

## § 1 Applicability of these International Terms and Conditions of Purchasing

- (1) The terms and conditions set out in these International Terms and Conditions of Purchasing, which form an integral part of the sales contract ("Contract"), shall apply if (i) the Seller's relevant place of business is not in Germany, and (ii) if the prevailing object of the Contract is the supply of goods.
- (2) These International Terms and Conditions of Purchasing apply exclusively to the Contract. We are not bound by the Seller's terms of business irrespective of whether they conflict with our International Terms and Conditions of Purchasing or whether they deviate from statutory provisions.

## § 2 Formation of the Contract

A Contract always requires a written order ("Order") and a written acceptance of the Order. However, the Seller may also accept our binding Order by delivering the goods within the time limits stated in the Order or – if no such time limit is stated therein – within fourteen (14) calendar days as of the date of the Order. If the Seller issues an order confirmation which deviates from our Order, then the conclusion of the Contract requires our written order confirmation.

## § 3 Applicable Law

The Contract and these International Terms and Conditions of Purchasing are governed by the United Nations Conventions of 11 April 1980 on Contracts for the International Sale of Goods (UN Sales Convention / CISG) in the English version and all legal questions beyond the scope of the CISG are governed by the Swiss law of obligations (Obligationenrecht). The CISG also applies to all agreements as to arbitral tribunals.

## § 4 Obligation to deliver, Passing of risk and title

- (1) The Seller has to deliver the goods stated in the Contract including a packaging that is suitable for the means of transportation. The Seller is obliged to take back the packaging. If requested by the Seller in writing, we will send the packaging back to the Seller on Seller's costs and risk or have the packaging disposed of at Seller's costs.
- (2) If no other Incoterms®-clause is agreed upon, delivery has to be made DAP Incoterms® 2020 at place of delivery indicated in the Order or – if no place of delivery is indicated therein - DAP Incoterms® 2020 at our premises in 33758 Schloß Holte-Stukenbrock/Germany. Furthermore, the Seller has to fulfil all the duties imposed on him by the Contract, these International Terms and Conditions of Purchasing, the rules of the ICC for the use of the agreed Incoterms®-clause as well as other statutory provisions.
- (3) The delivery date respectively the delivery period stated in the Order must be strictly complied with. Non-compliance with the agreed delivery periods or delivery dates constitutes a fundamental breach of contract. The Seller is hereby made aware of the fact that any non-adherence to agreed delivery dates and/or delivery periods can cause a stop of production at our facilities as well as expose us to severe damages and/or contractual penalties of our customers.
- (4) The Seller is obliged to give us a written notice of an imminent violation of the agreed delivery date or delivery period as soon as such a delay is identifiable for the Seller. Such written notice does not deprive us of the rights resulting from any late delivery.
- (5) To the extent we have to give specifications or have to comply with further obligations of cooperation, the Seller has to inform us thereof in writing and has to take into account reasonable response times from our side for the determination of the delivery period or delivery date.
- (6) Without prejudice to other obligations to inform, the Seller has to inform us in writing with a reasonable lead time of the forthcoming delivery.
- (7) The Seller is not entitled to make partial deliveries.
- (8) The passing of risk takes place with delivery in accordance with § 4 sec. 2 of these International Terms and Conditions of Purchasing. If by no fault of our own we are prevented from taking delivery of the goods, the temporary inability to take delivery shall not be considered as a breach of contract and we are not in default of acceptance. However, if installation and/or instruction have been agreed in the Contract, deviating from § 4 sec. para. 8 sentence 1 of these International Terms and Conditions of Purchasing the passing of risk takes place only as soon as these additional services have been performed by the Seller in full. Insofar as an acceptance in the sense of an inspection and confirmation of conformity with the contract by us has been agreed, this shall be decisive for the passing of risk, in deviation from § 4 para. 8 sentence 1 and sentence 2 of these International Terms and Conditions of Purchasing.
- (9) If the Seller fails to meet the agreed delivery date or delivery period, we are entitled to demand liquidated damages for our damage caused by the delay in the amount of 0.2% per calendar day of delay, up to a maximum of 5% of the net order value. Further legal claims remain unaffected and thus we reserve the right to prove that higher damages have been incurred. These liquidated damages will be offset against the damages caused by the delay to be compensated by the Seller. The Seller reserves the right to prove that no damage or only less damage has occurred.
- (10) Title to the goods and to the documents is transferred to us at the time of delivery.

## § 5 Examination of the goods by the Seller

The Seller has to examine the goods prior to their handing-over to the same extent as we are obliged to examine them after taking delivery. The Seller is obliged to record the result of this examination in writing and provide us with such examination documents upon request.

## § 6 Specifications of the goods

- (1) The goods to be delivered have to conform to the agreed specifications and quality requirements. To the extent no specifications or quality requirements are agreed upon, the goods have to conform to the latest state of the art in science and technology as well as conform to any information contained in data sheets, product descriptions etc. Moreover, the goods only conform with the Contract if they are fit without restrictions for the purpose made known to the Seller or for the purpose for which goods of the same description are usually used for. The Seller is fully aware of the kind and method in which the goods are used.
- (2) All product descriptions of the goods which the Seller has prepared or to which he refers to, as well as product descriptions in our Order, constitute agreed specifications.
- (3) The goods must comply with the applicable rules for product safety as well as applicable DIN and EU standards and must be manufactured in accordance with them.
- (4) Without prejudice to § 6 sec. 6 of these International Terms and Conditions of Purchasing, the Seller warrants that the goods comply with all requirements that have to be respected when importing the goods and making them available on the market in Europe.
- (5) If the Order includes details of amounts, size and weight and/or the Order is accompanied by pictures, these are binding, unless they are expressly marked as approximate descriptions.
- (6) The Seller is fully aware of the fact that the goods – if applicable in a processed form – will potentially be used throughout the whole world. Therefore, without prejudice to our statutory rights, the Seller warrants that the goods are free from rights and claims of third parties, which could prevent the usability of the goods anywhere in the world. This applies in particular for those rights or claims based on title or industrial property.

## § 7 Delivery Note, Invoice and other documents

- (1) Irrespective of the Incoterms®-clause agreed, the Seller is under a duty to hand over at the agreed delivery date or within the agreed delivery period all documents necessary for the free export, transit or import of the goods into and within the European Union. Moreover, if the Seller has its place of business within the European Union he has to provide us with a supplier's declaration.
- (2) The Seller is obliged to clearly state the applicable customs tariff number on the delivery note which has to be enclosed to every delivery.
- (3) At our request, the Seller is obliged to provide to us in writing and free of charge requested certificates of origin and preference information.
- (4) The Seller must clearly state his tax number on his invoices and moreover issue the invoices in accordance with all legal requirements applicable in Germany.
- (5) The Seller is only entitled to exercise a lien or to suspend his performance if this is based on a due and undisputed or finally adjudicated counterclaim of the Seller.

## § 8 Obligation to pay the purchase price

- (1) We are obliged to pay the agreed purchase price to the bank account nominated by the Seller. The place of payment is 33758 Schloß Holte-Stukenbrock Germany. Banking fees accrued outside of Germany will be borne by the Seller. Unless otherwise agreed in writing, we will pay the purchase price within fourteen (14) calendar days with a 3% discount or within 30 (thirty) calendar days net, in each case calculated from the date of complete delivery and performance (including any agreed declaration of acceptance of the goods) and receipt of a correct invoice.
- (2) The agreed purchase price is a fixed price. An increase in the purchase price, for whichever reason, is excluded.
- (3) Payment of the purchase price does not imply a confirmation that the goods comply with the legal and/or contractual requirements and is made with reservation.
- (4) Our statutory rights to exercise a set-off against the purchase price and/or to suspend the performance of our obligations and/or to raise defences or counterclaims are not restricted by the provisions laid down in these International Terms and Conditions of Purchasing and we are entitled to these rights irrespective of any further statutory remedies. Our right to suspend the performance of our obligations shall specifically include our general right to withhold the payment of the purchase price to the extent of the non-conformity of the goods pursuant to § 6 of these International Terms and Conditions of Purchasing and the expected detriment. If the extent of the non-conformity cannot be easily ascertained, we have the right to withhold the whole remaining amount of the purchase price not yet paid for a reasonable time that is necessary to inspect the goods and to estimate the extent of the expected detriment.

## § 9 Non-Conforming goods; freedom of rights and claims of third parties

- (1) Without prejudice to statutory provisions, the goods do not conform to the Contract if they do not conform to the requirements set out in § 6 sec. 1 to sec. 5 of these International Terms and Conditions of Purchasing. Furthermore, it does constitute a non-conformity if third parties have claims based on product liability law.
- (2) Without prejudice to statutory provisions, the goods are not free from rights or claims of third parties if the requirements set out in § 6 sec. 6 of these International Terms and Conditions of Purchasing are not complied with.

## § 10 Duty of examination and notification

- (1) We are only obliged to examine the goods in respect of typical deviations of a factual kind in type, quantity, quality and packaging. We are not obliged to conduct an examination that