

1. General Principles

1.1 Supplier's terms diverging from or completing these General Terms and Conditions of Purchase shall not be binding for the Orderer, even if the Orderer does not contradict or if the Supplier announces that he intends to supply on his terms only.

1.2 Ordering and acceptance as well as alterations to these have to be in writing. Sending of ordinary e-mails or telefax notices shall be accepted as written form, however, a subsequent signature may be requested immediately. Additional oral agreements during conclusion of the contract shall only be effective after written confirmation through the Orderer. This shall also be true for contract alterations after conclusion of the contract.

1.3 If the Supplier does not accept the order within a period of fourteen (14) days, the Orderer shall be entitled to cancel.

1.4 The complete delegation or sub-contracting of ordered supplies and performances to third parties must be authorized by the Orderer in writing.

1.5 Expenses for the insurance of goods, especially shipping insurances, shall not be paid by the Orderer, who waives the covering of the indemnity insurance through the forwarding agent (sub-item 29.2.1 ADSp).

2. Delivery Date and Place of Performance

2.1 The date of delivery agreed upon shall be binding. Deliveries prior to delivery date shall only be permissible, if they are approved by the Orderer. The arrival of deliveries at the forwarding address named by the Orderer shall determine whether the deliveries without mounting or installation are according to schedule. In case of deliveries including mounting or installation, and of performances, their availability for acceptance inspection shall determine whether these deliveries are as scheduled.

2.2 If the Supplier is in default, the Orderer shall be entitled to demand a contractual penalty of 0,5% of the net order value per commenced week, however, not exceeding a maximum of 5% of the total order value. The Orderer has the right to demand the contractual penalty, if he reserves the right to it at the latest until the expiry of a month after the receipt of the last deliveries or performances, which have to be provided within the order.

2.3 Further contractual or statutory claims of the Orderer in the event of a default in delivery shall remain unaffected, in particular for damages. Within the scope of its obligation to pay damages, the Supplier shall also compensate the Orderer for contractual penalties and claims for damages asserted by the Orderer's customers on account of delays in delivery.

2.4 Place of performance for deliveries and performances by the Supplier shall be the forwarding address named in the order. If the forwarding address has not been named and the place of performance cannot be concluded from the nature of the obligation, the Orderer's address shall be place of performance.

3. Dispatch and Passing of Risk

3.1 If not agreed otherwise, the Supplier shall bear the costs of dispatch and packaging, customs, fees and other charges. In case of quotation of prices ex factory or warehouse of the Supplier, the cheapest possibility of dispatch shall be chosen, if the Orderer has not prescribed a specific kind of shipment. The Supplier shall also bear the additional costs arising from a dispatch or packaging instruction disregarded by him or for a speedy dispatch which might be necessary to meet the agreed delivery date. In case of quotation of prices free recipient, the Orderer shall be entitled to give instructions on the kind of transport, carrier and forwarding agent, even after conclusion of the contract. In such cases the Orderer has to refund additional costs for the Supplier, if the Supplier has informed him about the additional costs, stating the balance and the Orderer has nevertheless adhered to his instruction.

3.2 Each delivery has to include packing slips or delivery notes in two copies listing contents, order number and other order marks. The Supplier shall post dispatch notes with identical details to the Orderer, at the latest on dispatch of delivery. If the required dispatch notes are not posted in due

time or the details mentioned above are not included in the dispatch notes through the Supplier's fault, the delivered goods shall be stored at the Supplier's costs and risks until the arrival of the dispatch notes or the complete details.

3.3 In case of deliveries without mounting or installation, the passing of risk shall take place on arrival of deliveries at the forwarding address named by the Orderer. If deliveries include mounting or installation as well as performances, the passing of risk shall take place when acceptance inspections have to be carried out at the place of mounting or installation.

4. Duty of Information and Diligence

4.1 If the Orderer has informed the Supplier about the intended use of the deliveries or performances or if the Supplier is able to recognize the intended use without the Orderer's explicit information, the Supplier shall be obliged to inform the Orderer immediately, if his deliveries or performances are not suitable for the use intended by the Orderer.

4.2 Circumstances which might jeopardize the agreed date of delivery shall be immediately announced to the Orderer in writing in order to discuss further procedures.

4.3 The Supplier shall be obliged to inform the Orderer immediately and in writing about changes in the kind of composition of the used material or the constructive production of equivalent deliveries and performances delivered to the Orderer previously. These alterations require the Orderer's written approval.

4.4 The Supplier shall have to make sure that the deliveries and performances meet the provisions concerning the protection of the environment, accident prevention, employment protection and other protective measures and all other requirements of the law valid in the Federal Republic of Germany. With each delivery he shall also inform the Orderer about specific requirements concerning treatment and disposal that are not generally known .

4.5 The Supplier has to inform the Orderer within eight (8) days after receipt of order in writing,

- if the ordered product(s) of US-American origin need an export authorization according to the US-law
- if the products listed in the order are registered in the common list of products EU-Regulation no. 1334/2000, and/or if they are registered in the export list
- if the products need export authorizations according to the law of the respective country of origin.

In such cases the Orderer reserves the right to withdraw from the contract. This shall also apply if faulty particulars are transmitted. The Supplier shall undertake to obtain all possibly necessary export permits immediately and to present them to the Orderer. Any additional costs resulting from faulty particulars shall be passed on to the Supplier.

5. Invoices

5.1 Invoices have to be made out separately for each order/delivery including the order number and other order marks. They shall be posted to the Orderer's address, if no other address has been named in the order. Copies of invoices have to be marked as copies. Invoices shall identify turnover tax separately. Invoices which are not duly drawn shall be sent back to the invoicing office.

6. Payment

6.1 If not agreed otherwise, payments shall be effected within fourteen (14) days less 3% discount or within thirty (30) days net.

6.2 The time of payment shall commence upon receipt of the service, receipt of invoice after receipt of the service or a later point of time determined by the supplier. Discounts shall also be permitted, if the Orderer offsets or holds back payment due to defects.

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6.3 Effecting payments does not mean the acceptance of deliveries or performances as agreed upon.

7. Assignment and Pledging

Assignment or pledging of contractual claims shall only be effective after the Orderer's written approval. The Orderer shall not reject this approval without important reason.

8. Warranty

8.1 The Orderer shall be entitled to any claims resulting out of legal provisions on liability for defects in sales contracts, without any limitation. The Supplier shall guarantee that – if no other specific rules have been agreed upon – the deliveries and performances correspond to the accepted technical regulations and conform to the relevant provisions concerning the protection of the environment, accident prevention and other provisions on employment protection as well as the generally accepted regulations concerning protective safety measures and industrial medicine, which are valid in the Federal Republic of Germany or have already been adopted with a transitional period.

8.2 Prior to the start of production or the effecting of performances, the Supplier shall be obliged to inform the Orderer in writing about changes in the kind of composition of the used material or in the constructive production of equivalent deliveries and performances supplied to the Orderer previously. The alterations require the written approval of the Orderer.

8.3 The Orderer shall have the right to assert a complaint in respect of a faulty delivery, wrong delivery or wrong quantities within one month after passing of risk. However, the Orderer shall also be entitled to assert a complaint if circumstances which make a complaint necessary are revealed at a later time, when the deliveries or performances are processed or used. In such a case the Orderer shall have the right to assert his complaint within one month after disclosure. If sampling inspections on arrival of goods are agreed upon as quality inspections, the Orderer shall be entitled to reject the complete delivery or to inspect 100% of the delivery at the Supplier's costs, if the agreed critical quality value has been exceeded.

8.4 The limitations period shall be thirty (30) months as from passing of risk, if the law or the contract do not stipulate a longer period.

8.5 If a defect has become apparent within the warranty period, the warranty period shall not commence before the expiry of 4 months from the time when the defect first became apparent.

8.6 If the Orderer has handed over the goods to the Supplier for subsequent performance, the limitation period for claims based on the asserted defect shall not commence before the expiry of 2 months after the date on which the repaired or replaced goods were handed over to the Orderer.

8.7 In case of renewal of the limitations period, the Supplier shall give warranty for subsequent remedies, substitute deliveries or performances exactly as for the original deliveries and performances.

8.8 In case of defects of quality, the Orderer shall have the choice between the removal of defects or delivering of faultless goods as subsequent performance. The Supplier shall carry out the subsequent performance within a reasonable period of time from the time the Orderer has informed him of the defect. The Supplier shall bear all arising costs in connection with the discovery and remedy of defects, also including the Orderer's expenses. This shall also apply, if costs increase because the delivered item has to be taken to another place than the place of performance. If the subsequent performance fails, the Supplier shall be entitled to choose between demanding compensation instead of performance, to withdraw from the contract or to reduce the purchase price – irrespective of further claims. Subsequent performance is regarded as failure, if the Orderer has allowed the Supplier a reasonable time, but this time limit has not been observed. In urgent cases the Orderer himself shall have the right to replace faulty parts

and repair incurred damage at the Supplier's costs, or to have this done by a third party at the Supplier's costs.

8.9 For a withdrawal due to a defect, it is not necessary to set a deadline for subsequent performance, if the Supplier has not carried out the subsequent performance despite the expiry of a reasonable deadline from a point in time at which the Orderer informed him of the defect, if a defect becomes apparent despite the subsequent performance attempted by the Supplier, if a defect is so serious that the immediate withdrawal is justified, if the Supplier has refused the proper subsequent performance or if it is obvious from the circumstances that the Supplier will not properly subsequently perform. In all of the aforementioned cases, no deadline need be set for a claim for damages due to a defect.

8.10 Further reaching legal claims of the Orderer shall remain unaffected, in particular re. recourse in the suppliers chain.

9. Liability, Recall, Insurance

9.1 In the event that a claim is asserted against the Orderer by his customers or by third parties for damages, the Supplier shall indemnify the Orderer against any such claim – including legal fees -, insofar as the loss was caused by a defect in the product delivered by the Supplier and, in case of liability with fault, if the fault is attributable to the Supplier.

9.2 In accordance with clause 9.1 the Supplier shall be liable for necessary and reasonable costs and expenses incurred due to the product being unsafe, in particular for a recall action; a possible contributory negligence by the Orderer has to be taken into account. Where reasonable, the Orderer shall consult the Supplier as to the content and scope of any measures to be undertaken.

9.3 Where the Orderer or his customers are obliged by an authority to undertake any product monitoring the Supplier shall provide the Orderer with all information and assistance required without delay in order to avert any measures determined by the authorities. Any costs or expenses thereby occurred by the Supplier shall be borne by him.

9.4 The supplier shall take out product liability insurance and provide evidence of the same where the Orderer so requests.

10. Industrial Property Rights

The Supplier shall assume liability for the guarantee that deliveries and performances – also with regard to their use – do not violate industrial property rights of third parties.

11. Ownership of the Orderer

Models, samples, production units, tools, scales and measures, testing instruments, attached material, drawings, work standard sheets, printed samples and similar items committed to the Supplier by the Orderer shall remain in the Orderer's ownership. They shall be stored by the Supplier free of cost with the diligence of a prudent businessman, labelled as property of the Orderer and exclusively used by the Supplier to carry out deliveries and performances for the Orderer. They shall only be disclosed to third parties after written consent through the Orderer (confidentiality) and, if not agreed otherwise in individual cases, have to be returned to the Orderer on his demand at any time.

12. Spare Parts

12.1 The Supplier shall be obliged to deliver spare parts during the presumable technical use and at least continue the supply of spare parts at least for ten (10) years after deliveries at fair terms.

12.2 If the Supplier gives up the production of the spare parts, he shall be obliged to ensure that the Orderer may place a final order and/or hand over to him all equipment and documents that are necessary for the production and allow him their use free of costs.

13. References / Publications

The Supplier shall only be permitted to mention the Orderer's company or trade mark in references or publications after prior written approval through the Orderer.

14. Minimum Wage Law

The Supplier is obliged to comply with all the obligations resulting out of the minimum wage law (Mindestlohngesetz). Furthermore, the supplier is obliged to use only those sub-suppliers, which have committed themselves towards him to comply with all the obligations resulting out of the minimum wage law. The supplier is obliged to provide the Orderer, on his request, with proof about the compliance with the minimum wage law. The supplier is obliged to indemnify the orderer from any claims and cost resulting out of claims according to §13 Mindestlohngesetz due to the non-payment of minimum wage to own employees of the supplier or employees of sub-suppliers. In case of any violation of the obligations resulting out of the minimum wage law by the supplier, the orderer is in addition entitled to terminate the contract for cause and without notice.

15. Place of Jurisdiction and Applicable Law

15.1 If the Supplier is a merchant, Eltville on the Rhine shall be the place of jurisdiction - including transactions of cheques and bills of exchange. Eltville shall also be place of jurisdiction, if the Supplier has no general place of jurisdiction in the Federal Republic of Germany at the time when proceedings are being opened. However, the Orderer shall be entitled to appeal to any legally competent court.

15.2 The law of the Federal Republic of Germany shall be applicable.

15.3 If the place of business of the Supplier is located outside the Federal Republic of Germany, the United Nations Convention on Contracts for the International Sale of Goods (CISG) applies with the following special provisions:

- a) Amendment to the contract or cancellation of contract must be in the written form. This also applies to any agreements with respect to this written form requirement.
- b) In the event of culpable breach of contract, the Supplier is also liable for damages that were unforeseeable at the time of conclusion of the contract.
- c) In the event of delivery of goods that are in breach of contract, the Orderer can demand a replacement delivery from the Supplier, if the breach of contract represents a material breach of contract. A breach of contract is deemed to be material among other things when the goods are only manufactured or sold by the Supplier or if it is unreasonable for any other reason for the Orderer to purchase the goods from a third party.
- d) In the event of delivery of goods that are in breach of contract, the Orderer can declare cancellation of the contract, if the breach of contract represents a material breach. A breach of contract is deemed to be material among other things when it is not possible to estimate the damages at a later stage or at all, if immaterial damages have been incurred and the right to claim for damages is excluded on account of Article 78 V CISG, in the event of confidence in the reliability of the Supplier being badly damaged or when the lack of conformity of the goods reaches a level whereby the sale of goods in the normal course of business is no longer possible.

15.4 Should any provision of these terms be or become null, void or feasible, the validity of the other provisions of these terms shall remain effective. In such a case the contracting parties shall immediately try to achieve the desired economic success by different legal and feasible measures.

15.5 German or English are agreed as the contract languages. These General Terms and Conditions of Purchase shall be construed in accordance with the laws of Germany. If the legal meaning of a translation deviates from the German legal meaning, then the German meaning shall prevail.

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