

Doc.name: purchase conditions
Document #: PUR_01
Version: V01
Date: 2016_09_15

GENERAL TERMS AND CONDITIONS OF PURCHASE
for goods and services of drom fragrances GmbH & Co. KG
- effective as of June, 2013 -

1. **General**

- 1.1 These general terms and conditions of purchase shall apply exclusively to the entire business relationship between drom fragrances GmbH & Co. KG (hereinafter, “**drom**”) and the supplier/seller/service provider (hereinafter, the “**supplier**”). Other terms of sale or other general terms and conditions of the supplier shall apply only if drom has expressly acknowledged their applicability in writing.
- 1.2 Upon entering into the business relationship with drom, the supplier shall confirm in writing its acceptance of these general terms and conditions of purchase.
- 1.3 drom is entitled to amend its general terms and conditions of purchase with prospective effect as to the entire business relationship with the supplier by delivering an appropriate notice together with the amended version of the general terms and conditions of purchase. If the supplier fails to deliver to drom a written objection to the amended general terms and conditions of purchase within one week of their receipt, such amended general terms and conditions of purchase shall be deemed to have been agreed.
- 1.4 If a framework agreement exists between the supplier and drom, these general terms and conditions of purchase shall apply to such framework agreement as well as to the individual contracts.
- 1.5 Only orders delivered in writing (“*Textform*” pursuant to sec. 126b German Civil Code [*Bürgerliches Gesetzbuch*] hereinafter, “**BGB**”) are binding on drom. Oral agreements, including those communicated by telephone, must be confirmed by drom in writing (“*Textform*” pursuant to sec. 126b BGB). A confirmation by fax or e-mail shall satisfy this requirement.
- 1.6 Except as expressly agreed otherwise in writing, drom does not grant the supplier exclusivity in any respect whatsoever. Recurring and/or parallel orders of any kind do not imply a minimum capacity commitment or minimum capacity utilization guarantee and, therefore do not create a reliance interest to that effect.

- 1.7 Except as expressly agreed otherwise in writing, the preparation of offers shall be free of charge to drom.
- 1.8 Documents or other production materials such as tools, technical specifications or the like which drom makes available to the supplier or for which drom pays the supplier may be used only for goods and services delivered to drom. Such materials or any goods produced or services rendered in accordance with or utilizing such materials may not be disclosed or delivered to third parties or used for the supplier's own purposes. Such materials shall be kept secret and shall be delivered to drom in flawless condition promptly when the supplier has completed its performance under the contract. The supplier shall retain no copies, specimens or the like. All rights to such materials (including any industrial property rights) shall remain the exclusive and unrestricted property of drom.
- 1.9 drom calls upon all of its suppliers to comply with the conventions of the International Labour Organization (ILO) including, in particular, those relating to
 - the prohibition of forced labor and child labor;
 - the prohibition of inhumane treatment such as corporal punishment, slanders or threats;
 - maximum hours of work;
 - minimum wages; and
 - non-discrimination in employment.

2. **Partial contract**

- 2.1 If a contract involves periodical orders for the supply of goods and services, each respective supply will be considered as the performance of a separate contract drom has entered in for this purpose (a "**partial contract**").
- 2.2 If the non-performance of one partial contract leads to the conclusion that any existing or future partial contracts will not be performed either, drom shall have the right to terminate any remaining partial contracts no matter if these have already been performed or not.

3. **Delivery deadlines, scope of delivery, passing of the risk, place of delivery**

- 3.1 The agreed delivery schedules and deadlines shall be binding. All times for delivery agreed by the supplier and drom are absolute deadlines.
- 3.2 If no delivery schedule or deadline is agreed individually, a general delivery schedule equal to ten (10) working days counting as of the date of the conclusion of the contract applies.
- 3.3 The supplier shall notify drom promptly of any delivery delays. In this case the supplier informs drom without undue delay about the time which he anticipates the delivery for. The statutory rights applicable in case of delivery delays cannot be excluded. In the event of a delay by the supplier, drom in particular (i) can withdraw from the contract and (ii) demand damages in lieu of performance. For the avoidance of doubt: notifications regarding to this sec. 3.3 shall in no event discharge the supplier of his liability to drom on account of any delivery delays.
- 3.4 drom has the right to extend any delivery deadline. Meanwhile the supplier in each case will store, safeguard and insure the respective ordered goods, duly packaged, separately and identifiably.
- 3.5 Partial deliveries shall be permitted only with drom's express prior consent; overdeliveries and underdeliveries shall be permitted only to the extent consistent with customary commercial practices.
- 3.6 The supplier shall bear the risk of accidental damage or destruction until the goods have been delivered at drom's premises. The supplier shall maintain freight insurance coverage at the supplier's expense. Any delivery of goods shall be effected DDP (Delivery Duty Paid) at the address of drom fragrances GmbH & Co. KG as stated in these General Terms and Conditions of Purchase. The term DDP shall have the meaning assigned thereto in Incoterms 2010.

4. **Prices**

- 4.1 The prices agreed shall be deemed to include the costs of delivery to the receiving location specified by drom and shall include customs duties, freight, packaging and ancillary costs to the exclusion of VAT. Except as expressly agreed otherwise, goods shall be delivered customs cleared within the European Union.
- 4.2 Insofar as the price was agreed not to include packaging, packaging may be billed only at the supplier's cost. Reusable packaging such as boxes, containers etc. that drom returns carriage paid to the supplier shall be credited at the full invoice amount. The supplier may not charge for other packaging or filling materials such as wood wool, paper, etc.
- 4.3 Price increase clauses shall require drom's express written consent.

5. **Packaging, specification, conformity**

- 5.1 On drom's request, the supplier shall return packaging material owned by drom in flawless condition. The supplier shall dispose in any case of the packaging in an environmentally friendly manner.
- 5.2 Any goods and the packaging must consist of the materials specified by drom. Goods shall be in any event packaged in a manner which in usual circumstances guarantees a safe shipment. Any goods further must be provided with a delivery note that states (i) the number and date of the corresponding contract, (ii) the quantity of contained goods (iii) the description and specification of the contained goods, such as product numbers.
- 5.3 If and to the extent possible, any raw materials shall be delivered in pure batches. Each individual package must be provided with the supplier's name, description of the raw material, supplier's material code number, supplier's material name, the batch number and the drom material code number.

6. **Invoice, terms of payment, payment default**

- 6.1 The supplier shall issue an invoice to drom in compliance with the legal requirements immediately after performance of its services/delivery. In case of continuing obligations, in particular according to sec. 2, invoices shall be issued within the time period customary for such obligation. For legal reasons, drom does generally not accept invoices which are transmitted electronically (e.g. by facsimile or e-mail), or otherwise expressly agreed. To the extent legally required, drom deducts source taxes and issues written confirmations thereof, if applicable. drom furthermore does only accept invoices which state (i) the order number provided by drom, (ii) a specification of the good invoiced, (iii) the relevant product numbers and – if applicable – (iv) the order forms or delivery notes. If any issued invoice does not comply with the aforementioned requirements, drom shall return respective invoices with the missing information requested.
- 6.2 Invoices shall be paid by drom within fourteen (14) days at a 3% discount or within sixty (60) days in full. Payment and discount periods shall begin to run as of the time of receipt of the invoice, but not prior to receipt of the goods or acceptance of the services. If a contract calls for the supplier to deliver documentation or similar materials, the aforementioned periods shall not begin to run until such materials have been delivered to drom in accordance with the terms of the contract. For the avoidance of doubt: where drom has received goods or services but no invoice, respectively no invoice compliant with sec. 6.1, such periods shall begin to run only when drom has received a correct invoice.
- 6.3 Payments can be made by check or wire transfer. Payments shall be deemed to have been timely made if a check was mailed on the due date or, as the case may be, if drom submitted the wire transfer instructions to its bank on the due date.

- 6.4 The late payment penalty shall be five (5) percentage points above the statutory basic interest rate.
- 6.5 Settlements of invoices by drom shall in no event be considered as a waiver of drom's rights to claim non-conformity of any goods supplied to drom.

7. **Retention of title, ownership**

- 7.1 In the case of existing retentions of title by the supplier, title to the goods or services shall pass to drom upon payment. Other forms of retention of title, such as so-called current account retentions and/or group retentions, shall not apply.
- 7.2 No derogation from sec. 449 subsec. 2 BGB shall be permitted.
- 7.3 The ownership of the goods supplied shall pass to drom when the goods have been delivered at drom's premises.

8. **Warranty damages, limitation period, shelf-life**

- 8.1 The goods or services shall be free of title (i.e. goods or services are free from rights of third parties and delivery of goods or rendering of services does not violate any rights of third parties) and quality defects and must correspond to (i) recognized quality standards (*Regeln der Technik*) and (ii) the contractually agreed characteristics including, in particular, any formulas, recipes, prescriptions, designs or the like in terms of quality released and provided by drom at the time of signing of the contract, (iii) drom quality criteria, (iv) other standards and safety requirements, worker protection, accident prevention as well as other rules and regulations, such as EU-regulations, chemical legislations and any kind of commitment and warranty declarations.
- 8.2 In case a shelf-life for a good (e.g. fragrance ingredient) has been defined by the supplier, the remaining shelf-life of the respective good shall amount to a minimum of 75% of the initial shelf-life as of the day of delivery.
- 8.3 drom can ask the supplier to repair or replace defective goods or render substitute performance for insufficient services within a reasonable grace period designated by drom to effect the condition required by the contract. In the event that the supplier culpably fails to perform an existing obligation to repair or replace goods or render substitute performance within the grace period, drom shall have the right to have the defect cured or substitute performance rendered by a third party at the supplier's expense, or to reject the goods or services in their entirety.

- 8.4 drom's right to pursue statutory claims for delay, non-performance or defective performance shall remain unaffected. Such claims shall extend to direct and indirect consequential damages

as well as all losses already sustained by drom due to the delay, even if the supplier has delivered the goods or services within the grace period set by drom.

- 8.5 The limitation period for warranty claims shall be two (2) years counting as of the date of delivery at drom's premises . The aforementioned shall not apply to such matters that by virtue of their regular intended use are first used in a building. The latter shall be governed by the statutory limitations period.
- 8.6 Sec. 8.5 shall apply mutatis mutandis to replaced goods and rendered substitute performance.
- 8.7 drom shall inspect deliveries within a reasonable time and, if applicable, notify the supplier of any defect. The notice shall be deemed timely if it is received by the supplier within ten (10) business days beginning as of the date of receipt by drom or, if applicable, by an independent goods testing institute. In the case of concealed defects, the deadline shall be fourteen (14) business days as of discovery of the defects.
- 8.8 If requested by drom the supplier shall provide drom with samples of goods for evaluation and approval, at the supplier's cost and expense.
- 8.9 Drom shall have the right to inspect any goods intended to be delivered to drom at the suppliers premises at any time during usual office hours. For this purpose and to the necessary extent the supplier shall grant access to drom and any third party acting on behalf of drom in particular to the production and storage facilities where these goods are located. No failure to make a complaint at the time of any such inspection or test and no approval given during or after such inspection or test shall constitute a waiver by drom of any rights or remedies in respect of the goods.
- 8.10 If the supplier is required to declare the origin status of goods or services, the supplier shall compensate drom for any loss sustained by reason of the declared origin not being accepted, such as in the case of erroneous certification or the inability to verify the declaration. Such liability shall apply to the supplier only in the case of culpable conduct or in the absence or a warranted characteristic.
- 8.11 The supplier is required to declare the commitment and warranty in respect to the fulfillment of specific requirements of goods (e.g. full compliance with REACH Regulation (EC) 1907/2006), the supplier shall indemnify and hold harmless drom from and against any loss, claims, demands, expenses (including attorney's fees) or liability of any kind arising out of any breach or alleged breach of such commitment and warranty declaration.

- 8.12 With respect to the goods or services to be delivered, the supplier shall hold drom harmless from any legal claims of domestic and foreign third parties, that may arise out of product liability, domestic or foreign patents, utility models, copyrights or other rights or, as the case may be, to indemnify drom for any losses sustained therefrom. The supplier in particular shall hold drom harmless from any legal claims of domestic and foreign third parties, that may arise out of damage (including but not limited to consequential damage) suffered by these third parties as a consequence of the supplier's failure to fulfill any contractual obligation (e.g. delay of delivery, defective goods, insufficient service) in relation with drom. The foregoing shall also include advisory and litigation expenses, damages and any required alteration or reconstruction work.
- 8.13 In the event of a delay by the supplier, the supplier shall forfeit a penalty of one percent (1%) of the net purchase price for each day of delay, not exceeding, however, an aggregate amount of 5% of the net purchase price.

9. **Termination**

- 9.1 Without prejudice to drom's right to withdraw from a contract (including partial contracts) pursuant to sec. 3.3 and 2.2, drom shall be entitled to terminate each Contract (including Partial Contracts):
- (A) on the ground of a failure in the performance of another obligation existing between drom and the supplier and arising from the Contract;
 - (B) if a resolution has been adopted to wind up the supplier or the party that guaranteed the fulfilment of the supplier's obligations;
 - (C) if the supplier or the party that guaranteed the fulfilment of the supplier's obligations otherwise ceases its business activities;
 - (D) if with respect to the supplier or the party that guaranteed the fulfilment of the supplier's obligations a winding-up petition or an application for an administrative order has been filed;
 - (E) if attachment has been levied at the expense of the supplier and this attachment is not lifted within ten (10) working days; or
 - (F) if the relationship between those who manage the business of the supplier changes, if they who manage the business of the supplier are replaced, either in whole or in part, or if the composition of the board of management of the supplier changes and if such changes in drom's opinion constitute a substantial increase of drom's risks.

10. **General quality assurance regarding fragrance ingredients**

- 10.1 The supplier shall guarantee all deliveries to all drom-subsiidiaries are the same and identical quality of the raw material worldwide.
- 10.2 The supplier shall inform drom in any case about each change of production, constitution (including changes of impurities and/or formula changes) and specifications in writing ("*Textform*" pursuant to sec. 126b BGB), unrequestedly and immediately after the supplier has got knowledge about such change, when the raw material has been supplied to drom within the last twelve (12) months.
- 10.3 The supplier shall inform drom immediately in the event that a production-shutdown or a shift of production-facility to another production-site/place is intended.
- 10.4 The supplier shall inform drom immediately in the event that (i) any specification and demand mentioned concerning any raw material is not fulfilled or (ii) the suppliers foresees that any of these specifications and demands will not be fulfilled anymore.

11. **Supplier's staff**

- 11.1 The supplier shall guarantee the expertise and professional competence of its employees dedicated to the performance of contracts, including but not limited to staff hired for this purpose from third parties.
- 11.2 If the supplier offers to drom services to be rendered at drom's premises by his own staff or staff hired from a third party, drom shall have the right to deny such supplier's staff access to drom's site and premises if such staff according to drom's opinion (i) is not competent to render this service, (ii) misbehaves, or (iii) acts contrary to the terms of the respective contract.
- 11.3 In the event of such service rendered by the supplier's staff at drom's premises, throughout their presence at drom's premises, supplier's staff referred to in sec. 11.2 shall be obliged to comply with the terms and conditions of employment applicable to drom's employees and regular staff – to the exclusion of the terms relating to holiday entitlement, holiday allowance, salary and fringe benefits such as pension rights.
- 11.4 In the event of such service rendered by the supplier's staff at drom's premises, drom shall at no time be responsible for the payment of wages or any other remuneration, nor for withholding and paying national insurance contributions and (wage) tax to this supplier's staff. For the avoidance of doubt: only the supplier is liable to pay to the staff referred to in sec. 11.2. If and to the extent drom will nevertheless be held liable for the aforementioned, the Supplier shall hold harmless drom to the respective amount.

12. **Place of performance, jurisdiction and governing law**

- 12.1 Except as otherwise contractually agreed, the place of performance for payment and delivery/performance shall be drom's place of business in Baierbrunn/Munich.
- 12.2 If the supplier is a merchant, a corporate entity under public law or a special public-law entity, jurisdiction and venue for all litigation, including matters relating to bills of exchange or checks, shall be Munich, Regional Court (*Landgericht*) of Munich I to the extent permitted by law; claims against drom may be filed only in such court.
- 12.3 The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the UN Convention on the International Sale of Goods (CISG).

13. **Severability, data protection, nondisclosure**

- 13.1 Should a provision of these general terms and conditions of purchase be or become invalid, such invalidity shall not affect the validity of the remainder of the agreement. The intent of the parties shall apply in lieu of the invalid provision or, in other respects, the statutory provisions shall apply. In no event shall the relevant provision of these general terms and conditions of purchase be replaced by the supplier's general terms and conditions.
- 13.2 The headings in this agreement are solely for ease of reference and shall not affect its interpretation.
- 13.3 Any amendments or additions to the agreement by the supplier shall require drom's written consent to be valid; this shall also apply to any departure from the written form requirement itself.
- 13.4 Except as otherwise contractually agreed, any legally material declarations such as notices of termination or withdrawal or demands for damages shall be valid only if they are made in writing ("*Schriftform*" pursuant to sec. 126 BGB).
- 13.5 Drom shall have the right to process and store, and to engage third parties to process and store, data received via the supplier in connection with the business relationship – even if such data originated with third parties – as provided by the Federal Data Protection Act (Bundesdatenschutzgesetz).
- 13.6 The supplier shall keep in strict confidence all information relating to drom's business and trade secrets, including formulas, recipes, prescriptions, designs or the like and other information made available to the supplier, and the supplier shall also impose a strict nondisclosure obligation on its employees and third parties engaged in the performance of the contract. This nondisclosure obligation shall also apply after the termination of the underlying contractual relationship.

14. **Acknowledgment of receipt**

I herewith acknowledge receipt and accept these General Terms and Conditions of Purchase of drom fragrances GmbH & Co. KG.

(date)

(signature and seal of supplier)