

## **General Terms and Conditions of Purchase**

Our orders shall be placed subject to our General Terms and Conditions of Purchase below alone.

### **Section 1 Scope of validity**

(1) Our General Terms and Conditions of Purchase (hereinafter known as Purchasing Terms) alone shall apply for businesses, legal entities constituted under public law or public-law special assets within the meaning of Section 310 Para 1 of the German Civil Code [BGB].

(2) We shall not accept the Supplier's (Seller's) terms and conditions of business unless we have specifically agreed to them in writing. Even if we refer to a document containing or referring to the general terms and conditions of business of the Supplier or of a third party, or if we take receipt of goods without expressing a reservation, this shall not constitute our consent to the application of those terms and conditions of business.

(3) These terms and conditions of purchase shall also apply for all future business transactions with our Supplier, even if no specific reference is made to them again.

(4) It shall always be the latest version of Incoterms®, to which we shall refer.

### **Section 2 Order, Taking delivery, Reservation to make amendments**

(1) Insofar as our orders do not include a specific period of time within which delivery is to be taken, we shall undertake to take delivery of an order for up to one week from the date of the order. It shall be the date on which we receive the order confirmation which shall determine whether we take delivery on time.

(2) We shall be entitled to amend the time and date of the delivery as well as the type of packing at any time by means of written notification giving at least five calendar days' notice prior to the agreed delivery date.

### **Section 3 Prices, Payment**

(1) The price quoted shall include delivery franco domicile, and the rate of VAT in force at that time plus the cost of packing unless specifically agreed otherwise.

(2) The purchase price shall be payable as follows from the proper presentation of invoice: within 14 days to qualify for a prompt payment discount of 3% or within 30 days net. The receipt of a bank transfer instruction by our bank shall determine whether payment owed by us has been made on time.

(3) There shall be no obligation on our part to pay interest on late payments. If we should find ourselves in arrears with a payment, the rate of interest payable by us shall not exceed 5 percentage points above the base rate.

### **Section 4 Delivery period, Inspection of the goods, Notification of defects**

(1) The delivery period (period or date) stated in the order shall be binding. Early deliveries shall not be allowed without our prior written consent.

(2) The Supplier shall inform us in writing immediately if circumstances arise or become apparent in which the agreed delivery period cannot be observed.

(3) If the last day on which the delivery has to be made is determined by the contract, the Supplier shall consequently be in default when this day expires without him having to be sent a reminder.

(4) In the event that there is a delay in delivery, we shall be entitled to our statutory rights in full, including the right to withdraw from the contract and to claim compensation for damages instead of performance after a reasonable subsequent period set for delivery has expired without delivery having been made.

(5) In the event of delayed deliveries and after sending a written warning to the Supplier, we shall be entitled to demand a contractual penalty amounting to 0.5% of the

value of the respective order for each new week of delay in delivery, not exceeding a total of 5% of the respective order value. The contractual penalty is to be counted towards the default damages to be paid in compensation for default damages by the Supplier.

(6) The Supplier is not entitled to deliver part consignments, unless we have agreed to them in advance in writing or we can be reasonably expected to accept them.

(7) We shall inspect the goods supplied to the stores in D-58089 Hagen immediately by using the technology we have available to identify defects (Quality and completeness). A defect shall have been notified on time if notified within 14 calendar days (notification period), after we have or should have identified a defect. If the goods are not delivered to our stores in D-58089 Hagen, but instead to another destination (direct-to-purchaser sale) the notification period shall begin at that point in time at which our customer (Buyer) identifies the defect and has, or should have, notified us of the defect.

### **Section 5 Offsetting, Retention**

We shall be entitled to all statutory offsetting rights and rights of retention without limitation.

### **Section 6 Passing of risk**

The risk of accidental loss or accidental deterioration of the goods shall only pass over to us when we or our authorised agent have taken delivery of the goods at the agreed destination.

### **Section 7 Record-keeping, Traceability, Quality assurance and Process reliability**

(1) We shall inform the Supplier in good time of the following demands by our customers, if and provided that we are subject to such demands ourselves, and also only insofar as they refer to a delivery agreed with the Supplier.

a) processes, products and services to be provided including the specification of the relevant technical details (e.g. specifications, drawings, process requirements, test instructions);

b) the requirement:

- for products and services to be approved;
- for methods, processes and equipment to be approved;
- for certain products and services to be cleared;

c) proof of specific skills, including the necessary qualifications to be held by persons;

d) co-operation and collaboration of the Supplier with us, e.g. when investigating damaging events and claims;

e) control and surveillance of performance of our suppliers' performance, insofar as they supply us with goods or other services;

f) the verification or validation activities which we or our customer intend to conduct at the Supplier's premises;

g) tests, inspections and verification at our premises;

h) the use of statistical methods for product acceptance and relevant acceptance instructions by us;

i) the requirement:

- to introduce a quality management system;
- to place orders with suppliers predetermined by our customer, including those using specific processes;
- to inform us of non-compliance processes, products or services and to obtain our prior consent for subsequent action to be taken;
- to prevent the use of parts of dubious origins, unapproved parts or counterfeit parts;
- to notify us in writing of modifications to processes, products or services in writing,

including changes in production site or if these apply to sub-suppliers;

- the specifications to be applied, including customer specifications to be imposed upon the sub-suppliers;
- provision of certificates of conformity, test reports or official clearance certificates;
- keeping the recorded information in safekeeping taking the retention periods and availability requirements into consideration;

j) to grant us, our customers and the authorities responsible for us right of access to the equipment in all the areas concerned and to the relevant recorded information at every level of the supply chain;

k) to ensure that all persons are aware of the following considerations:

- their contribution to the product or service conformity;
- the importance of ethical conduct, refer to ISO 19600.

(2) The Supplier shall undertake to support us to the best of his ability in implementing these requirements provided that they are set by our customer.

## **Section 8 Liability for defects, Warranty, Period of Limitation**

(1) We shall be entitled in full to the Buyer's statutory rights in the event of defects. In particular, we shall be entitled to demand, as we choose, to have the defect rectified or to have a fault-free thing supplied or to demand compensation for damages in accordance with the statutory regulations.

(2) Should the Supplier not begin to remedy the defect immediately upon being called to do so by us, we shall be entitled to remedy the defect ourselves or to have this done by third parties at the Supplier's expense to avoid imminent and major property damage or financial or pending danger.

(3) Rights to have a cure effected by the Supplier shall become time-barred 36 months after the passing of risk (Section 6), unless the item supplied has been used as normal and as appropriate for a structure and has caused it to be defective.

## **Section 9 Product liability, Insurance**

(1) The Supplier shall be responsible for all claims asserted by third parties on account of personal injury or property damage attributable to a defective product supplied by him.

Furthermore, he shall be obliged to exempt us at first call from any liability towards third parties from third party claims arising as a result of the manufacture, supply, storage or use of the goods supplied. The exemption obligation shall not apply, insofar as a claim is based upon a breach of duty resulting from our gross negligence or intent.

(2) If we are under a statutory obligation to conduct a recall campaign from third parties as a result of a defect in a product supplied by the Supplier, the Supplier shall bear all the costs associated with the recall campaign, in particular, transport costs, travelling expenses, labour, the costs of specialists and testing institutes, the costs of taking legal action or mounting a legal defence against unjustified claims. In the event of fault-based liability for defective products, this shall only apply in those cases in which the Supplier is to blame. In this case the Supplier shall have to prove that the defect is not within his scope of responsibility and that he is not to blame.

(3) The Supplier shall be obliged to maintain a product-liability insurance policy throughout the term of this contract providing an adequate level of cover for personal injury and property damage and at our request he shall have to prove that he has done so by submitting confirmation of cover. Any compensation claims there may be for damages in excess of the level of cover shall not be affected.

## **Section 10 Legal defects**

(1) The Supplier vouches that the goods shall be supplied unencumbered by third party rights and that no third party rights shall be breached by the delivery. Given this, the Supplier shall exempt us at first call from any claims which may be asserted against us by third parties.

(2) Claims based upon legal defects shall become time-barred in accordance with Section 8 (3).

## **Section 11 Choice of law, Place of jurisdiction**

(1) This contract shall be governed by the law of the Federal Republic of Germany with the exception of the conflict of laws law and the Convention on Contracts for the International Sale of Goods [CISG] of the United Nations.

(2) The place of fulfilment as well as exclusive place of jurisdiction for all disputes arising from, or in connection with, this contract is D-58089 Hagen. We may however also take legal action against the Supplier at the courts having jurisdiction where his company or branch is domiciled, or at the courts having jurisdiction at the place of fulfilment.

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