

## General Terms and Conditions of Purchase (GTC-P)

### §1. Scope

(1) All orders for products and services of any kind placed by PVA TePla AG and its subsidiaries PVA Industrial Vacuum Systems GmbH, PVA Metrology & Plasma Solutions GmbH, PVA Crystal Growing Systems GmbH, PVA TePla Analytical Systems GmbH, PVA Löt- und Werkstofftechnik GmbH, PVA Control GmbH, PVA SPA Software Entwicklungs-GmbH, PVA Vakuum Anlagenbau Jena GmbH (hereinafter referred to as "Buyer") and the Supplier are governed exclusively by the following Terms and Conditions of Purchase.

In the following, work contractors, service providers and other contracting parties are also referred to as a Supplier.

Any changes to these terms and conditions must be confirmed by the Buyer in writing to be valid. These apply only if the Supplier is a businessperson (section 14 of the Bürgerliches Gesetzbuch (German Civil Code – BGB)), a legal entity under public law or a public law special fund.

(2) The Buyer's Terms and Conditions of Purchase apply exclusively; the Buyer does not recognize any conditions that contradict or differ from its purchasing conditions unless it expressly recognizes them in writing. The purchasing conditions of the Buyer apply even in such cases where it accepts without reservation the Supplier's services despite knowledge of contradictory or different purchasing conditions.

(3) Separate agreements made with the Supplier on a case-by-case basis (including subsidiary agreements, addenda and amendments) always take precedence over these GTC-P. Subject to any proof to the contrary, a written contract or written confirmation by the Buyer prevail over the contents of agreements of this kind.

### §2. Offer – Offer Documentation – Order

(1) The order is considered binding no earlier than when it is issued or confirmed in writing. The Supplier must inform the Buyer of obvious errors (e.g. typing and arithmetical errors) and omissions in the order, including the order documents, for the purposes of correction or completion before acceptance; otherwise the contract is deemed not to have been formed. The Supplier is required to accept the order within two weeks (order confirmation). Once this period has expired, the Buyer is no longer bound to its order. Orders are effective only if placed in writing or confirmed in writing by the Buyer.

If the order confirmation differs from the order, the Buyer is bound to the order only if it has approved the difference in writing. Accepting deliveries or services and payments do not constitute approval. Late acceptance is considered to be a new order and requires the acceptance of the Buyer.

(2) The Buyer retains ownership and copyright rights to images, drawings, calculations, and other documents provided to the Supplier. They may not be made available to third parties without the Buyer's express written permission and are to be used exclusively for production on the basis of the order. Once the order has been processed, they— including any copies—shall be returned to the Buyer immediately and without asking. They must not be disclosed to third parties.

(3) Offers from the Supplier are binding and free of charge for the Buyer.

(4) The Buyer is entitled to change the delivery time and place and the type of packaging at any time by giving notice in writing within a reasonable period of time before the agreed delivery date. The same applies to changes to product specifications, provided these can be provided as part of the Supplier's normal production process without incurring considerable extra time or cost. The Buyer will reimburse the Supplier for all verified and reasonable additional costs incurred due to the change. If these changes result in delays to delivery that cannot be avoided in the Supplier's normal production and business activity even if all reasonable efforts are made, the original delivery date is extended accordingly. In good time before the delivery date and within an appropriate period of time after receiving the notice from the Buyer in accordance with sentence 1, the Supplier will notify the Buyer in writing of additional costs or delays in delivery that the Supplier expects on the basis of careful assessment.

(5) The Buyer is entitled to terminate the agreement at any time in writing, specifying the reason for doing so, if it will be unable to use the products ordered for its business due to circumstances that arise after the agreement has been concluded. In this case, the Buyer will reimburse the Supplier for any partial services it has provided.

### §3. Prices – Payment Conditions

(1) The price specified in the order is binding. Payments are made as decided by the Buyer through bank transfer to the Supplier's bank account as specified on the relevant invoice. Unless agreed otherwise in writing, the price includes free delivery (DAP Incoterms 2010). The Supplier bears the costs of transport, shipment and packaging. The return of packaging requires a special agreement. For pricing ex works or ex warehouse, products are to be sent at the lowest price in each case, unless the Buyer has specified a particular mode of transport. The Supplier bears the costs of additional costs incurred due to not observing dispatch instructions.

(2) The Buyer can process invoices only if, in accordance with the relevant requirements, they cite the order number specified in the order. The Supplier is responsible for any consequences due to failure to comply with these obligations.

(3) Unless agreed otherwise in writing, the Buyer pays the purchase price within 14 days, calculated from the date of full delivery and receipt of a correct invoice with a 3% discount or the net purchase price within 30 days calculated from the date of full delivery and receipt of a correct invoice.

(4) The Buyer is entitled to rights of offset and retention to the extent stipulated by law. The Buyer is entitled in particular to retain due payments for as long as it is still entitled to claims against the Supplier arising from incomplete or defective services. Discounts are still permitted even if the Buyer offsets or withholds payments in an appropriate amount due to defects; the payment period in accordance with 3.4 begins after the defects have been remedied in full.

(5) The Supplier may dispose of its claims against the Buyer through assignment, pledging or in some other way only with the Buyer's prior written permission. This does not affect section 354a German Civil Code.

### §4. Delivery Date

(1) The delivery date specified in the order is binding and must be strictly observed (fixed date as per section 376 HGB). The relevant date for meeting the delivery date is the date on which the Buyer receives all goods. The Supplier must notify the Buyer in writing without delay if circumstances arise or become apparent which make it clear that the agreed delivery date will not be met.

(2) The Supplier is responsible for procuring the additional deliveries and services required for the agreed-upon deliveries and services even if the Supplier is not at fault.

(3) The Buyer is entitled to the relevant statutory claims if delivery is delayed. After an appropriate and necessary grace period has expired without effect, the Buyer is entitled to demand compensation in place of the service.

(4) If the delivery is delayed, the Buyer is entitled to demand per commenced week a contractual penalty in the amount of 1% of the net price, but not exceeding 5% of the net price of the goods that were delivered late; it reserves the right to assert any further claims. In the event that the Buyer claims compensation, the contractual penalty will be credited against this. The Buyer is obligated to declare the reservation of the contractual penalty at the latest upon payment of the invoice, which is issued following the delayed delivery.

(5) Partial and early deliveries are permitted only with the Buyer's prior written permission and do not obligate the Buyer to partial or early payment.

### §5. Transfer of Risk – Documents

(1) The risk is transferred to the Buyer as soon as it has received all of the goods.

(2) The Supplier is obligated to cite the Buyer's exact order number on all shipping documents and delivery notes; failure to do so will inevitably lead to processing deliveries, for which the Buyer will not be held responsible.

### §6. Claims for Defects – Notice of Defects

(1) Unless agreed otherwise in the following, the statutory regulations apply for the Buyer's rights in the event of defects in quality and title (including incorrect delivery, underdelivery, incorrect installation and faulty installation or operating instructions) and in the event of other breaches of duty by the Supplier.

(2) In accordance with statutory provisions, the Supplier is liable for ensuring that the goods are in the condition agreed previously when risk is transferred to the Buyer. This previous agreement is determined by the relevant product descriptions – in particular descriptions or references in the order – that are the subject matter of the respective contract or were included in the contract in the same way as these Terms and Conditions of Purchase. It makes no difference whether the product description comes from the Buyer, the Supplier or the manufacturer.

(3) The Buyer will inspect the goods within a reasonable period to ensure that they meet the required quality standards and have been delivered in full. Notices of defect shall be considered lodged in due time if they are sent to the supplier within two weeks of goods delivery. In the case of concealed defects, the two-week complaint period begins only when the defect comes to light. Contrary to section 442 (1) sentence 2 BGB, the Buyer is entitled to claims for defects without limitation if the Buyer was unaware of the defect when concluding the agreement due to gross negligence.

(4) If the goods are defective when they are delivered to the Buyer, the Buyer is entitled initially to choose whether to have the defect rectified or demand a replacement delivery. Any rectification work performed subsequent to the initial unsuccessful attempt is considered failed.

(5) The Supplier must bear all costs associated with rectifying the defects or arranging a replacement delivery. Rectifying the defects also includes disassembling and reassembling the defective goods if they were installed as part of another item or mounted to

another item in accordance with their nature and intended purpose. This does not affect the Buyer's statutory legal claim to reimbursement of expenses incurred. The Supplier also bears the necessary costs of testing and rectifying defects if it transpires that there was in fact no defect. This does not affect the Buyer's liability for damages in the event of an unjustified request to rectify a defect; the Buyer is thus liable only if it recognized or, through gross negligence, failed to recognize that there was no defect.

(6) If an appropriate grace period expires without yielding results, the Buyer is entitled to either have the purchase price reduced or terminate the contract. Alongside this, the right to compensation and the assertion of claims for the reimbursement of expenses are expressly reserved. In this case, the Buyer is also entitled to repair the defect itself at the Supplier's expense and to request reimbursement of the costs this entails or an equivalent advance payment. There is no requirement to set a deadline if the Supplier's attempt to rectify defects fails or is unreasonable for the Buyer (e.g. because of particular urgency, risk to operations or risk of disproportionate damage); the Buyer will inform the Supplier of such circumstances immediately, where possible in advance.

(7) Any deviations from the agreed-upon condition of the goods are considered significant if individual functions of the goods can be used only to a limited extent.

(8) The statutory provisions regarding the limitation period for claims due to defects apply, with a minimum limitation period of 30 months. The limitation period begins on the date of final acceptance of the entire system by the Buyer's customer. Any denial within the meaning of Section 203 (1) BGB must be made in writing. This also applies to waiving this written form requirement. The limitation period of warranty claims is suspended once the Supplier receives the Buyer's written notice of defects until the Supplier rejects the Buyer's claims or declares the defect to have been rectified or otherwise refuses to continue negotiations on the Buyer's claims. This period starts anew for repaired or replaced goods.

(9) Final acceptance, checks, payments, or the acceptance of drawings submitted by the Buyer do not release the Supplier from its warranty.

#### **§7. Reservation of Title – Supply – Tools – Confidentiality**

(1) A reservation of title of the supplier becomes part of the contract only if the reservation of title expires upon payment of the price agreed for the reserved goods and the Buyer has authority to resell and process them in the orderly course of business. Any reservation of title by the Supplier beyond these terms will not be accepted.

(2) The Buyer reserves the right to ownership of the parts provided to the Supplier. Any processing or alteration measures are to be performed by the Supplier on behalf of the Buyer. If the Buyer's reserved goods are processed with other objects that do not belong to the Buyer, the Buyer acquires joint ownership of the new items based on the proportion of the value of its items to that of the other objects processed at the time of processing.

(3) If the item ordered by the Buyer is inseparably mixed with other items that do not belong to it, the Buyer acquires joint ownership of the new items in the proportion of the value of the goods subject to retention of title to the value of the other mixed items at the time of mixing. If the mixing is such that the Supplier's item must be considered the main item, it is stipulated that the Supplier will transfer joint ownership pro rata to the Buyer; the Supplier will maintain sole ownership or joint ownership for the Buyer.

(4) The Buyer retains ownership of any tools manufactured on behalf of the Buyer. The Supplier is required to use the tools exclusively to manufacture products ordered by the Buyer.

(5) The Supplier must insure the tools belonging to the Buyer and goods provided for the value as new against damage by fire, water and theft. The Supplier is obligated to perform in due time and at its own expense any necessary maintenance and inspection work. The Supplier must notify the Buyer immediately of any malfunctions; if the Supplier culpably fails to do so, compensation claims remain unaffected.

(6) The Buyer retains ownership and copyright of all images, quotations, drawings, samples, models, designs, profiles, standard specifications sheets, calculations, tools, etc. manufactured for or provided to the Supplier. The Supplier is obligated to maintain the strict confidentiality of all samples, drawings, calculations, and other documents received. They may be disclosed to third parties only with the Buyer's express written permission. The obligation to maintain confidentiality shall continue to apply following termination of this contract. It expires if and to the extent that the Buyer becomes aware of production expertise contained in the images, drawings, calculations, and other documents provided.

#### **§8. Property Rights – Usage Rights**

(1) The Supplier is responsible for ensuring that no third-party rights are violated in connection with its delivery, in particular property rights in countries of the European Union or other countries, and exempts the Buyer upon first written request from any third-party claims. The exemption of the Supplier relates to all expenses and damage that the Buyer incurs from or in connection with any claims asserted by third parties.

(2) The exclusive usage and property rights to images, drawings, product descriptions, and data sheets are transferred to the Buyer insofar as they were created or produced on its behalf. The Buyer is entitled solely and exclusively to use or exploit these results.

(3) The Buyer is entitled to publish the work results prepared or obtained on its behalf. Publication by the Supplier requires the prior written approval of the Buyer.

(4) The limitation period is 10 years calculated from the day on which the contract was concluded, unless a longer limitation period is stipulated by law.

#### **§9. Product Liability – Indemnity – Indemnity Insurance Protection – Supplier's Right of Recourse**

(1) Insofar as the Supplier is responsible for product damage, it is required to indemnify the Buyer upon first written request against third-party compensation claims to the extent that the cause lies within the Supplier's field of control and organization and the Supplier is liable in the external relationship.

(2) In this context, the Supplier is furthermore obligated to reimburse any expenses incurred from or in connection with any recall campaign that the Buyer might initiate. The Buyer will, to the extent feasible and reasonable, inform the Supplier as to the substance and scope of any recalls to be carried out and afford it an opportunity to comment.

(3) The Supplier is obligated to take out product indemnity insurance to an insured sum (lump sum) of EUR 2.5 million per instance of bodily injury/physical damage; any further compensation claims to which the Buyer entitled remain unaffected.

(4) The Buyer is entitled to unrestricted right of recourse within a supply chain as stipulated by law (Supplier's right of recourse in accordance with sections 445a, 445b, 478 BGB), as well as claims for defects. In particular, the Buyer is entitled to demand that the Supplier rectify the defect in the exact way (repair or substitute delivery) that the Buyer owes to its customer in the case in question. This does not limit the Buyer's legal right to choose (section 439 (1) BGB).

(5) Before the Buyer recognizes or fulfills the claim for defects asserted by its customer (including reimbursing expenses in accordance with sections 445a (1), 439 (2) and 3 BGB), it must inform the Supplier and, providing a brief account of the facts, request a written statement. If no substantiated statement is made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by the Buyer is deemed owed to its customer. In this case, it is incumbent upon the Supplier to provide evidence to the contrary.

(6) The Buyer's claims arising from the Supplier's right of recourse also apply if the defective goods have been reprocessed by the Buyer itself or by another contractor, e.g. by installing them in another product.

#### **§10. Long-term Supplier Declarations and Certificates of Origin**

(1) The Supplier undertakes to provide, without being requested to do so, a long-term supplier declaration in the original version for goods with preferential originating status in accordance with the relevant legal provisions (currently: Commission Implementing Regulation (EU) 2015/2447), both on initial acceptance of the order and subsequently, once per calendar year. The Buyer must be informed of any changes to the originating status, without being requested to do so, using the respective order confirmation in text form (e.g. by fax or e-mail) or in writing.

(2) If the Buyer or the Buyer's customers are charged by a customs authority due to incorrect own declarations of origin or if the Buyer or the Buyer's customers suffer other financial disadvantage as a consequence of the Supplier providing incorrect information on the origin, the Supplier must compensate for damage incurred in each case. This does not affect further compensation claims.

(3) Deliveries of non-origin products must be marked as such on the invoice.

#### **§11. Export Controls**

(1) The Buyer and the Supplier undertake to comply with the applicable national, European and international (including US re-export regulations) export control laws.

(2) The Supplier undertakes to clearly indicate the required customs and foreign trade master data (in particular country of origin, customs tariff number and goods classification) for all ordered goods (hardware, software, technology and services) for each item in offers, order confirmations and delivery bills.

(3) The Supplier shall notify the Buyer immediately in writing of any changes to the foreign trade master data.

(4) The Supplier shall indemnify the Purchaser against all costs caused by incorrect, incomplete or delayed provision of foreign trade data.

#### **§12. Others**

(1) The Buyer notes that it processes the data received from the Supplier (contractor) in accordance with the German Federal Data Protection Act. Personal data is also stored by affiliates and companies executing the deliveries (Article 6 (1) sentence 1 (f) GDPR in conjunction with Recital 48). The supplier shall observe the legal data protection requirements. In particular, the Supplier's employees are obligated to maintain data protection confidentiality.

(2) The place of performance for goods and services is the place of receipt stated by the Buyer. If the Buyer does not explicitly state a place of receipt, the place of performance is the Buyer's place of business.

(3) If the Supplier is a merchant as defined by the German Commercial Code (HGB), a legal entity under public law, or special fund under public law, the Buyer's place of business has exclusive jurisdiction unless a different place of jurisdiction is prescribed. Nonetheless, the Buyer is also entitled to file legal proceedings against the Supplier before the competent court of the Supplier's place of business.

(4) For these purchasing conditions and all legal relationships between the Buyer and the Supplier, the laws of the Federal Republic of Germany under exclusion of the conflict of laws and the United Nations Conventions on Contracts for the International Sale of Goods (CISG) apply exclusively.