

# General Terms and Conditions of Purchase of Rutsch & Co Gesellschaft für Textil-, Leder u. Kunststoffverarbeitung mbH

## I. Scope of validity

1. These General Terms and Conditions of Purchase shall exclusively apply to all present and future commercial orders (including software) of Rutsch & Co Gesellschaft für Textil-, Leder u. Kunststoffverarbeitung mbH (hereinafter called "Rutsch & Co"). The applicability of terms and conditions provided by third parties and/or contractors is expressly excluded. Other terms and conditions shall neither be accepted tacitly, by conduct nor impliedly by the acceptance of goods/ performance of services.

2. If agreeing on special terms and conditions, these General Terms and Conditions of Purchase shall be considered as secondary and supplementary.

3. References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms and Conditions of Purchase.

4. Alterations and/or additions to these General Terms and Conditions of Purchase and to orders based on these Terms and Conditions of Purchase must be made in writing, accepted and signed by Rutsch & Co. This applies equally to a waiver of the written form requirement.

## II. Offers / Orders

1. The preparation and submission of offers by the contractor is free of charge for Rutsch & Co and is not binding until written order of Rutsch & Co ("order").

2. The order confirmation shall be made within ten (10) working days by the contractor. On expiry of this period, the order is deemed accepted by the contractor. Any deviation from the order of Rutsch & Co requires Rutsch & Co's prior written consent.

3. Rutsch & Co may change technical details up to four (4) weeks prior to the delivery date. If first or type samples are made available to Rutsch & Co, the serial production may only begin following Rutsch & Co's express and written release.

4. Rutsch & Co is entitled to cancel orders placed at any time after order confirmation. In this case, Rutsch & Co shall reimburse the contractor for expenses to a reasonable extent.

## III. Prices

1. Unless agreed separately, overall or individual prices are fixed prices, include all services and secondary services of the contractor, and are valid until the end of order settlement. Subsequent increases for whatever reason are expressly prohibited.

2. Prices are stated as delivered at place (DAP in accordance with INCOTERMS 2020) free to the place of receipt specified by Rutsch & Co including freight, packaging and ancillary costs. If non-paid delivery shall be separately agreed by the parties, then Rutsch & Co shall only assume the most favorable freight costs, unless Rutsch & Co has stipulated a special type of shipment.

3. If, as an exception, pricing schedules have been agreed on in a foreign currency, then the agreed price shall be based on the conversion rate of the Euro to the respective foreign currency quoted in Germany on the day of order confirmation. If the exchange rate changes prior to the payment due date, either party shall be allowed to demand corresponding price adjustments.

## IV. Payment / Retention of title

1. The contractor shall send invoices to Rutsch & Co after the complete fulfillment of the contractor's delivery obligations.

2. The invoice shall be settled either within fourteen (14) days with a three percent (3%) cash discount or within thirty (30) days without discount. The period fixed for payments commences upon receipt of

the invoice in the e-mail inbox at invoice@rutschundco.de, but not before receipt of the goods or acceptance of performance by Rutsch & Co. If documentation or similar documents (collectively "Documents") form part of the performance of the order, then the payment periods shall only commence after the contractual submission of the Documents to Rutsch & Co. If an early (partial) delivery is accepted, the payment periods shall commence at the earliest on the agreed date.

3. If down payments are agreed, Rutsch & Co is entitled to - at the cost and expense of the contractor - demand the provision of an unconditional and irrevocable bank guarantee, of the same amount as to the down payments. The guaranteee, the costs of which shall be borne by the contractor, will be returned, after the complete fulfillment of the respective contractual obligations by the contractor.

4. Payments are to be made by bank transfer, at the cost and expense of the contractor. The payment is made on time if the transfer was ordered from the bank by Hübner on the due date.

5. The contractor is not permitted to set-off any amounts against amounts receivable or to exercise any lien unless the claim with which the contractor is setting-off or exercising a lien is uncontested or has been established by a final court judgement.

The contractor may only assign any receivables from the entire business relationship to third parties with Rutsch & Co's prior express written approval.

6. Rutsch & Co shall be entitled to rights of set-off

and retention as well as the plea of non-perfor-

mance of the contract to the extent permitted by

law.

7. Any possible reservation of proprietary rights by the contractor will be acknowledged on the condition that the proprietary rights / title of the goods/ performances pass to Rutsch & Co upon payment. Reserve of title in all forms shall be expressly excluded.

## V. Shipment / Delivery

1. Unless stipulated otherwise, the shipment shall be made to the delivery address stated in the order. The place of fulfilment for all deliveries / services, including for any subsequent performance, shall be the place of receipt specified by Rutsch & Co in the order or - if no such place of receipt is specified - Spangenberg.

2. Partial deliveries are only permitted with the prior written approval of Rutsch & Co. The assigning of orders to third parties (sub-suppliers, subcontractors) is, if no personal performance is agreed, permitted, unless there is an important reason, especially if the third party does not give the appearance of a proper fulfillment of the contract, or is a competitor of Rutsch & Co. The Contractor shall bear any additional costs incurred as a result of assigning of orders.

3. The contractor shall bear the risk of accidental loss and/or accidental damage (especially transport risk) according to the agreed INCOTERMS 2020 clause DAP.

4. All goods shall be properly and adequately packed and labeled at no cost to Rutsch & Co. The shipment shall be carried out with the necessary diligence required for the handling of the goods. Each delivery shall contain a delivery note with the Rutsch & Co order number, a packing slip and the item number as well as any other information requested by Rutsch & Co or required by the nature of the case.

The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial obligation to inspect and give notice of defects with the following restriction: Rutsch & Co's obligation to inspect shall be limited to defects which become apparent during the incoming goods inspection under external examination including the delivery documents (e.g. transport damage, wrong and short delivery) or which are recognised during a quality control by random

sampling. If acceptance has been agreed, there is no obligation to inspect. Rutsch & Co's obligation to give notice of defects discovered later remains unaffected.

## VI. Delivery dates / Force Majeure

1. Agreed delivery dates and periods are binding. Rutsch & Co shall be notified immediately of delivery delays. This does not, however, release the contractor from claims for damage compensation to which Rutsch & Co may be entitled.

2. In case of non-fulfillment of the order or performance, Rutsch & Co (without prejudice to any other rights and remedies) shall be entitled to a compensation of five percent (5%) of the total gross order value, in case of delivery delay zero point five percent (0.5%) of the total gross order value per calendar week, but not more than five percent (5%) maximum of the total gross order value. Further damage compensation claims by Rutsch & Co shall be excluded by above provision. The contractor is equally entitled to provide evidence that no damage or a lesser damage has been incurred than the one generally asserted.

3. Force majeure and other events which are beyond Rutsch & Co's control and which make it impossible or significantly more difficult for Rutsch & Co to accept or use the goods / performances, release Rutsch & Co from its obligation to accept the goods / performance and to pay for the duration of these hindrances.

## VII. Long Term Supplier Declaration

1. On request of Rutsch & Co the contractor shall issue a Long Term Supplier Declaration according to VO (EG) 1207/2001 (if applicable) concerning the characteristics of origin of the sold goods, and - at Rutsch & Co's demand the contractor shall forthwith make the investigation of this evidence of origin possible by the customs administration and shall issue the necessary information thereto and provide any possibly required confirmations at the cost and expense of the contractor.

2. The contractor shall compensate the damage which occurs if the origin stated by the contractor is inaccurate and/or is not acknowledged by the responsible authority as a result of erroneous certification or for lack of subsequent investigation possibilities. However, this does not apply, if the contractor proves that he is not at any fault whatsoever.

3. The contractor shall provide all documents and data which are necessary according to the respective customs provisions and/or any other relevant provisions.

**VIII. Warranty / liability / insurance**  
1. The contractor warrants for all goods/ performances worldwide that the goods / performances comply with the demands made, conform to the agreed quality, standards, description, specifications and/or reference quoted in the order; are defect free, and are qualified for all intended purposes of Rutsch & Co. In the case of goods with digital elements or other digital content, the Contractor shall be responsible for providing and updating the digital content in any case to the extent that this results from a quality agreement in accordance with para. 2 or other product descriptions of the manufacturer or from his order, in particular on the Internet, in advertising or on the product label.

If the goods/ performances are defective or if the contractor violates any other duties, Rutsch & Co may exercise all the statutory rights and entitlements without restriction.

In the sole opinion of Rutsch & Co, if work safety is endangered and/or to avoid damages to Rutsch & Co or to third parties, and in the event of unsuccessful subsequent fulfilment by the Contractor, Rutsch & Co shall be entitled to remove defects and remedy damages or undertake covering purchases at the sole expense and cost of the contractor without

# General Terms and Conditions of Purchase of Rutsch & Co Gesellschaft für Textil-, Leder u. Kunststoffverarbeitung mbH

prior consultation with the contractor. The contractor shall bear all costs in conjunction with the delivery of the defective goods/ performances.

Rutsch & Co shall be entitled to reimbursement of corresponding expenses (in particular transport, travel, labour and material costs as well as dismantling and installation costs) if the goods were installed in another item or attached to another item in accordance with their nature and intended use before the defect became apparent; further statutory claims of Rutsch & Co shall remain unaffected. 2. The warranty period shall be 36 months commencing from processing / commissioning of the goods/ performances or 48 months after the delivery, whichever is later. If a defect occurs within the first 12 months, it shall be assumed that the defect had already existed at the time of passing of risk.

3. Notwithstanding Rutsch & Co's claims from section VIII (1) above, the contractor herewith assigns to Rutsch & Co all claims to which the contractor is entitled to against the contractor's suppliers/sub-contractors due to a defect arising to Rutsch & Co or a third party or due to a deviation from a guaranteed characteristic discovered by Rutsch & Co. The contractor shall hand over to Rutsch & Co all documents necessary to assert such claims. If Rutsch & Co does not assert these assigned rights, then the contractor may demand their reassignment. 4. The contractor shall indemnify Rutsch & Co against all third-party claims - including but not limited to claims due to product liability - that are the result of the defective nature of the contractor's partial performances on Rutsch & Co's product (especially the basic or raw materials and partial products), or that result from any breaches of duties of the contractor. 5. For the duration of the business relation, the contractor shall provide a sufficient insurance coverage in terms of a business and product liability insurance, and coverage for recall costs at the amount of at least 2 Mio. € for each insurance case / 4 Mio. € per insurance year in case of special demand. Upon request, the contractor shall provide an insurance certificate.

## IX. Manufacturing means (especially tools) and raw materials

1. Tools, models, data, drawings and other documents of all kinds ("manufacturing means") provided by Rutsch & Co or which were manufactured for Rutsch & Co shall be used exclusively to undertake Rutsch & Co's orders and may not be wholly or partly made accessible to third parties without Rutsch & Co's prior written approval. They shall be sent back to Rutsch & Co immediately on demand, or at the latest two years following their last use. Any lien shall be excluded.

2. Manufacturing means and raw materials provided by Rutsch & Co remain property of Rutsch & Co. The manufacture, reworking or processing of such manufacturing means undertaken by the contractor in the fulfillment of Rutsch & Co's order shall be done for Rutsch & Co as manufacturer and Rutsch & Co shall acquire the title thereto. Manufacturing means shall be stored separately from any other property belonging to the contractor or third party, maintained regularly, insured against loss and damage, labeled permanently, clearly identified and marked as the property of Rutsch & Co.

## X. Quality / control

1. On completion of the goods/ performances, the contractor shall comply with the state-of-the-art in science and technique and shall implement and maintain a quality safety system according to ISO 9001 or a similar system certified by an accredited authority. Further, the contractor shall observe all relevant quality standards and rules, quality assurance measures provided by Rutsch & Co, and all statutory law. 2. Prior to the confirmation of an order, the contractor shall analyze the specifications, drawings, and

further documents and information provided by Rutsch & Co and check their completeness and correctness. The contractor shall notify any discrepancy / incompetency to Rutsch & Co.

3. The contractor shall inspect the goods/ scrutinize the performances extensively prior to delivery of the goods or completion of the performance. Upon receipt of goods / performances, Rutsch & Co will examine the respective delivery for identity, amount, and obvious transport damages. Discovered defects and damages will be reported within a period of 14 days after receipt of goods / performances by Rutsch & Co and - in case of a thirdparty-deal - within 14 days after receipt of goods/ performances at Rutsch & Co's customer. The contractor waives the right to objection due to late notice of defects. However, the payment for the goods / performances shall mean no acceptance of the goods/ performances; an examination shall mean no waiver of any of Rutsch & Co's rights. 4. As far as goods / performances show any defects concerning the design and quality or are delivered without the required documents, e.g. in the absence of delivery notes, first sample reports as well as in the absence of product labeling or quality control certificates, Rutsch & Co has the right to charge a lump sum in the amount of Euro 150,- in every case of a defect.

5. Rutsch & Co shall have the right to audit the contractor's premises at any time after prior announcement; the contractor shall assure Rutsch & Co the same right with his sub-suppliers.

## XI. Intellectual property rights

1. Rutsch & Co shall retain ownership and copyrights to illustrations, plans, drawings, invoices, execution instructions, product descriptions, software, and other documents.

2. The contractor warrants that the use of the goods/ performances shall not infringe any domestic and/ or foreign patents, utility models, copyrights, registered design, intellectual property right (in the following "property rights") or other third party-rights.

3. The contractor shall fully indemnify and hold Rutsch & Co harmless against any and all claims, damages, costs and expenses (including without limitation legal fees and costs resulting out of lawsuits) in respect of any actual or alleged infringement of rights named in section XI (2).

4. In the event of an infringement of third-party property rights by the contractor, the contractor shall be obliged to take all necessary and appropriate measures to be able to continue to supply Rutsch & Co in accordance with the contract without infringing third-party property rights.

5. As far as the contractor has any intellectual property rights regarding the goods/ performances, the contractor shall grant Rutsch & Co an unconditional, unlimited, irrevocable, assignable and free of charge right to including but not limited to use and maintain the goods, provide services, and procure spare parts.

6. If research and development of the contractor forms part of the order, the costs are either covered by a single payment or they are compensated by the piece / unit price and the title hereto shall pass to Rutsch & Co. If the contractor carries out the development work without using Rutsch & Co's property rights / know-how, the contractor shall grant Rutsch & Co an unconditional, unlimited, irrevocable, and free of charge license with the right to grant sub-licenses regarding all the contractor's intellectual property rights which come to existence due to the research and development and which Rutsch & Co will need for its own or third party's use.

7. In case of research and development of the contractor, an acceptance by Rutsch & Co shall not release the contractor from his product and/or construction responsibility.

## XII. Confidentiality

The contractor shall keep in strict confidence all information deriving from the business relationship. The contractor shall use the information provided by Rutsch & Co exclusively for the purpose of each order and not for his own purposes unless Rutsch & Co shall have given its prior written approval. Information which the contractor legally received from third parties as well as freely accessible information shall not be part of the confidential obligation.

## XIII. Hübner Code of Conduct

With each and every order the Hübner Code of Conduct (available at [www.hubner-group.com/group/compliance](http://www.hubner-group.com/group/compliance)) forms an integral part of the contract between Rutsch & Co and the contractor.

The contractor shall comply with the principles of the Hübner Code of Conduct and shall pass on these principles accordingly in his own supply chain.

## XIV. Supply Chain

1. The contractor recognises that Rutsch & Co falls within the scope of the German Supply Chain Duty of Care Act (LkSG) and accordingly accepts the following obligations.

2. In accordance with § 6 para. 4 and § 7 LkSG, the contractor warrants to fulfil its obligations under this contract in compliance with the human rights and environmental expectations required by Rutsch & Co in accordance with Rutsch & Co's Supplier Code of Conduct (available at: [www.hubner-group.com/group/purchasing/](http://www.hubner-group.com/group/purchasing/) ("CSR Standards")), to adequately communicate the CSR Standards in the supply chain relevant to this contract and to require its direct subcontractors and other suppliers to comply with standards that are substantially equivalent to Rutsch & Co's CSR Standards. Rutsch & Co's CSR Standards shall become an integral part of the contract between Rutsch & Co and the contractor with each order. Rutsch & Co will inform the contractor of any future changes to its CSR standards. The contractor shall inform Rutsch & Co annually upon request about compliance with its obligations and provide suitable evidence.

3. The contractor shall provide Rutsch & Co with all documents necessary for the performance of a risk analysis (§ 5 LkSG), a review of the effectiveness of preventive measures (§ 6 LkSG), of remedial measures (§ 7 LkSG) and the complaint procedure (§ 8 LkSG) once a year and on request. If necessary, the contractor shall support Rutsch & Co to the best of its ability in updating the measures without delay.

4. The contractor shall enable Rutsch & Co to conduct training sessions for the contractor's employees on CSR Standards and risk-based controls during normal business hours at Rutsch & Co's expense, while safeguarding the Contractor's legitimate confidentiality interests, in order to ensure compliance with this Section XIV.

5. If the contractor discovers an actual or imminent violation of the CSR Standards in his business area, the contractor shall inform Rutsch & Co immediately and take appropriate remedial measures (§ 7 para. 1 LkSG). If the violation cannot be ended in the foreseeable future, the contractor shall work with Rutsch & Co to develop and implement a concept to end or minimize the violation in accordance with the requirements of § 7 para.2 LkSG. Rutsch & Co is entitled to temporarily suspend the business relationship with the contractor during the efforts to minimize the risk. In the cases of § 7 para. 3 LkSG, Rutsch & Co is entitled to extraordinary cancellation of the contract.

6. If Rutsch & Co obtains substantiated knowledge of a possible violation of CSR Standards within the contractor's supply chain, the contractor shall support Rutsch & Co to the best of its ability in implementing the measures required under § 9 para. 3

# **General Terms and Conditions of Purchase of Rutsch & Co Gesellschaft für Textil-, Leder u. Kunststoffverarbeitung mbH**

LkSG. In particular, the contractor shall provide Rutsch & Co with all documents required to carry out the risk analysis and shall cooperate in the implementation of preventive and remedial measures. 7. The contractor shall document compliance with the CSR Standards and provide Rutsch & Co with appropriate support in the fulfilment of Rutsch & Co's documentation and reporting obligations in accordance with § 10 LkSG. To this end, the contractor shall in particular provide Rutsch & Co with the documents required for its documentation on an ongoing basis and the documents required for the annual reporting immediately upon request.

## **XV. Security in the Supply Chain**

1. If the contractor is a certified Authorized Economic Operator (AEO), the contractor shall prove this by submitting a copy of the official certification to Rutsch & Co.

2. Should the contractor not (yet) be a certified AEO, then the contractor has the obligation to ensure continuous compliance with the requirements specified in the Security Declaration (available at [www.hubner-group.com/group/einkauf](http://www.hubner-group.com/group/einkauf)) by the contractor's company and immediately send such Security Declaration to Rutsch & Co with a legally binding signature. If the contractor is unable to meet, wholly or partly, the requirements stated in the Security Declaration, the contractor shall immediately inform Rutsch & Co about this in writing.

3. If the certifications/declarations required in accordance with the preceding sections XIV (1) and XIV (2) are yet to be provided to Rutsch & Co, the contractor shall forward the same within two weeks upon receipt of an order from Rutsch & Co. Should the contractor fail to do so, Rutsch & Co is entitled to rescind from the order within two (2) weeks thereafter.

4. Should the contractor, at any point in time, lose the certification of an AEO or is not, or no longer, able to meet the requirements warranted in the Security Declaration, the contractor shall immediately inform Rutsch & Co in writing. The loss of the status as AEO, an incorrect Security Declaration or the subsequent non-compliance with the requirements specified in the Security Declaration constitute a cause for termination without notice by Rutsch & Co. Further, the contractor shall bear all costs, expenses and damages incurred by Rutsch & Co as a result of the loss of the status as AEO, the incorrectness of the Security Declaration or subsequent non-compliance with the requirements stated therein.

## **XVI. Bankruptcy and liquidation**

1. If the contractor or a third party applies for liquidation or bankruptcy proceedings or if liquidation or bankruptcy proceedings are initiated against the contractor or shall be declined in the absence of legal estate, and the contractor is not able to comply with his contractual duties due to these reasons, the contractor shall immediately inform Rutsch & Co hereof. For the occurrence of each of these cases, the contractor grants Rutsch & Co the right to manufacture the goods / performances or to have them manufactured by a third party.

2. In the event of the occurrence of one of the cases mentioned in XV. (1), the contractor shall have to return all manufacturing means upon first demand by Rutsch & Co.

3. In the event of the occurrence of one of the cases mentioned in XV. (1), Rutsch & Co has the right to terminate the business relation with immediate effect and the contractor shall not have any claims for compensation from Rutsch & Co.

## **XVII. Concluding provisions**

1. All changes and amendments of technical, commercial and other specifications in the business relation require written form.

2. Place of jurisdiction is the registered office of Rutsch & Co's headquarters (Spangenberg) and additionally, as the case may be, the domicile of a branch dependency of Rutsch & Co registered in the commercial register which undertook the contract conclusion. However, Rutsch & Co shall be entitled to bring a lawsuit against the contractor at the court competent for his registered office.

3. All legal relations between Rutsch & Co and the contractor are subject to the laws of the Federal Republic of Germany with the exception of the uniform UN Convention on Contracts for the International Sale of Goods (CISG) as well as those provisions of the conflict of laws that justify the applicability of another legal system.

4. Any part of the contract or of these General Conditions and Terms of Purchase, which is illegal, void, prohibited or unenforceable shall be ineffective to the extent of such illegality, prohibition, or unenforceability without invalidating the remaining terms and conditions hereof. An effective provision which complies economically with the intent of Rutsch & Co, shall to the most possible extent replace the void part. The same applies in case of a loophole.

5. In cases of doubt regarding the wording or translation, the original German language version of these General Terms and Conditions shall prevail.