

**General Terms of Purchase**

**I. General matters, scope**

- (1) These General Terms of Purchase and Terms of Business shall apply to all quotations and contracts on the basis of which we purchase supplies and services from our business partners and suppliers (hereinafter "Sellers"). The Terms of Purchase and Terms of Business shall only apply if the Seller is a trader (§ 14 BGB [*German Civil Code*], a public sector legal entity or a public law special fund.
- (2) The General Terms of Purchase and Terms of Business, as amended, shall also apply to future quotations and contracts in relation to supplies and services involving the same Seller, without us needing to make a specific reference to them in each case.
- (3) These General Terms of Purchase and Terms of Business shall apply on an exclusive basis. Differing, contrary or supplementary General Terms of Business of the Seller shall only become a constituent of the contract inasmuch as we have explicitly approved their validity in writing. The same shall apply if we accept the supplies of the Seller without reservation, although we are familiar with that Seller's General Terms of Business.
- (4) Individual agreements with the Seller concluded in individual instances shall take precedence over these General Terms of Purchase and Terms of Business. A written contract or our written confirmation shall be required in relation to the content of such agreements.
- (5) Legally relevant statements and notifications which the Seller is required to make to us after conclusion of the contract (e.g. timings, formal reminders, statement of withdrawal) shall only be valid provided they are set down in writing.
- (6) If individual provisions of our General Terms of Purchase and Terms of Business should be or become invalid, this shall not affect the validity of the remaining provisions.

**II. Quotation, contract conclusion**

- (1) The Seller must quote precisely in accordance with our inquiry and must explicitly highlight any variations.
- (2) Orders and other agreements, in particular order amendments, shall apply at the earliest when they are placed in writing or confirmed by us as binding.
- (3) We shall be entitled to request changes to the contractual services at any time. The Seller may oppose our change request if it cannot reasonably be expected to comply with it. If the Seller incurs additional expense as a result of changes, it may request a reasonable adjustment to the time allowed it and also payment for the proven reasonable additional costs it incurs as a result. If we request a change to the contractual services, the Seller must notify us of the resulting anticipated additional costs and delivery delays.

**III. Framework agreements**

- (1) If we have concluded a framework agreement with the Seller in relation to the supply of goods or the provision of services, we shall not be obliged to cover our requirements of the goods or services to which the contract relates continuously or exclusively from the Seller, unless specified otherwise in the framework agreement. Contract sums or order quantities set out in the framework agreement shall not constitute minimum contract sums or minimum order quantities, and shall not give rise to an acceptance obligation on our part, unless specified otherwise in the framework agreement.
- (2) If the framework agreement contains contract sums or order quantities, the Seller shall notify us as soon as 80% of the contract sum or order quantity has been reached. The Seller shall increase the contract sums or order quantities, at our request, provided it is able and can reasonably be expected to do so.
- (3) We reserve the right to change and cancel individual orders under framework agreements. The Seller shall not invoice us any costs in this respect. The Seller may oppose any change or cancellation that it cannot reasonably be expected to implement.

**IV. Prices and payment terms**

- (1) The price stated in the order shall be binding. All prices shall be inclusive of value added tax at the statutory rate, if the value added tax is not shown separately.
- (2) Unless agreed otherwise in individual instances, the price shall include all work and incidental services by the Seller (e.g. assembly, installation) and all incidental costs (e.g. appropriate packaging, transport costs including any transport and liability insurance) etc. At our request, the Seller must take back and dispose of packaging materials.
- (3) If the Seller should reduce its prices or improve its conditions during the period between ordering and delivery, the prices and conditions valid on the date of delivery shall apply.
- (4) In case of individually agreed payment terms the agreed price shall fall due for payment within the individual term from full supply and service (including any agreed acceptance procedure) and receipt of an appropriate invoice. In any other cases the statutory provisions shall apply.

**V. Delivery period and default in delivery**

- (1) The time allowed as specified in the contract shall be binding. The Seller shall be obliged to inform us immediately in writing if it is unable to be able to adhere to the agreed delivery times for any reason

whatsoever. In this case, the Seller must state the reasons and the anticipated length of the delay.

- (2) If the Seller fails to provide its service or defaults in delivery, our rights, in particular as regards withdrawal and compensation, shall be as laid down by law. This shall not affect the provisions of (3).
- (3) If the Seller defaults in delivery, we may claim, along with any additional statutory claims, flat rate compensation for our default loss of 0.5% of the net price of the goods delivered late, for each full calendar week, albeit no more than 5% of the net price of the goods delivered late. We shall be entitled to provide evidence of higher loss. The Seller shall be entitled to provide evidence that we have not suffered loss or have only suffered minor loss.

**VI. Service, delivery, transfer of risk, default in acceptance**

- (1) Delivery within Germany shall be carriage paid to the place stated in the order. If the destination is not stated and nothing different is agreed, delivery must be to our headquarters in Lemgo.
- (2) The Seller shall only be entitled to effect part-deliveries or part-services subject to our explicit written approval.
- (3) A delivery note indicating the date (issue and shipment), content of the consignment (Seller's item number and delivery quantity, length or weight), our order ID (date and our item or order number) and, if part-delivery has been approved, a note indicating the part-delivery, must be attached to the delivery. The delivery note must always be affixed to the outside of the product concerned in a clearly visible position. If the delivery note is missing or is incomplete, we shall not be responsible for resulting delays in processing and payment. A dispatch note having the same content must be sent to us separately from the delivery note.
- (4) The risk of accidental loss and accidental deterioration of the product shall transfer when it is delivered at the place of performance. If an acceptance procedure has been agreed, this shall be decisive in determining the point of transfer of risk. For the rest, the provisions of the law governing work contracts shall apply accordingly to acceptance procedures.

**VII. Non-disclosure and reservation of title**

- (1) Documents and information provided by us, in particular drawings for individual components, assemblies, units and machinery, may only be made accessible to third parties subject to our written approval, and must be returned to us after completion of the contract. This non-disclosure obligation shall continue after the contract ends.
- (2) We reserve all title, copyright and industrial protective rights (including the right to apply for such rights) to drawings, plans, catalogues, samples and other documents and to any software. This shall apply accordingly to tools, materials and other items that we have provided to the Seller for use during manufacture. If they are not processed, such items must be stored separately and insured to the normal extent against destruction and loss, at the Seller's expense. The Seller hereby assigns to us any claims under such an insurance policy.
- (3) Processing, mixture or combination by the Seller of any items we provide shall be undertaken on our behalf. If third parties should retain title following processing, mixture or combination with items belonging to them, we shall acquire joint title to the new item produced, in the ratio of the value of the item we have provided to the other items involved.
- (4) Transfer into our ownership of the goods supplied by the Seller shall be unconditional and without regard to payment of the price. Any reservation of title that may be validly declared by the Seller shall only apply until the goods supplied to us have been paid for and shall only apply to those goods.

**VIII. Warranty, protective rights**

- (1) Unless specified otherwise below, the statutory rules shall apply in relation to our rights in the event of material and legal defects in a supply or service (including incorrect and short delivery and also incorrect assembly, defective assembly, installation or operating instructions) and in the event of other breaches of duty by the Seller.
- (2) The Seller shall in particular be liable for the fact that the delivery item conforms to the generally recognised rules of the art, the latest official regulations, the *Gerätesicherheitsgesetz [Equipment Safety Act]*, the currently valid safety requirements and the work protection and accident prevention regulations. The Seller shall ensure that its deliveries and services as well as any data carriers or data and services delivered electronically (for instance by email or data transfer) are scanned for malware such as Trojans, viruses, spyware etc using the latest testing and analysis methods prior to their provision or utilization, so guaranteeing that they are free of any malware. The same obligation applies to any form of electronic communication.
- (3) If the Seller fails to meet its obligation to provide subsequent performance, by making good the defect (defect remedy) or by supplying a faultless product (replacement delivery), at our choice, within a reasonable time limit set by us, we may make good the defect ourselves and require the Seller to reimburse us the expenditure we have incurred, or else make an appropriate advance payment. If subsequent performance by the Seller has been unsuccessful, or if we cannot reasonably be expected to accept it (for example owing to urgency, risk to operational safety or the impending occurrence of disproportionately high loss), we shall not be required to set a time

limit. In this case the Seller must be notified immediately, if possible in advance.

- (4) By way of variation from § 438 (1) No. 3 BGB, the general period of limitation for defect claims shall be 3 years from the point of transfer of risk. Receipt by the Seller of our notice of defect shall have the effect of suspending the period of limitation with respect to warranty claims. If the Seller has supplied several delivery items, the suspension of warranty claims shall extend to any defect-free delivery items that cannot be used as a result of the defective delivery. In the event of replacement supply or defect remedy, the warranty period for replaced or repaired parts shall recommence, unless we had to assume, from the Seller's behaviour, that it did not consider itself obliged to take such action, but only undertook the replacement supply or defect remedy as a goodwill gesture or for similar reasons.
- (5) The Seller shall be answerable for the fact that use of the supply and service in accordance with the terms of the contract does not infringe the protective rights of third parties. If a claim is made against us by a third party owing to alleged infringements of protective rights, the Seller shall be obliged, in response to our first written request, to hold us harmless with respect to such claims by third parties, unless it is not responsible for the infringement of protective rights.

#### **IX. Obligation to serve a notice of defect, quality assurance**

- (1) The statutory provisions (§§ 377, 381 HGB [*German Commercial Code*]) shall apply for the commercial obligation to investigate and serve a notice of defect, subject to the following proviso: our obligation to investigate shall apply to defects that come to light during our goods inwards monitoring involving external assessment, including that of the delivery papers, and during our random sampling quality control (e.g. transport damage, incorrect delivery and short delivery). This shall not affect our obligation to serve a notice of defect. The notice of defect shall be deemed to have been served on time provided it is delivered within two weeks. The time limit shall start to run, in the event of evident quality and quantity variations, when the delivery or service is handed over, and in the case of hidden quantity and quantity variations, when they are discovered.
- (2) If there is a quality assurance agreement with the Seller, this shall also be a constituent of this contract.
- (3) We shall be entitled to acquaint ourselves with execution of the delivery in accordance with the contract, participate in examinations and undertake them ourselves, at the Seller's premises, during normal business hours. The Seller undertakes to ensure, when awarding subsidiary contracts, that the subcontractor grants us the same right to acquaint ourselves and to undertake examinations as described above. The examinations shall not relieve the Seller of its duty of warranty or its liability.

#### **X. Producer liability, insurance**

- (1) If the Seller is responsible for product damage, it must hold us harmless with respect to claims by third parties, inasmuch as the Seller or its own supplier has caused the product defect that triggers the liability. The Seller must reimburse us all the expenses that arise out of or in connection with a claim by a third party, including recall campaigns that we undertake. We shall inform the Seller and give it the opportunity to comment, where this is possible and can be reasonably expected of us, on the content and scope of the recall measures. This shall not affect further statutory claims.
- (2) The Seller must contract and maintain a product liability insurance policy with a lump sum cover amount of at least EUR 2,566,450.00 per person/instance of property damage.

#### **XI. Transfer of rights and obligations, retention**

##### **Setoff**

- (1) The Seller shall only be entitled to transfer its rights and obligations, and to assign claims against us, subject to our written consent. We shall not unreasonably refuse to give such consent. This shall not affect § 354a HGB.
- (2) We shall be entitled, to the statutory extent, to claims rights of setoff and retention and to plead non-fulfilment of the contract.
- (3) The Seller shall have a right of setoff and retention only in relation to legally finally approved or uncontested counterclaims.

#### **XII. Compliance, human rights, job and environmental protection**

- (1) The Seller shall be obliged not to take any action, or to refrain from actions, which could lead to criminal liability on grounds of fraud or breach of trust, criminal insolvency offences, criminal anti-competitive offences, the grant of benefits to, or the corruption of persons employed by the Seller or other third parties. The Seller shall be obliged to adhere to all laws and rules relating to itself and to the business relationship with us (compliance).
- (2) The Seller undertakes to ensure that human rights and social standards according to (3) are upheld within its sphere, and to refrain from, and if possible prevent, actions that conflict with those goals. The Seller shall notify us immediately, and without any further request, of any breaches of the above rules, including by its own suppliers.
- (3) The Seller shall strive, within its sphere, to ensure adherence to humane working conditions, by appropriate limits to working hours, adhering to minimum wages and health protection, and to refrain from committing any breaches in this respect (social standards). The Seller shall in particular take action against child and compulsory labour.

- (4) The Seller shall undertake to adhere to the statutory provisions in relation to environmental protection and to take all action to protect the environment. The Seller undertakes to introduce an environmental management system, for example in accordance with DIN ISO 14000. Every delivery must take place in packaging that suits the product and has been agreed with us, in accordance with relevant environmental protection provisions. An environmentally-compatible packaging shape and returnable packaging (europallets) must be selected, with consideration to ecological aspects.

#### **XIII. Contract termination**

- (1) Each party may terminate a contract without notice on a serious ground. If an application to institute insolvency proceedings in relation to the assets of the other party has been filed, such proceedings have been instituted or refused due to a lack of assets, this shall constitute a serious ground.
- (2) In the event of a breach of compliance, in particular in the event of criminal acts involving the grant of benefits or corruption, we shall have a right to withdraw or terminate all legal acts existing with the Seller and to break off all negotiations, without notice. The same shall apply to breaches of human rights and against the aforementioned social standards and environmental obligations.

#### **XIV. Place of performance, choice of law and place of jurisdiction**

- (1) Unless agreed otherwise, the place of performance shall be D-32657 Lemgo (Federal Republic of Germany).
- (2) These General Terms of Purchase and Terms of Business and all legal relations between us and the Seller shall be governed by the law of the Federal Republic of Germany, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (3) If the customer is a trader for the purposes of the Handelsgesetzbuch [*Commercial Code*], a public sector legal entity or a public law special fund, the place of jurisdiction for all rights and obligations of the contracting parties arising out of transactions of all kinds shall be Lemgo (Federal Republic of Germany). However, we shall also be entitled to sue the customer at its general place of jurisdiction.

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