

WICOPLAST Warenhandels-gesellschaft mbH

General Conditions of Purchase

I. Validity

All orders of goods or services take place exclusively on the basis of these general conditions of purchase (hereinafter "Purchase Conditions"). They apply for entrepreneurs, legal persons constituted under public law and public separate estates. Our conditions of purchase also become contract content in the case of subsequent – particularly telephone – orders, without the necessity of an explicit additional reference to them. The execution of our order by the seller is deemed to be acceptance of these our conditions of purchase by the seller. The acceptance of the products or services by us while aware of conflicting terms of the seller does not mean acceptance of the conflicting terms. Differing terms of the seller, which have not been explicitly accepted by us in writing, are not binding on us, even if we have not explicitly contested them.

II. Order

1. Orders, as well as any changes and/or supplements to these orders, are only binding, when they have been given or confirmed in writing by us. We will only abide to our orders for ten working days from the date of our written order to the seller. Order confirmations of the seller which we receive after this period has expired, are treated as new offers, which require our written acceptance. Should the content of the order confirmation differ from the contents of our order, the seller is obliged to point out such difference explicitly and separately. In this case the contract is only validly concluded upon our written acceptance.

2. The contract becomes effective at the time of our receipt of the timely, written and coextensive order confirmation of the seller to us, our written acceptance of a late or amended order confirmation of the seller or on acceptance of delivery of the goods or services by us.

III. Documents

Documents, like, for example, illustrations, drawings and calculations which we have provided to the seller in order to process the order (hereinafter "Documents"), remain our property. The seller may not allow third parties to have sight of the Documents or to provide third parties with the Documents without our explicit written consent. All particulars which are connected to our contract and which arise in the course of business, may only be used for deliveries to third parties with our prior written consent. Such information must also be treated absolutely confidential during and after the completion of our order.

Tools we make available to the seller in order to execute our order remain our sole property; the seller undertakes to use these tools exclusively for the production of goods ordered by us. The seller undertakes to insure tools owned by us at his own cost in the amount of their reinstatement value against fire loss, as well as water and theft damages. The seller already assigns all claims of indemnity to us which arise under the insurance policies; we thereby accept the assignment. Also, the seller undertakes to conduct the maintenance and overhauling with respect to these tools as customary and at regular intervals at his own cost. We shall be informed immediately on any event of fault; in case of culpable failure claims of indemnity remain unaffected.

IV. Delivery

1. Agreed dates and deadlines are binding; delivery deadlines stated run from the date of order. Decisive for the compliance with delivery deadlines is the arrival of the goods at the place of receipt as stated by us. If the seller does not fulfil the contract within the agreed time he is liable, according to the statutory provisions, as far as nothing else is hereinafter provided.

2. Expected delivery delays or a possible failure of the delivery in whole or in part must be reported to us immediately with reasons and the estimated duration of the delay.

3. If we accept a delayed delivery we are nevertheless entitled to assert the previously mentioned rights even if we have not explicitly reserved these rights at the time of delivery.

4. Over-deliveries entitle us to accept the over-delivered goods at value of invoice, to reject the acceptance and to store the over-deliveries at the sellers expense until they have been collected by the seller or to return the over-delivered goods to the seller at his expense.

V. Force Majeure

In case of force majeure, such as fire, flood, war, government measures through no fault of one's own, unforeseeable and inevitable obstruction or breakdown of transport or production, industrial actions, hindrances caused

by foreign exchange regulations or other delivery problems beyond our control, we are released from acceptance obligation for the duration of the hindrance as long as the hindrance has a considerable influence on the receipt of the goods or services. Provided the force majeure is temporary we are entitled to request completion to a later deadline. If force majeure lasts for more than four months we are entitled to withdraw, wholly or partly, from the contract, damage claims of the seller do not exist. The claim of force majeure must be made within a week after the event has become known to us.

VI. Transfer of Risk

The risk of the transport of the goods is transferred to us only at the stipulated place of delivery. With *fob (free on board)* or *fas (free alongside ship)* transactions the seller must deliver the goods pass the ship's rail or alongside the ship at the named port of shipment at his expense and risk.

VII. Dispatch and Marking Regulations

1. The seller must observe our dispatch and marking regulations which are placed at his disposal separately. In case of non-observance all costs resulting therefrom are payable by the seller.

2. As long as it does not involve goods which are traded by us under their brand name and which are recognisable as such, the goods, their presentation and packaging must be strictly neutral, without firm or insignia. In addition nothing may be packed in the piece (*Kolli*) which betrays the origin of the goods. Any samples, catalogues or printed matter requested by us must always be sent separately from the goods.

VIII. Defects in title and Intellectual Property Rights

1. The seller guarantees us that the goods to be delivered and their use is not protected by any kind of right of third parties, e.g. trademarks in the Republic of Germany resp. in the export areas indicated by us to the seller in advance.

2. The seller is obliged to indemnify us against any such claims of third parties and to reject all legal actions resulting therefrom and to meet all directly or indirectly associated costs on our first written demand. We are not permitted - without the consent of the seller - to into any agreements with the third party, in particular into settlement agreements.

3. The seller will use best efforts to obtain the relevant license form the infringed holder of rights regarding the use of the goods by us, for transfer to us without charge.

4. The seller must indemnify us from all damages arising from the infringement of existing rights of third parties, except the infringement is based on our explicit instructions.

IX. Dangerous goods

The packaging and labelling of dangerous goods must comply with the currently valid statutory regulations, particularly with the directive regarding the transport of dangerous goods with ocean vessels (*Verordnung über die Beförderung gefährlicher Güter mit Seeschiffen (GGVSee)*), the directive regarding the national and cross border transport of dangerous goods by road, with railway wagons and on inland waters (*Verordnung über die innerstaatliche und grenzüberschreitende Beförderung gefährlicher Güter auf der Straße, mit Eisenbahnwagen und auf Binnengewässern (GGVSEB)*), the regulation regarding the international rail transport of dangerous goods (*Ordnung für die internationale Eisenbahnbeförderung gefährlicher Güter (RID)*), the convention regarding the international rail transport dated 09 May 1980 (*Übereinkommen über den internationalen Eisenbahnverkehr (COTIF)*) and the European convention dated 30 September 1957 regarding the international transport of dangerous goods (*Europäisches Abkommen über die internationale Beförderung gefährlicher Güter auf der Straße (ADR)*). The goods must be explicitly labelled as being dangerous respectively inflammable or explosive in the order confirmation and the invoice.

X.) Patterns

If the delivery of patterns was requested in our order these must be sent to us together with the invoice at the latest. We are not obliged to check them.

XI. Warranty

1. Unless otherwise provided for hereinafter, the statutory provisions on warranty shall apply. We are obliged to examine the goods delivered to us by the seller for discrepancies in quality and/or quantity within a reasonable period of time and to submit notice of faults promptly. The notice is considered to be valid if it is submitted within 5 working days. The time limit

shall commence from the moment the goods or services have been delivered at the place stipulated by us in case of apparent discrepancies in quality and/or quantity; in case of hidden discrepancies from the time of their discovery.

2. If defective goods are delivered we can choose to give the seller the opportunity to remedy the fault or to deliver a fault-free item (subsequent performance). If the seller is unable to conduct the subsequent performance, refuses it or it is unsuccessful, we are entitled to withdraw from the contract insofar and return the goods to the seller at the expense and risk of the seller and obtain our supplies elsewhere. Claims for reduction of purchase price, damage compensation or reimbursement of unavailing disbursements remain unaffected from this.

3. If the remedy or replacement has again been performed unsatisfactorily, we are entitled to withdraw from the contract after setting a time limit, also as far as the unfulfilled part of the supply is concerned. In cases of particular urgency or emergency we are entitled to remedy the fault ourselves or through third parties at the cost of the seller.

4. The warranty period comes to an end after 36 months following delivery of the ordered goods to the place of receipt named by us. In case of remedy or replacement by the seller to which is obliged by law or under a contract, the warranty period commences anew for the renewed/subsequently delivered parts of the goods. In order to maintain our claims of warranty it is sufficient that we have notified the seller of the fault within the warranty period.

5. The limitations of the claims of warranty is suspended from the time of notice of faults and does not continue until the warranty has been explicitly rejected by the seller respectively after the breakdown of negotiations hereon.

XII. Liability

1. As far as the seller is responsible for product damages, he is obliged to indemnify us against claims for damage compensation by third parties insofar on our first written demand as the cause is within his area of control and organisation and he is liable himself in relations to the outside world.

2. Within the scope of his liability pursuant to clause XII.1. the seller is also obliged to reimburse expenditures which result from or in connection with a recall conducted by us. We will inform the seller - to the extent possible and reasonable - about the content and form of the recall measures to be conducted and will give him the opportunity to make a statement. Other statutory claims remain disregarded.

3. The seller undertakes to maintain product liability insurance with a limit of liability in the amount customary for this type of business per bodily harm/damage to property - lump sum - until expiry of the relevant warranty period which is to be evidenced to us upon request. Should we be entitled to further damage claims, these remain unaffected.

4. Save as otherwise provided for herein, the seller is obliged to compensate any damages directly or indirectly incurred by us, as a result of faulty delivery, infringement of official safety regulations or any other reason which can be imputed to the seller. The seller is liable only for damage compensation if he is culpable for the damage caused by him.

5. The seller is liable, in the event of culpable non performance of incorrect performance of these Purchase Conditions, for any damage resulting therefrom including respective customs penalties.

6. If we are charged pursuant to a no fault liability by a third party with a claim based on mandatory foreign law, the seller shall indemnify us and hold harmless against any such charge as far as the seller himself would be liable towards the third party. With regard to the internal settlement between us and the seller the principles of sec. 254 of the German Civil Code (BGB) (Co-Liability) shall apply. These shall also apply if the seller is directly charged with a claim. The seller shall not be liable, as far as we have validly restricted our liability towards our customers.

7. The seller is liable for our measures to prevent or minimise damages as far as these measures are caused by faults of the delivered goods. Sec. 254 of the German Civil Code (BGB) shall apply accordingly. We are authorised to settle claims with damaged third parties; the liability of the seller to compensate for such claims shall not be affected as far as such settlement is commercially reasonable.

XIII. Prices

The agreed prices are fixed prices, they include the statutory value added tax. Unless otherwise agreed prices include free delivery to the place of receipt as stated by us as well as usual packaging. In any case the seller bears the dispatch costs.

XIV. Payment

1. Invoices of the seller – including those for a partial delivery – are to be made out at the latest 3 months after the date of delivery and must be presented exactly according to our provisions in the order.

2. Unless a different agreement has been reached, net payment shall be effected within 30 days. The period allowed for payment shall commence after due receipt of goods or services including due delivery notes and invoice.

3. Payments are made in principle to the seller. The seller shall not be authorised to assign or allow a third party to collect any debts on his behalf without our prior written consent.

4. In case of faulty delivery of goods we are entitled to withhold a proportional part of the payment until the seller duly fulfils his obligations under the contract. The time of payment – also full payment – shall not affect our right to raise objections against defective goods or the seller's warranties. We are entitled to setoff and rights of retention to the full extent of the statutory provisions.

5. Payment does not represent acknowledgement of the seller's conditions or prices. Price increases require our explicit acknowledgement before they come into force.

6. If the seller suspends his deliveries or if an application for insolvency, judicial or extrajudicial composition proceedings with respect to the property of the seller is filed, we are entitled to withdraw from the non-fulfilled part of the contract.

XV. Transfer of Ownership, Insurance

1. With payment, the goods purchased from the seller are considered to having been transferred to us and must be separated by the seller from the his remaining stock and labelled and stored as our property.

2. An extended or expanded reservation of title, in particular any reservation of title in the supplied goods until full and complete payment of all claims arising out of the business relations, shall be excluded. In particular there shall be no processing of the delivered goods for the seller pursuant to sec. 950 German Civil Code (BGB).

3. The seller insures the goods until they have left his works premises against the risk of fire and theft danger, even if the goods have already become our property. If this is the case we bear the costs of the before named insurance.

XVI. Written Form

1. All agreements must be made in writing. Alterations of or supplements to these conditions of sale, including this written form clause, must be made in writing in order to take effect. The same applies to additional agreements and side letters.

2. Verbal agreements or warranties provided by our employees will not bind us unless they were confirmed by our managing directors or holders of general proxies (*Generalbevollmächtigte*) in writing.

XVII. Place of Performance, Place of Jurisdiction, Applicable Law

1. Place of performance is our place of business unless stipulated otherwise in this agreement.

2. Place of jurisdiction is Hamburg for entrepreneurs, legal persons constituted under public law and public separate estates; we are permitted to bring claims before the courts at the seat of the seller.

3. Applicable are exclusively the laws of the Federal Republic of Germany under exclusion of UN convention on the contracts for the international sale of goods (*CISG*). Any other existing or future bilateral or international treaties, even if implemented into German law, are not applicable.

XVIII. Severability Clause

1. If a clause in this contract is or becomes invalid the invalidity of that clause shall not affect the validity of the remaining contractual clauses.

2. The invalid clause shall be replaced by a legally valid clause which, in economic terms, comes as close as legally possible to the originally intended but invalid clause. The same applies for issues the contracting parties failed to address but would have addressed if they had been aware of them.

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