

**General Conditions of Purchase**

version 09.09.2020

**§ 1 General Provisions**

- § 1.1 All deliveries or services of the contracting party (hereinafter referred to as "Supplier") based on orders placed by us, WADRA GmbH, Dortmund (hereinafter referred to as "Customer"), as well as offers made to us shall be exclusively based on these Terms and Conditions of Purchase (hereinafter referred to as "Terms and Conditions").
- § 1.2 Our Terms and Conditions shall apply exclusively. Any terms and conditions of business contrary to or deviating from these Terms and Conditions as well as other legal regulations in other documents (e.g. specifications, technical documentation, order confirmation or delivery notes) of the Supplier shall only apply if they have been expressly acknowledged by us in writing prior to conclusion of the contract in each individual case. This also applies to regulations which do not conflict with our Terms and Conditions, but are only contained in the Supplier's terms and conditions. An acknowledgement of the supplier's general terms and conditions of business through conclusive conduct is excluded, even in case the Customer is aware of the existence of conflicting general terms and conditions of business.
- § 1.3 These Terms and Conditions shall only apply to merchants, legal entities under public law and special funds under public law.
- § 1.4 These Terms and Conditions shall also apply to any future permanent contractual relationships.

**§ 2 Offers and Orders, Content of Contract**

- § 2.1 Orders and contracts of the Customer are binding if they are made in writing or have been confirmed in writing. Offers of the Supplier shall be binding for him for a period of 30 days, unless another period of validity has been expressly stated in the offer. The offers shall be made by the Supplier without any obligation of the Customer and free of charge.
- § 2.2 The content of the purchase contract shall be determined by the content of the purchase order. The Supplier is obliged to make explicit and clearly visible reference to changes, additions or deviating contractual conditions in his order confirmation. Such changes shall only become effective contractually if they have been expressly accepted by the Customer in writing.
- § 2.3 Insofar as a delivery specification of the Customer is available, such delivery specification shall form an integral part of the contract.
- § 2.4 The written form requirement shall be deemed to have been complied with if the transmissions are made by fax or e-mail or in any other text form. A signature by us is not required.

**§ 3 Delivery and Dispatch**

- § 3.1 The Supplier must comply with the shipping instructions of the Customer and the forwarder or carrier. He must ensure that the objects are not damaged or lost during transport.
- § 3.2 All shipping documents, correspondence and invoices must state the order and article numbers of the Customer.
- § 3.3 Delivery shall be made in accordance with the order on the agreed date to the delivery address specified in the order. The delivery dates stated in orders are understood as "receipt at the place of performance".

**§ 4 Default and Liquidated Damages**

- § 4.1 If it becomes apparent that the delivery date specified in the order will be exceeded, the Customer shall be informed immediately and in writing by the Supplier of the reason and the expected duration of delay. In the event of a breach of this obligation to inform, Customer reserves the right to hold Supplier liable for all resulting costs.
- § 4.2 In the event of delay in delivery and performance by the Supplier, Customer shall be entitled to demand liquidated damages for delay in the amount of 5% of the delivery value per completed week of delay, but not more than 15% of

the agreed price in aggregate. The Supplier shall be entitled to prove that no damage or considerably less damage has been caused by Supplier's delay. The Supplier remains obliged to fulfill the purchase contract. Further legal claims are reserved.

## **§ 5 Quality and Acceptance**

- § 5.1 The Supplier shall provide its deliveries and services in accordance with the contractual agreements, free of defects, in customary quality, brand-new and packed in accordance with the respective product. The Supplier undertakes to prove his contractual compliance by means of appropriate testing and documenting in writing.
- § 5.2 The Supplier shall constantly inspect the quality of its deliveries, in particular before delivery to Customer. Such inspection must be carried out with regard to compliance with relevant standards and regulations and the current state of science and technology. The Supplier shall document the results of these inspections and make them available to the Customer upon request. The Supplier undertakes to keep the documentation of the quality inspections for a period of 10 years.
- § 5.3 The Supplier shall mark his deliveries in such a way that they can be allocated to a certain production batch, thus enabling the Customer, in the event of detected defects, to remove all such delivery items from a certain production batch from Customer's production process until they have been inspected. In particular, the regulations agreed in the quality assurance agreement on the traceability of materials must be observed.
- § 5.4 With regard to § 377 of the German Commercial Code (HGB), the Customer without undue delay shall inspect the goods for externally visible damage or defects as well as for the identity and quantity of the goods only. During the warranty period, the Supplier waives the right to object to delayed notification with regard to all other defects.
- § 5.5 The acceptance of deliveries or services, the use of deliveries or services - even if only temporary - and the making of payments shall not be considered as acceptance of these deliveries or services and shall not constitute a waiver of any rights to which we are entitled.
- § 5.6 The dimensions, weights and quantities of a delivery shall be based on the values determined during the incoming goods inspection.

## **§ 6 Employee Qualification, Subcontractors**

- § 6.1 The Supplier shall perform its services with the due care of a prudent businessman.
- § 6.2 Subcontracting requires our prior written consent.
- § 6.3 The Supplier shall ensure that only trained and sufficiently qualified specialist personnel are used to perform all services. All of the Supplier's employees shall have sufficient professional experience and shall provide evidence of their expertise upon request. The Supplier shall ensure that its employees have the necessary qualifications and required skills of plant in order to perform their tasks.

## **§ 7 Defects and Liability for Defects**

- § 7.1 Unless agreed otherwise in a contractual agreement or in these Terms and Conditions of Purchase, the Supplier shall be obliged to compensate us for any damage, including consequential damage, which we incur directly or indirectly as a result of a defective delivery or for other reasons attributable to the Supplier. In all other respects, we are entitled to all legal rights without restriction. The Supplier shall indemnify Customer on first request against all third party claims which may be raised because of defects in his delivery in proportion to his share of responsibility for such defects.
- § 7.2 A delivery or service of the Supplier is defective in the sense of §§ 434, 435 German Civil Code (BGB) if it has a material defect or defect of title. In addition, a delivery or service shall be deemed to be defective if it does not correspond to the current state of science and technology or if it does not comply with the relevant environmental regulations, the DIN regulations valid on the day of delivery or the statutory regulations. Furthermore, defectiveness shall be assumed if the Supplier provides a delivery or service other than ordered or one which is reduced in quantity or one that does not meet our quality requirements.

- § 7.3 In the event of defects in the delivery, the Supplier shall, at our discretion and without prejudice to our other legal remedies, either repair the defect immediately and free of charge or supply parts free of defects, in each case including the necessary costs and expenses. Furthermore, the Supplier shall take reasonable measures to eliminate the cause of the defect in order to prevent a recurrence of the defect.
- § 7.4 Customer shall be entitled to remedy the defect itself at Supplier's expense if Supplier is in default with subsequent remedial performance.
- § 7.5 If, according to the statistical test procedure specified in the order, it is determined that the maximum permissible number of defects has been exceeded, Customer shall be entitled to assert claims for defects in respect of the entire delivery or, after prior consultation with Supplier, to inspect the entire delivery at Supplier's expense.
- § 7.6 The Supplier shall be liable for replacement deliveries and repair work to the same extent as for the original delivery item, i.e. also including transport, travel and labor costs, without limitation thereto. The warranty period for replacement deliveries begins at the earliest on the day of the arrival of the replacement delivery.
- § 7.7 The warranty period is 36 months from delivery at the place of performance, unless otherwise provided by law, in particular §§ 445b, 478 para. 2 BGB. If the statutory warranty period is longer, the latter shall apply.

#### **§ 8 Product Liability, Indemnity and Liability Insurance**

- § 8.1 Insofar as the Supplier has caused a product damage, he is obliged to indemnify us on first demand against third party claims for damages insofar as the cause is attributable to his area of control and organization and he is liable directly in relation to third parties.
- § 8.2 Within the scope of his liability for damages in the sense of 8.1 above, the Supplier shall also be obliged to reimburse any expenses arising from or in connection with recall measures carried out by the Customer. Customer shall inform the Supplier - as far as possible and reasonable - about the content and scope of the recall measures to be carried out and give him the opportunity to comment. Customer's legal claims in the context of a recall measure shall remain unaffected.
- § 8.3 The Supplier undertakes to maintain sufficient product liability insurance covering recall measures costs. Upon request, the Supplier shall evidence that this insurance has been taken out by submitting a corresponding insurance confirmation.
- § 8.4 In all other respects the statutory provisions shall apply.

#### **§ 9 Costs, Prices and Terms of Payment**

- § 9.1 The Supplier shall bear the costs of transport, including packaging, insurance and all other ancillary costs, unless expressly agreed otherwise in writing.
- § 9.2 Agreed prices are maximum prices; price reductions in the period between the order and payment of the invoice will be to the Customer's benefit.
- § 9.3 Invoices shall be issued immediately after dispatch of the goods, stating the order and item number. Value added tax must be shown separately.
- § 9.4 Payment shall be made subject to proper delivery as well as correctness of price and calculation. The determination of a defect subject to warranty entitles the customer to withhold payment until the warranty obligation has been fulfilled.

#### **§ 10 Set-off and Assignment**

- § 10.1 The Supplier is only entitled to set-off against undisputed or legally established claims and claims arising out of the same contractual relationship.
- § 10.2 The assignment of claims against the Customer shall only be effective with the Customer's written consent.

**§ 11 Ownership of Information, Objects and Data**

Drawings, drafts, samples, manufacturing instructions, internal company data, tools, equipment, etc., which the Customer has provided to the Supplier for the purpose of submitting an offer or executing an order, remain our property. They may not be used for other purposes, duplicated or made available to third parties and must be stored with the care of a prudent businessman. In the event of mixing, processing or otherwise combining, the Customer shall acquire co-ownership of the newly produced item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.

**§ 12 Retention of Title**

§ 12.1 The Supplier's goods are acquired without any reservation of title.

§ 12.2 The granting of an extended or prolonged reservation of title in favour of the Supplier is excluded.

**§ 13 Third Party Intellectual Property Rights**

The Supplier assures that rights of third parties do not conflict with the intended use of the purchased goods, in particular that intellectual property rights of third parties are not infringed. If a claim is nevertheless made against Customer due to a possible infringement of third-party rights, e.g. copyrights, patent rights and other industrial property rights, Supplier shall indemnify and hold Customer harmless against such claims and against any performance in connection therewith.

**§ 14 Data Protection**

The Supplier declares his revocable consent to the processing of personal data provided in the course of the business transaction in compliance with the statutory provisions.

**§ 15 Place of Jurisdiction and Place of Performance**

§ 15.1 Unless otherwise stated in the order, the place of performance and payment for all deliveries and services to be provided by the Supplier is the Customer's statutory place of business. The risk shall pass to Customer at the earliest upon acceptance of the goods or acceptance of the delivery and/or service.

§ 15.2 The courts of Dortmund, Germany shall have exclusive jurisdiction for all legal disputes.

**§ 16 Severability Clause**

Should one or more provisions of these Terms and Conditions and of the further agreements made be or become ineffective, this shall not affect the validity of the contract and these Terms and Conditions. The contracting parties undertake to replace the invalid provision by a provision which in economic terms comes closest to the invalid provision.

**§ 17 Applicable Law**

The laws of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods.

**§ 18 Miscellaneous**

These Terms and Conditions are a translation of the German General Terms and Conditions (Allgemeine Einkaufsbedingungen Version 09.09.2020). In case of any inconsistencies between the two language versions, the German language version shall prevail.