

# General Terms and Conditions of Purchase

## 1. General

- 1.1 Only our terms and conditions of purchase below shall apply for all goods and services supplied to us. The terms and conditions of the Supplier differing from our own terms and conditions shall hereby be expressly rejected. Our terms and conditions of purchase shall also apply for all future transactions with the Supplier until they are revoked.
- 1.2 Deviations from our terms and conditions and side agreements must be made in writing. The requirement for written form can only be waived if there is a bilateral written declaration to this effect.
- 1.3 Provided that nothing has been expressly agreed to the contrary in an individual case, and in so far as these terms and conditions of purchase do not include an arrangement to the contrary, the version of Incoterms in force at that time shall be valid as a supplement to these terms and conditions of purchase.

## 2. Enquiries / Offers

- 2.1 Our enquiries shall be non-binding. The Supplier's offers shall be submitted free of charge for our inspection. In particular, no remuneration shall be paid to the Supplier by us for expenditure incurred in connection with the preparation of the offer unless an express written agreement has been made to this effect in advance. Offers are to be submitted to us in writing unless an agreement has been made to the contrary.
- 2.2 The Supplier shall be bound to the contents of his offer for a period of four weeks from the date of the offer, or for a period of two months if the offer concerns the supply of capital assets.

## 3. Orders

- 3.1 Orders and agreements shall only be binding in those cases in which they have been placed or confirmed by us in writing.
- 3.2 The order shall become effective when our order and / or order confirmation is received by the Supplier. The Supplier shall be obliged to counter-confirm every order placed by us by return in writing. If counter-confirmation is not received by us within two weeks from the dispatch by us of our order or order-confirmation, we shall be entitled to withdraw from the contract.
- 3.3 At the request of the Buyer, amendments and supplements to goods and / or services already ordered are to be supplied at the same terms and conditions and on the same costing basis provided that they are connected with the purpose of the original goods and services to be supplied and provided that there has not been such a significant change in the order volume or market situation so that the Seller can not be expected to adhere to the contract which has been amended to such a large extent, taking into consideration all the circumstances of the individual case. If such additional orders or other amendments make it possible to reduce prices, the Buyer shall consequently be entitled to claim this reduction in price.
- 3.4 If we are prevented from taking receipt of and using the goods and services, or if force majeure (including disruptions in production and traffic, official instructions or court orders, strike, lock-out or other extraordinary events), makes it significantly more difficult for us to do so, we shall consequently be able to withdraw from all or from part of the contract, or at our choice, demand that the goods and services are delivered at a later point in time, without the Supplier being able to derive claims of any type from this.

## 4. Prices

- 4.1 The agreed prices are fixed prices plus the rate of value added tax in force at that time, provided that nothing is agreed to the contrary. Customs duties and other dues shall be agreed at a fixed amount on the date on which a contract is signed. Increases shall be for the account of the Supplier.
- 4.2 Provided that nothing is agreed to the contrary, prices shall be Free our warehouse or Free to a point of reception stated by us including packing, insurance and other costs.
- 4.3 The Supplier shall be obliged to pass on to us any reduction in his cost prices or list prices (as a result of changes in market conditions etc.) during the term of the order without having to be asked to do so by us.
- 4.4 Provided that nothing has been agreed to the contrary in writing, we shall pay the purchase price within 14 days from delivery and receipt of the invoice, thus qualifying us for a 2% prompt payment discount, or within 30 days net from the receipt of the invoice.

## 5. Delivery period

- 5.1 The delivery period stated in the order shall be binding.
- 5.2 The Supplier shall be obliged to inform us straight away if circumstances occur or which he identifies, which could give rise to the required delivery period not being observed.
- 5.3 If the agreed delivery dates are not observed, we shall be entitled to withdraw from the contract or, having set a reasonable period for delivery, to demand compensation for damages instead of performance. Irrespective of this, we can demand a contractual penalty of 1% of the total order value for each week commenced that the delivery is in default as a minimum amount of the claimed damages when delivery dates and delivery periods are not observed - even if this only applies to part-deliveries. If we withdraw from the contract or demand compensation for damages instead of performance, the contractual penalty shall consequently be calculated from the point at which the delivery is late until we hand over a statement to that effect.

## 6. Delivery / Passing of risk

- 6.1 Provided that nothing has been agreed to the contrary in writing, consignments must be delivered to the address stated in our order franco domicile. The Supplier shall be responsible for the suitability of the packing used as well as for seeing that all consignments subject to the requirement for being marked are properly marked.
- 6.2 The Supplier shall be obliged to state our precise order number on all shipping papers and delivery notes. The Supplier shall be liable for the consequences of the shipping papers being issued incorrectly.

- 6.3 We are to be sent separate a notice of delivery for each consignment. The notice of delivery must not be delivered after the consignment is received by us. The notice of delivery must include a precise description of the delivered goods as well as our order number.

- 6.4 The Supplier shall bear the risk up until the address stated by us and until acceptance of the goods and services by us. This shall also apply if, by way of exception, the freight costs etc. are borne by us.

## 7. Complaints / Warranty

- 7.1 The Supplier shall furnish a warranty that his goods and / or services are of the agreed quality and are of the recognised, latest and tested guiding rules of technology and are not adversely affected by defects reducing in part or in full the value or fitness for normal use or the use assumed when the order was placed.

The supplied goods shall be inspected by us on a random basis within a reasonable period of time after they have been delivered in order to identify discrepancies in quality and quantity. Defects identifiable in the course of a proper inspection after the goods have been delivered are to be notified to the Supplier within 14 days of being discovered. Other defects are to be notified to the Seller within 14 days of being discovered. Given this, the Supplier shall waive his right to object that the notification of defects is too late, as in § 377 of the (German) Commercial Code [HGB].

- 7.2 If we have inspected and approved the goods and services or a sample of them, the Supplier must not modify his manufacturing process or the materials used without prior consent. The same shall apply if goods and services of the same type have been provided over a lengthy period of time. Each unauthorised discrepancy from the manufacturing process or materials used hitherto shall constitute a defect.

- 7.3 If goods are defective or lack agreed qualities, we may consequently demand replacements or repairs free of charge irrespective of our statutory rights. Our right to assert claims for compensation for damages shall not be affected as a result.

- 7.4 The warranty period shall be 2 years calculated from the passing of risk, provided that nothing is agreed to the contrary. If goods or parts thereof are supplied as replacements to rectify a defect, the warranty for these new parts shall begin again. If a defect is notified, the period under warranty shall be suspended until that point in time at which the Supplier finally rejects our claims in writing.

## 8. Product liability / Exemption

- 8.1 In so far as the Supplier is responsible for product damage, he shall, upon our first call, be obliged to exempt us from third party compensation claims for damages, as if the cause was within his sphere of control and organisational remit and he was liable to an outside party.
- 8.2 In the course of this the Supplier shall, in accordance with § 683, § 670 BGB, also be obliged to reimburse any expenditure arising from, or in connection with, a recall campaign conducted by us. We shall notify the Supplier of the content and scale of the recall measures to be conducted - in so far as this is possible and reasonable - and allow him an opportunity to make a statement in response.

## 9. Proprietary rights

- 9.1 The Supplier shall be liable for patents or other third party rights not being breached by the supply, use and operation of the supplied goods.
- 9.2 The Supplier shall be obliged to exempt us from any claims which may be asserted against us by a third party as a result of breaches against such proprietary rights.
- 9.3 The Supplier's duty to exempt us shall refer to all expenditure which we incur by necessity from, or in connection with, a claim or claims being asserted against us by a third party.

## 10. Right of assignment / Right of retention

- 10.1 The Supplier shall not be entitled to assign all or part of his claims against us to third parties without our express prior consent in writing. We shall not withhold our consent unless we have an important reason for doing so.
- 10.2 The Supplier shall not be entitled to a right of retention to the goods, not even in accordance with § 369 of the (German) Commercial Code [HGB].

## 11. Place of jurisdiction and place of fulfilment, Applicable law

- 11.1 The place of fulfilment for the goods to be supplied shall be the address stated by us in each case.
- 11.2 The exclusive place of jurisdiction for all disputes arising indirectly or directly from the contractual relationship shall be Duisburg. We shall also be entitled to take legal action against the Supplier at the courts having general jurisdiction at the place where he has his principal place of business.
- 11.3 These terms and conditions of purchase shall be governed by German law alone.

## 12. Partial validity clause

Should individual of the above provisions be or become invalid, the remaining provisions shall consequently remain valid nevertheless. Invalid provisions are to be replaced by valid provisions coming as close as possible economically to the purpose of the invalid provisions and which are legal.