such deviations shall only be deemed to have been agreed if they have been confirmed by Stengel. The same applies to changes made to the contract later on.
5. If Stengel has concluded a framework agreement with the supplier regarding future deliveries, an order placed by Stengel shall be binding if the supplier does not object to such order within three working days of receiving it. Stengel shall otherwise be bound by its own orders one week after the supplier's receipt of the order unless Stengel's order expressly provides for a different commitment period.
6. Silence on the part of Stengel regarding offers, requests or other declarations issued by the supplier shall only be deemed Stengel's consent if such is agreed in writing beforehand.
7. Order confirmations, shipping notices, consignment notes, bills of lading, delivery notes, invoices and other letters issued by the supplier shall contain the order details, in particular the order number, order date and supplier number.
8. If it becomes apparent during the implementation of a contract that deviations from the specifications originally agreed will be necessary or expedient, the supplier shall inform Stengel immediately in writing and submit proposals for changes. Stengel shall inform the supplier whether the supplier must make changes to the original order and, if so, which changes.

Stengel shall be entitled to change the order at any time, in particular with regard to the composition of the products, unless such a change is unreasonable for the supplier. In such cases, the supplier shall be granted a reasonable period of time to make the necessary changes to production. If the costs incurred by the supplier in implementing the contract change as a result of such changes, the parties shall negotiate an adjustment of the price accordingly. If, within eight weeks of the written request to negotiate, no agreement is reached regarding a price adjustment, Stengel shall be entitled to terminate the contract without notice.

9. If the supplier files for the institution of insolvency proceedings or comparable proceedings against its own assets or if a third party's reasoned application for the institution of insolvency proceedings or comparable proceedings against the supplier's assets is rejected for lack of assets, Stengel shall be entitled to rescind the contract in whole or in part.

## 3. Packaging, shipping, delivery, acquisition of ownership

1. The supplier shall observe Stengel's specifications for shipping the products and fulfil in particular the applicable transport, packaging and delivery requirements. The products ordered shall be delivered in packaging appropriate to the nature of the products. In particular, the products shall be packed in such a way that prevents transport damage. Packaging materials shall be used only to the extent necessary for such purpose. Only environmentally friendly, recyclable packaging materials may be used. The supplier shall label the packaging with the scope of the delivery, the item and material numbers, the delivery quantity, the date of manufacture and the order data, in particular the order number, order date and supplier number. For a delivery of sheet metal, the total weight per pallet, i.e. material and pallet, shall not exceed three metric tons. The weight of the pallet, i.e. the total weight less the material, shall not exceed 50 kilograms. If the permissible weight is exceeded, Stengel shall be entitled to reduce the invoice amount accordingly.
2. The supplier shall notify Stengel without delay once the products have been shipped.
3. All deliveries shall include a single copy of a delivery note showing the scope of the delivery, the item and material numbers, the delivery quantity, the date of manufacture and the order details, in particular the order number, order date and supplier number.
4. Deliveries may only be carried out on weekdays during normal business hours: Monday to Thursday, 7:00 am to 4:00 pm, and on Friday, 7:00 am to 12:00 pm.
5. When delivering the products, the supplier shall in particular observe the German Ordinance on Hazardous Substances (GefStoffV), in particular by packing and labelling the affected products accordingly and expressly pointing out hazardous substances in the delivery note.
6. Upon delivery, the products shall immediately become Stengel's property, free of encumbrances. The supplier guarantees that it is authorized to resell and transfer ownership of the products.

## 4. Delivery period

1. The delivery periods and dates stated in the order or otherwise agreed shall be binding. The delivery periods shall commence on the date of the order. The products shall be delivered at the delivery address indicated by Stengel, within the delivery period or by the agreed delivery date.
2. If it becomes apparent to the supplier that the delivery time cannot be met, the supplier shall notify Stengel in writing without delay, stating the reasons and the expected duration of the delay.
3. In the event of delay on the part of the supplier, Stengel shall be entitled to claim a contractual penalty of 0.5% of the net order value for each week or partial week of the delay, but not exceeding 5% of the net order value, unless the delay in delivery is beyond the supplier's reasonable control. Stengel shall assert the penalty no later than when effecting the final payment. Cases of force majeure shall be excluded. Any further claims Stengel may have shall remain unaffected. Stengel's claim to delivery shall only be excluded if the supplier, at Stengel's

## Stengel GmbH General Terms and Conditions of Purchase

request, pays damages instead of making the delivery. The acceptance of a delayed delivery shall not constitute a waiver of claims for damages or the penalty.

4. A delivery before the agreed delivery date shall be permissible only with Stengel's prior written consent. Stengel shall be entitled, at the supplier's expense, to store products delivered prematurely or to return them unless the premature delivery exceeds a maximum period of three calendar days.

### 5. Prices and payment

1. The price specified in the order shall be binding and include free delivery to the point of use. In the absence of a written agreement to the contrary, the price shall particularly include the costs for packaging, shipping equipment, transport and insurance up to the delivery address indicated by Stengel as well as customs duties and other public charges. Statutory value added tax shall be included in the price unless it is expressly designated as a net price. Insofar as shipping and transport costs are not included in the price in an individual case and it has been agreed in writing that Stengel will bear the shipping and transport costs, such shall only apply to the costs in the amount of the cheapest mode of shipping and transport, even if faster transport should be necessary in order to comply with the agreed delivery periods and dates.
2. Stengel shall be entitled to determine the type of packaging, the means of transport, the transport route and the transport insurance. The supplier shall be obligated to take out transport insurance with worldwide cover, with a reasonable cover amount of at least the relevant value of the goods. Unless otherwise agreed, the supplier shall bear the costs of transport insurance. Upon request and without delay, the supplier shall provide Stengel with evidence that the transport insurance exists.
3. If a VAT-exempt delivery is considered, the supplier must provide the necessary supporting documents insofar as the supporting documents are to be assigned to the supplier's area of responsibility. For deliveries within the European Union, the supplier shall, without being asked to do so, inform Stengel in writing of its VAT identification number, provide proof of its entrepreneurial status and assist in the production of documents and books for the purpose of providing proof of export.
4. Stengel shall receive the supplier's invoice in duplicate. The invoice shall not be included with the delivery but be sent separately. Invoices without an order number, order date or supplier number shall be deemed not received on the grounds of being impossible to process.
5. Payment shall be effected after the acceptance of the products and receipt of the invoice, within 14 days less a 3% discount or within 30 days net. Payment shall be subject to invoice verification. Stengel shall also be entitled to effect payment by cheque or bank transfer, at its own discretion. If the delivery is defective, Stengel shall be entitled to withhold payment until the delivery is properly fulfilled, without forgoing any rebates, discounts or similar price reductions. In this respect, the payment period shall commence once the defects have been remedied in full. In the event that the products are delivered early, the payment period shall commence at the earliest upon the expiry of the delivery period or on the agreed delivery date. If the supplier is required to provide material tests, inspection reports, quality documents or other documents, the acceptance of the products shall initiate the payment period only when the documents owed are handed over to Stengel upon acceptance at the latest. In the event that Stengel is in default of payment, the supplier shall, without prejudice to its other rights, be entitled to rescind the contract upon the fruitless expiry of a reasonable grace period set by the supplier for Stengel once Stengel is in default of payment, unless Stengel is not liable for the default in payment. At Stengel's request, the supplier shall be obligated to issue a binding declaration within a reasonable period of time stating whether, once the grace period expires, it will rescind the contract in consequence of the default in payment or adhere to the contract.

### 6. Passing of risk

1. The supplier shall bear the risk of accidental loss and accidental deterioration of the products until they are handed over to Stengel.
2. If the supplier is obligated to assemble or mount the products at Stengel's premises, the risk of accidental loss and accidental deterioration of the products shall only pass to Stengel upon the assembly or mounting of the products. This also applies when Stengel has agreed to bear certain costs, such as transport costs.

### 7. Warranty, claims based on defects, guarantees

1. The supplier shall guarantee that the products supplied conform to the samples approved and comply with the relevant legal provisions and the regulations and guidelines of authorities, professional associations and trade associations. The supplier shall indemnify Stengel against all third-party claims asserted against Stengel or its customers due to non-conformity with the samples approved or the violation of these provisions, unless the non-conformity with the samples approved or the violation of these regulations or provisions is beyond the supplier's reasonable control. The supplier shall inform Stengel in writing without delay of any objections it may have to the implementation of the order as requested by Stengel.
2. In particular, the supplier shall ensure compliance with Regulation (EC) No. 1907/2006 (REACH). The supplier shall fulfil any existing notification, approval, registration and approval obligations pursuant to said Regulation. If the improper fulfilment of obligations on the part of the supplier should give rise to obligations for Stengel, the supplier shall indemnify Stengel in full against the costs incurred as a result, unless the supplier is not liable for the improper fulfilment of obligations. Furthermore, with regard to the products delivered, the supplier shall be obligated to fulfil the labelling and information obligations in a proper, complete and timely manner, without further request. In addition, the supplier shall provide Stengel with the safety data sheets in accordance with Regulation (EC) No. 1907/2006 (REACH) without being requested to do so, prior to the first delivery. This information constitutes an essential property of the item purchased. In addition, the supplier shall guarantee that it complies with the requirements of Directive 2011/65/EU on the Restriction of Hazardous Substances (RoHS) and Directive 2012/19/EU on Waste from Electric and Electrical Equipment (WEEE) as well as the requirements of the national implementations, in particular the Ordinance on the Restriction of the Use of Hazardous Substances in Electrical and Electronic Equipment (Electrical and Electronic Equipment Substances Ordinance – ElektrostoffV) and the Electrical and Electronic Equipment Act (ElektroG), as well as the Packaging Ordinance (VerpackungsVO). Prior to the first delivery, the supplier shall issue Stengel a written declaration that the products subject to the contract are RoHS compliant; the supplier shall label the product packaging accordingly, confirming the RoHS compliance in the delivery note with the indication "RoHS-konform/RoHS-compliant". The supplier shall guarantee that no conflict minerals have been used for manufacturing the products supplied, i.e. minerals for which it is suspected that the proceeds from their extraction will be used to finance armed groups or conflicts, in particular tin, tantalum, tungsten and derivatives thereof as well as gold from the Democratic Republic of Congo (DRC) or its neighbouring countries. The supplier shall ensure the use of conflict-free minerals, using only minerals from certified smelting plants and purchasing only those products from its suppliers that are proven not to contain conflict minerals. At Stengel's request, the supplier shall provide suitable documents without delay to prove that the products to be delivered contain only conflict-free minerals, i.e. in particular minerals from certified smelting plants. At Stengel's request, the supplier shall be obligated to issue Stengel a written declaration of compliance with the requirements specified in this provision, without delay. The supplier shall guarantee that the products have been tested in accordance with the requirements of the applicable EC directives and EC safety standards and will only be supplied in a tested version. Prior to the first delivery, the supplier shall

## Stengel GmbH General Terms and Conditions of Purchase

provide Stengel with the declaration of conformity (CE declaration), bearing a legally binding signature, and a certificate of origin for the products. The supplier shall inform Stengel in writing, without being requested to do so and without delay, if the information in the declaration of conformity or the certificate of origin no longer applies to the products.

3. Stengel shall notify the supplier of recognizable defects within two weeks after the products are delivered and of hidden defects within two weeks after such defects are discovered. In the case of deliveries consisting of many identical products, Stengel shall inspect a reasonable quantity of the delivered products for defects. If the products may become unsaleable as a result of the inspection, the quantity to be inspected shall be reduced appropriately. If individual random samples of a delivery are defective, Stengel may, at its own discretion, demand that the defective items be eliminated by the supplier or assert claims for defects for the entire delivery. If, as a result of defects in the products, it becomes necessary to inspect the products beyond the usual scope of incoming inspection, the supplier shall bear the costs of such inspection. If the notification is delayed or lost, the timely dispatch of the notification shall be deemed sufficient for compliance with the notification period.
4. If Stengel has concluded a framework agreement with the supplier, the supplier shall be obligated to maintain a suitable quality management system and to manufacture and test the products to be supplied in accordance with such quality management system. If the supplier procures production or testing equipment, software, services, material or other advance deliveries from advance suppliers for the manufacture or quality assurance of the products to be supplied, the supplier shall contractually include these in its quality management system or ensure the quality of the advance deliveries itself. In particular, the supplier shall conduct its own material testing. The supplier shall keep records of the implementation of the quality assurance measures and shall apply a well-structured system to keep such records and any samples of the products to be supplied. The supplier shall grant Stengel access to these to the extent necessary, explaining the records and handing over copies of the records and any samples. Without delay after accepting the products, as far as such is feasible in the ordinary course of business, Stengel shall check whether they correspond to the ordered number of items and the ordered type and whether they exhibit any externally recognizable transport damage. If a defect becomes apparent during these tests or later, Stengel shall notify the supplier thereof within two weeks of the inspection or discovery. There shall be no further incoming goods inspection. Within 14 days of discovering defects that are not directly apparent, Stengel shall notify the supplier of such defects.
5. If, in accordance with the relevant legal provisions, the products delivered are not marketable or cannot be properly disposed of by Stengel due to defects, Stengel shall be entitled to dispose of such products at the supplier's expense.
6. In the event of defects in the products, and irrespective of the statutory claims for defects, Stengel shall be entitled to demand that the supplier should either rectify the defects or deliver defect-free products as subsequent performance, at Stengel's discretion. The supplier shall bear the expenses required for the purpose of subsequent performance. The same applies if, after delivery, the products are taken to a place other than the delivery address specified by Stengel, in accordance with their intended use. If the supplier does not fulfil its obligation to provide subsequent performance within a period of one week set by Stengel, Stengel may take the necessary measures itself at the supplier's expense and risk or have them taken by a third party, unless the supplier is not liable for the fact that the performance owed is not provided by the end of the grace period. Stengel may dispense with setting a deadline in particular if the supplier refuses to provide both types of subsequent performance or if the subsequent performance to which Stengel is entitled has failed or is unreasonable for Stengel. Subsequent performance on the part of the supplier shall be deemed unreasonable for Stengel in particular if Stengel has already delivered the defective products to third parties. In addition, Stengel may dispense with setting a deadline if the supplier seriously and definitively refuses performance or if special circumstances exist which justify the immediate assertion of the claim for defects under due consideration of both parties' interests. Special circumstances

within the meaning of this provision shall be deemed to exist, in particular, in urgent cases in which subsequent performance on the part of the supplier is unlikely to eliminate any imminent disadvantage to Stengel. In such case, Stengel shall be entitled to take the necessary measures at the supplier's expense and risk even if a reasonable grace period has not unsuccessfully expired, provided that Stengel notifies the supplier accordingly.

7. The receipt of the products and the processing, payment and re-ordering of products that have not yet been identified as defective and for which no notices of defect have been submitted shall not constitute the approval of the delivery or a waiver of claims for defects on the part of Stengel.
8. The limitation period for Stengel's warranty claims shall be 36 months starting at the date on which the products are delivered. If, in accordance with their customary purpose, the defective products are used for a building and cause it to be defective or constitute a defect in the building, the limitation period shall be five years.
9. Suppliers of products requiring spare parts shall be obligated to supply Stengel with the necessary spare parts and accessories as well as tools for a further period of ten years after the expiry of the limitation period, at the previous prices plus compensation for monetary depreciation.
10. Any further guarantees provided by the supplier shall remain unaffected.

### 8. Serial damage

1. Serial damage shall be deemed to exist if more than 5% of the products in a batch are delivered with the same defects. In particular, serial damage shall also include products from the relevant batch which have already been processed, transformed or otherwise installed.
2. In the event of serial damage, the supplier shall be obligated, at Stengel's option, either to provide a replacement or to remedy the defect in respect of the entire batch affected and provide compensation for all the damage resulting from the serial damage, including but not limited to foreseeable consequential damage and indirect damage, unless the breach of obligation is beyond the supplier's reasonable control. The costs of a recall campaign shall also be deemed indirect damage.
3. The supplier shall use its best efforts to support Stengel in all the measures related to serial damage that Stengel deems necessary.

### 9. Product liability

1. The supplier shall be obligated to indemnify Stengel from third-party claims arising from domestic and foreign product liability, unless in accordance with product liability principles the supplier is not liable for the product defect and the damage incurred. Any further claims Stengel may have shall remain unaffected.
2. Within the scope of this obligation to indemnify, the supplier shall in particular also reimburse Stengel for any expenses arising from or in connection with warning, replacement or recall campaigns carried out by Stengel. As far as possible and reasonable, Stengel shall inform the supplier of the content and scope of the measures to be carried out and give the supplier the opportunity to make a statement. The supplier shall use its best efforts to support Stengel in the measures to be taken and shall take all the reasonable measures required by Stengel.
3. The supplier shall be obligated to take out and maintain liability insurance for the duration of the business relationship, with worldwide cover and at an appropriate amount for the products of at least €3 million per personal injury for each individual person and at least €5 million per property damage. The supplier hereby assigns to Stengel the claims arising under the liability insurance along with all the ancillary rights. Stengel hereby accepts said assignment. If the insurance contract does not permit such assignment, the supplier hereby instructs the insurer to make any payments solely to Stengel. Any further claims Stengel may have shall remain unaffected. Upon request, the supplier shall provide Stengel with proof that the liability insurance has been taken out and is in force. The supplier shall refrain from any act or omission which could endanger the insurance cover.

## Stengel GmbH General Terms and Conditions of Purchase

4. If the supplier does not properly fulfil its obligations according to subsection 3, Stengel shall be entitled, but not obligated, to take out liability insurance at the supplier's expense.

### 10. Third-party property rights

1. The supplier shall guarantee that the delivery and use of the products does not infringe any domestic or foreign patents, utility models, licenses or other third-party property rights or copyrights. This shall not apply to the extent that Stengel has developed the products.
2. If Stengel or its customers are held liable by a third party for an infringement of such rights due to the delivery and use of the products, the supplier shall be obligated to indemnify Stengel against such claims. The obligation to indemnify shall apply to any expenses incurred by Stengel in connection with the claim. In particular, Stengel shall be entitled to obtain the third party's approval for Stengel's use of the products, at the supplier's expense. The obligation to indemnify does not apply if the supplier is not liable for the infringement of the third-party property rights.

### 11. Force majeure

1. If Stengel is prevented by force majeure from fulfilling its contractual obligations, in particular from accepting the products, Stengel shall be released from its obligation to perform for the duration of the hindrance and a reasonable start-up period, without being obligated to pay damages to the supplier. The same shall apply if it becomes unreasonably difficult or temporarily impossible for Stengel to fulfil its obligations as a result of unforeseeable circumstances which are beyond Stengel's reasonable control, in particular industrial disputes, official measures, energy shortages or major operational disruptions. Stengel may refuse to accept the products if such circumstances hinder the sale of the products as a result of reduced demand. The same also applies if such circumstances occur at a time when Stengel is in default of acceptance.
2. Stengel shall be entitled to rescind the contract if such a hindrance persists for more than four months and Stengel no longer has any interest in the implementation of the contract as a result of the hindrance. At the supplier's request, Stengel shall declare after the expiry of the period whether it will make use of its right of rescission or accept the products within a reasonable period.

### 12. Stengel's liability

1. Stengel shall have unlimited liability for damage resulting from the breach of a guarantee or from injury to life, person or health. The same applies in cases of intent and gross negligence or where Stengel has assumed a procurement risk. Stengel shall be liable for slight negligence only if material obligations are breached that arise from the nature of the contract and that are of particular importance for achieving the purpose of the contract. In the case of a breach of such obligations or in the event of default or impossibility of performance, Stengel's liability shall be limited to such damages as are typically to be expected within the scope of the contract. Any mandatory legal liability for product defects shall remain unaffected.
2. To the extent that Stengel's liability is excluded or limited, the same also applies to the liability of Stengel's staff, other employees, representatives and vicarious agents.

### 13. Confidentiality

1. The parties shall be obligated to treat as confidential any and all information disclosed to them that is designated as confidential or is otherwise identifiable as business or trade secrets, for a period of five years from delivery; they shall not record, pass on or utilize such information, unless such is necessary for the business relationship.
2. This confidentiality obligation does not apply if the information is demonstrably already known to the receiving party before the commencement of the contractual relationship or was generally

known or available to the receiving party before the commencement of the contractual relationship or becomes generally known or available through no fault of the receiving party. The burden of proof shall be borne by the receiving party.

3. The parties shall ensure by means of appropriate contractual agreements with the employees and agents working for them, in particular their freelancers and the contractors and service providers working for them, that for a five-year period from the date of delivery such individuals will also refrain from any personal exploitation, disclosure or unauthorized recording of such business and trade secrets.

### 14. Final provisions

1. The supplier shall be entitled only with Stengel's prior written consent to transfer rights and obligations to third parties or to have third parties execute an order or significant parts of an order.
2. Payments shall be effected solely to the supplier. The supplier shall be entitled to set off counterclaims only if they are undisputed or have been recognized by declaratory judgment. The supplier may assert a right of retention only if its counterclaim is based on the same contractual relationship.
3. The supplier's subcontractors shall be deemed its vicarious agents. On request, Stengel must be informed of such subcontractors in writing and without delay.
4. The legal relationship between the supplier and Stengel shall be governed by the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
5. The exclusive place of jurisdiction for any and all disputes arising from the business relationship between the supplier and Stengel shall be Stengel's registered office. Stengel shall also be entitled to institute legal proceedings at the supplier's registered office and at any other admissible place of jurisdiction.
6. Unless otherwise agreed, the place of performance for all the performances owed by the supplier and Stengel shall be Stengel's registered office.
7. The language of the contract is German.
8. Should any provision of these General Terms be or become invalid or unenforceable in whole or in part, or should there be a gap in these General Terms, the validity of the remaining provisions shall remain unaffected. The invalid or unenforceable provision shall be replaced by a valid or enforceable provision that most closely reflects the purpose of the invalid or unenforceable provision. In the event of a gap, that provision shall be deemed agreed that corresponds to what the parties to the contract would have agreed in accordance with the purpose of these General Terms if they had considered the matter from the outset.

Last updated: 01/2019