

General Terms and Conditions of Purchase

of the PORAVER-group (valid from 10.04.2019)

1. General, Application
 - 1.1 These General Terms and Conditions of Purchase (hereinafter referred to as „GTC“) shall apply for all business transactions between Dennert Poraver GmbH, Poraver Besitz GmbH, Poraver Service GmbH & Co. KG (hereinafter referred to as “DENNERT”) and the respective business partner delivering goods and services to DENNERT (hereinafter referred to as “SUPPLIER”). The GTC shall especially apply to all contracts concerning the sale and the delivery of movable objects regardless if the SUPPLIER is the producer or an intermediary.
 - 1.2 These GTC shall only apply to SUPPLIERS that are entrepreneurs according to sec. 14 of the German Civil Code (“BGB”), a legal person under public law or a special fund under public law.
 - 1.3 These GTC shall apply in their respective version as a framework agreement to all future contracts with the SUPPLIER even if not explicitly referred to by DENNERT. The most current version of these GTC is retrievable at www.poraver.com/agb/.
 - 1.4 These GTC shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the SUPPLIER shall only apply if expressly accepted by DENNERT; these approval requirements shall apply in any case, for example also if DENNERT is aware of the SUPPLIER’s GTC and performs without reservation.
 - 1.5 For the avoidance of doubt, individual agreements between DENNERT and the SUPPLIER shall prevail over these GTC. Individual agreements shall only be effective if made in textform. The same applies to unilateral legal acts of the SUPPLIER after a conclusion of contract. Notifications by email or telefax shall also preserve the textform.
2. Conclusion of contract
 - 2.1 DENNERT’s orders shall be binding if they are submitted in textform or confirmed by DENNERT. DENNERT will only accept deliveries if they are based on orders submitted in textform.
 - 2.2 The SUPPLIER shall confirm DENNERT’s order by written order confirmation within a two weeks period. If DENNERT does not receive an order confirmation within the two weeks period, DENNERT shall be entitled to revoke. If the SUPPLIER gives an order confirmation after expiring of the two weeks period, the order confirmation shall be deemed to be a new offer of the SUPPLIER.
 - 2.3 If the SUPPLIER produces drafts, calculations, project models, it will be non-binding and free of charge.
3. Delivery term
 - 3.1 Delivery terms made in the respective order shall be binding. The SUPPLIER shall be obliged to inform DENNERT without undue delay if circumstances arise or become apparent to the SUPPLIER which result in a failure to deliver the delivery quantity and/or to meet the delivery term.
 - 3.2 If the SUPPLIER fails to comply with its duty to perform or to deliver within the delivery term stipulated or the SUPPLIER is in default with delivery, DENNERT shall be entitled to assert its claims in accordance to statutory provisions, especially its right to rescind and to claim damages, unless otherwise agreed below. The SUPPLIER shall not be entitled to reserve the right to a self-delivery as far as its contractual performances are concerned.
 - 3.3 If the SUPPLIER is in default with delivery, furthermore, DENNERT shall be obliged to assert a contractual penalty in the amount of 1% of the delivery amount for each completed week of the default, but not exceeding a total of 5 % of the value of the delivery amount. The SUPPLIER shall be entitled to prove that DENNERT has suffered a substantial lower damage. The contractual penalty can be asserted in addition to DENNERT’s claim for performance. The contractual penalty shall be set off against other claims for damages which may arise from another provable damage (covering purchase, machine modifications, downtimes etc.).
4. Delivery, Passing of risk
 - 4.1 The SUPPLIER’s delivery and performance shall be occurred DDP (Incoterms 2010) from DENNERT’s premises in Schlüsselfeld, Postbauer-Heng or from another site stated by DENNERT, unless otherwise agreed in textform between DENNERT and the SUPPLIER. The passing of risk shall occur upon delivery of the goods at the place of delivery.
 - 4.2 The SUPPLIER shall not be entitled without DENNERT’s prior written consent to perform its contractual obligations by a third party (e.g. subcontractor).
 - 4.3 All orders and contracts shall be delivered in one piece unless DENNERT agrees to a partial delivery in an individual case. Preliminary deliveries shall not be permitted unless otherwise expressly agreed. DENNERT shall be entitled to return or to store preliminary or partial deliveries in a freight warehouse, both at the expenses and risk of the SUPPLIER. DENNERT will invoice the personnel costs resulting from returning or storing the deliveries to the SUPPLIER.
 - 4.4 Each delivery has to contain two delivery notes which include the order date, the exact article description and DENNERT’s article number.
 - 4.5 The SUPPLIER shall be obliged to announce upon receipt and to be instructed before entering or driving on DENNERT’s premises. If the reception area should not be staffed, entering or driving on DENNERT’s premise shall only be allowed with DENNERT’s prior written notice.
5. Terms and Conditions of Purchase of Custom Software
 - 5.1 The SUPPLIER shall develop and provide DENNERT with custom software or, if applicable, software components described in the respective order, both as an executable code and as a source code. The source code shall be provided together with the complete functional specification and developer documentation and - if this is necessary to exercise the rights of use granted below - the developer tools for this purpose. The subject matter of the contractually established supplier relationship is primarily the development and delivery of the source code and secondarily the development and delivery of the executable program code.
 - 5.2 The SUPPLIER shall grant DENNERT an exclusive, irrevocable and permanent right to use and process the software and the source code in the works referred to in clause 5.1 and agrees that this right may be transferred to third parties and is unrestricted in terms of territory and content. This is for the purpose of enabling DENNERT to independently process, run, reproduce and make publicly accessible the software and its source code and thus to use them productively even after the cooperation with the SUPPLIER is terminated or ends otherwise.
 - 5.3 If, as part of the ongoing maintenance or elimination or avoidance of defects, the SUPPLIER provides corrections, patches, updates, upgrades, new versions and similar, along with the respectively updated documentation, to replace or supplement the previously provided software, the software itself and its source code shall also be subject to the provisions of this contract and the rights of use as granted above. In this scope, the SUPPLIER shall also provide DENNERT with the related source code and the functional specification and developer documentation.
 - 5.4 Both as part of developing the software and as part of its maintenance, the SUPPLIER shall separately itemise in the relevant invoice the fee component for procuring and licensing the source code. The fee for the SUPPLIER’s services shall only become due from DENNERT when the source code is provided, unless agreed otherwise on a case-by-case basis.
 - 5.5 If the Parties agree that one or more of the foregoing provisions will not or will only partially become part of the contract, the SUPPLIER shall conclude – at DENNERT’s request – an escrow agreement with DENNERT and a domestically established and reputable escrow agent. The escrow agreement will provide for the transfer of the source code to DENNERT in the following cases:
 - insolvency proceedings are instituted against the assets of the SUPPLIER;
 - the SUPPLIER’s company is deregistered due to lack of assets or a decision



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- on winding up the SUPPLIER's company is entered into the company register;
 - the SUPPLIER agrees to the transfer of the source code in writing;
 - the SUPPLIER is in delay with the fulfilment of essential contractual obligations after the SUPPLIER was given a deadline for their fulfilment, including a warning of a demand for the transfer of the source code, but such a deadline expired to no effect – the evidence of which must be submitted in form of registered mail and DENNERT's declaration in lieu of an oath; and
 - in any other cases where the SUPPLIER suspends its activities for DENNERT (outsourcing, loss of key programmers, termination of on-going agreements without notice by one of the two Parties).
- 5.6 Once the escrow agent transfers the source code, DENNERT will have the right of use as per clause 5.2 hereof. The costs of the escrow arrangement shall be borne by both Parties equally, whereas the escrow agent will be selected by DENNERT taking into account the legitimate interests of the SUPPLIER.
6. Prices, Payment
- 6.1 Prices contained in the SUPPLIER's offer or in DENNERT's order shall be deemed to be fixed prices on the basis of deliveries DDP (Incoterms 2010) from DENNERT's premises in Schlüsselfeld, Postbauer-Heng or from another site stated by DENNERT. Prices include the respective statutory VAT unless VAT is stated separately.
- 6.2 The price stipulated includes package, transport costs and insurance. The obligation to return the package has to be stipulated in a special agreement. If the delivered goods are import, the price includes customs, taxes and possible inspection costs.
- 6.3 Unless otherwise agreed in the condition contract in textform, DENNERT pays the purchase price net within a 14 days period and with a 3 % discount, calculated from the date of receipt of invoice and at the earliest from the delivery of goods, or within a 45 days period, beginning with delivery of the goods and receipt of invoice.
- 6.4 Invoices will only be settled as far as ordered goods are concerned. The settlement of the SUPPLIER's invoices shall not be deemed to be an acknowledgement that the goods delivered (i) are free of defects, (ii) comply with the contractual quality or with the guaranteed properties or (iii) that the delivery is completed and in good time.
- 6.5 The invoice shall comply with the respective statutory provisions, especially it shall conclude the VAT or tax number, date of delivery or performance, delivery amount and type of delivered invoiced goods and it shall be sent to DENNERT's delivered premise – even in electronic form if requested to do so.
- 6.6 The SUPPLIER shall only be entitled to set off or to assert its right of lien or its right of retention if the SUPPLIER's claims asserted are undisputed or legally ascertained.
- 6.7 Performance of payment shall also occur even if payment is made by a third party and not by DENNERT.
- 6.8 If DENNERT is obliged to wholly or partially pay the purchase price before delivery, the SUPPLIER shall be obliged to provide DENNERT with a guarantee in the amount of the respective advance. The guarantor has to be a bank or credit insurer authorized in the European Community. The declaration of surety has to be submitted in unlimited and in written form and the benefit of discussion has to be waived.
- 6.9 DENNERT shall not be obliged to perform in advance any longer if the SUPPLIER fails to comply with its obligation according to clause 6.8 of the GTC and does not provide DENNERT with a guarantee within a 14 days period, beginning with the first request of DENNERT. In this case clause 6.8 of the GTC shall apply.
7. Warranty rights
- 7.1 If the SUPPLIER's performances are defective, DENNERT shall be entitled to assert its rights in accordance with the statutory provisions subject to the following paragraphs.
- 7.2 DENNERT's obligation to inspect is limited to defects, which become apparent during the incoming goods inspection by an outward examination, including the delivery documents, as well as during the quality control in the random sampling procedure. If defects occur in this connection, DENNERT shall be deemed to have asserted a complaint without undue delay and in good time if it is received by the SUPPLIER within three calendar days. The obligation to give notice of defects discovered later remains unaffected. In such cases, DENNERT's notice of defect shall be deemed to be immediate and in good time if it is received by the SUPPLIER within 14 calendar days after discovery of the defect.
- 7.3 Notwithstanding sect. 438 par. 1 no. 3 BGB, the general limitation period for claims based on defects of the goods delivered is three years, beginning with the passing of risk. If the Parties agree on an acceptance, the limitation period begins with acceptance. The three year limitation period shall also apply correspondingly to claims arising from defects of title, whereby the statutory limitation period for third party claims (sect. 438 para. 1 no. 1 BGB) shall remain unaffected; claims arising from defects of title shall in no event become statutebarred as long as the third party is still entitled to assert its right against DENNERT, in particular in the absence of a limitation period.
- 7.4 If DENNERT is held liable by a third party for a product defect for which the SUPPLIER is liable for, the SUPPLIER shall indemnify DENNERT and hold DENNERT harmless against all damages resulting from the defect. Regarding the further content of this indemnity obligation, clause 8.3 of the GTC shall apply.
- 7.5 DENNERT shall be entitled to the statutory recourse claims within a supply chain (in accordance to sect. 445a, 445b, 478 BGB) in addition to the claims for defects without limitation. Before DENNERT acknowledges or fulfils a claim for defects asserted by DENNERT's own customer against it (reimbursement of expenses in accordance with sect. 445a para. 1, 439 para. 2 and 3 BGB included), DENNERT shall notify the SUPPLIER and ask for a written statement, briefly explaining the facts. If the SUPPLIER does not make a substantiated statement within a reasonable period of time and no amicable solution is reached either, the claim for defects actually granted by DENNERT shall be deemed owed to DENNERT's customer. In this case, the SUPPLIER is obliged to prove the contrary.
8. Third-party rights
- 8.1 The SUPPLIER ensures that the goods are delivered free from third-party rights and that third-party rights are not breached by delivery. Especially, the SUPPLIER ensures that it is allowed to dispose of the goods without limitation.
- 8.2 Furthermore, the SUPPLIER ensures that no third-party rights are breached in connection with delivery, especially no property rights like patents, trademarks, utility models, registered design, copyrights.
- 8.3 The SUPPLIER shall be obliged to indemnify DENNERT on first demand from third-party claims resulting from any asserted infringement of rights. The indemnification obligation shall include all expenses which DENNERT has to necessarily bear from or in connection with a claim by a third party. DENNERT shall only be obliged to settle the asserted infringement of rights in court if the SUPPLIER provides DENNERT with the expected costs in advance and especially provides DENNERT with all necessary information needed to conduct legal proceedings.
9. Product liability, Indemnity, Insurance Coverage
- 9.1 If the SUPPLIER is liable for a product defect, it has to indemnify DENNERT on first demand from any kind of claims for damages of third parties insofar as the reason is within the SUPPLIER's sphere of control and organization and the SUPPLIER is liable itself in the external relationship.
- 9.2 Within the scope of SUPPLIER's obligation in accordance to clause 9.1 of the GTC the SUPPLIER shall also be obliged to reimburse any expenses in



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- accordance to sect. 683, 670 BGB as well as pursuant to sect 830, 840 and 426 BGB which arise from or in connection with recalls executed by DENNERT. DENNERT will inform the SUPPLIER about content and scope of recall measures as far as possible and reasonable and give it the opportunity to comment. Further legal claims shall remain unaffected.
- 9.3 Furthermore, the SUPPLIER shall be obliged to maintain a product liability insurance with a coverage of EUR 2.500.000,00 per personal injury/property damage. The SUPPLIER has to prove the conclusion and the maintenance of the aforementioned insurance against DENNERT without prior request.
10. Compliance with the European Ordinance - REACH (EG) 1907/2006
- 10.1 The SUPPLIER ensures that it complies with all provisions of the European Ordinance for Chemicals REACH (EG No. 1907/2006 from 30 December 2006) in its respective valid version – hereinafter referred to as REACH-Regulation. It especially ensures that the registration of substances occurred. DENNERT shall not be obliged to apply and get an authorization for goods delivered by the SUPPLIER in connection with the REACH-Regulation.
- 10.2 If the obligation pursuant to clause 10.1 is breached, the SUPPLIER indemnifies DENNERT from all resulting claims of third parties, especially claims for damages.
11. Retention of title, free issue equipment
- 11.1 The transfer of ownership to DENNERT occurs unconditionally and without consideration of payment of the price. However, if DENNERT accepts in individual cases the SUPPLIER's offer of transfer of ownership which is conditional on the payment of the purchase price, the retention of title lapses at the latest with the payment of the goods delivered. In the ordinary course of business, DENNERT shall remain authorized to resell the goods delivered before payment of the purchase price, assigning the resulting claim in advance (alternatively, the simple retention of title extended to the resale). All other forms of retention of title, in particular the extended, the forwarded and the extended retention of title for further processing are thus excluded.
- 11.2 Items provided by DENNERT shall remain the property of DENNERT. Processing or transformations by the SUPPLIER shall be deemed to be done for DENNERT. If DENNERT's reserved goods are processed with other items not owned by DENNERT, DENNERT will be transferred the ownership of the new objects in the relation of the value of the object to the other processed objects at the time of processing.
- 11.3 If goods provided by DENNERT are inseparably mixed or combined with other items not belonging to DENNERT, DENNERT will be transferred the ownership of the new object in accordance to clause 11.2.
- 11.4 If the mixture or compounding occurs in a manner that the SUPPLIER's object is the essential, it shall be deemed to be agreed that the SUPPLIER transfers the proportionate co-ownership to DENNERT. The SUPPLIER shall store the wholly-owned or co-owned goods for DENNERT free of charge.
12. Nondisclosure
- 12.1 DENNERT and the SUPPLIER shall be obliged to strictly keep all received illustrations, drawings, calculations, or other documents and information secret. They may only be disclosed or made accessible to third parties with express consent. The non-disclosure obligation shall also apply if the individually stipulated contracts are executed and it only expires when the received know-how became commonly known.
- 12.2 DENNERT reserves its property and copy rights regarding all illustrations, drawings, calculations or other documents. These documents may only be used for production pursuant to the order. They are to be kept secret and are to be returned without prior request after execution of the individually stipulated contracts.
13. Liability of DENNERT
- 13.1 DENNERT shall be liable for any damages, irrespective of the legal basis therefor, in case of intent and gross negligence. In the event of slight negligence and subject to a lenient standard of liability (e.g. diligence for own affairs) DENNERT shall be liable for
- a) Culpable damage to life, body or health and
- b) Damages based on the significant breach of DENNERT's fundamental contractual obligations (obligation, which has to be fulfilled to implement the contract and to which the contracting party commonly relies on and may rely on). In this event DENNERT's liability for damages shall be limited to the typically predictable damage.
- 13.2 The limitation of liability in accordance to clause 13.1 of the GTC shall also apply for breaches of obligations by third parties whose fault DENNERT has to represent according to statutory provisions. The aforementioned limitation of liability in clause 13.1 of these GTC shall not apply to claims for damages under the German Product Liability Act ("ProdHaftG"), if DENNERT maliciously concealed any defect of the goods and if DENNERT accepts a quality guarantee.
14. Obligation to inform
- The SUPPLIER informs DENNERT without any prior request about any amendments of legal requirements applying for the goods delivered as well as about relevant developments of appropriate technical standards. With regard to that, the SUPPLIER shall be obliged to observe and provide information.
15. Compliance
- 15.1 The SUPPLIER shall be obliged to comply with all statutory provisions applicable to it in its course of business provided that it is in any way connected to a contract concluded with DENNERT. This obligation extends in particular to all legal provisions concerning the fight against corruption including the UK Bribery Act and the Foreign Corrupt Practices Act provided that they apply in the individual case.
- 15.2 Furthermore, the SUPPLIER shall be obliged to comply with the ten principles of the UN Global Compact Initiative – retrievable under <https://www.unglobalcompact.org/what-is-gc/mission/principles> – in its course of business. The SUPPLIER herewith proclaims its responsibility for the protection of fundamental human rights, fundamental rights and principles at work (especially no child labour and/or forced labour) and environmental protection.
- 15.3 If the SUPPLIER performs its obligations against DENNERT by third parties who will act as vicarious agents within the meaning of sect. 278 BGB, the SUPPLIER has to ensure that these third parties also comply with the obligations in accordance to para. 1 and 2 of clause 15 of the GTC. The SUPPLIER shall be obliged to carefully select other third parties. Other third parties which recognizably do not comply with the obligations in accordance to para. 1 and 2 of clause 15 of the GTC may not be taken into account within the selection.
- 15.4 If there is a reasonable initial suspicion that an obligation arising from para. 1, 2 and 3 of clause 15 of the GTC is breached ("compliance breach"), the persons selected by DENNERT and bound to professional discretion shall be entitled to inspect all documents of the SUPPLIER connected with the circumstances of the initial suspicion. The applicable statutory provisions on data protection shall be complied with here.
- 15.5 If a compliance breach takes place, DENNERT shall be entitled to wholly or partially terminate the contractual relationship with the SUPPLIER extraordinarily without notice. The right of termination does not exist if only a slight breach of the SUPPLIER takes place. The SUPPLIER shall be obliged to reimburse DENNERT for any and all damages occurred due to the compliance breach. The SUPPLIER shall be entitled to prove that it is not liable for the compliance breach. Especially, the SUPPLIER shall be obliged to indemnify DENNERT on first demand of third party claims asserted against



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DENNERT as a result of the compliance breach.

16. Final Provisions

- 16.1 The place of performance shall be DENNERT's premises at Schlüsselfeld, Postbauer-Heng or another site stated by DENNERT.
- 16.2 Exclusive place of jurisdiction for all disputes arising out of or in connection with the agreement which refers to these GTC (including those regarding its validity) shall be exclusively 96047 Bamberg, Germany. However, DENNERT shall be entitled to commence any litigation against the SUPPLIER at its residence or office.
- 16.3 The agreement which refers to these GTC shall be governed by the laws of the Federal Republic of Germany under exclusion of its law rules as well as the UN Convention on the International Sale of Goods (CISG).
- 16.4 If these GTC are made known to the CUSTOMER in another language the German version shall prevail in the event of any inconsistencies.
- 16.5 Should any provision of these GTC, or any provision incorporated into these GTC in the future, be or become invalid or unenforceable, the validity or enforceability of the other provisions of these GTC shall not be affected thereby.

