

GENERAL TERMS AND CONDITIONS OF PURCHASING

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GENERAL TERMS AND CONDITIONS OF PURCHASING OF THE ROSE DRUCK GMBH

§ 1 General – scope of application

1. The general terms and conditions of purchasing shall be applicable to all deliveries by a contractor („Supplier“) to us. This shall in particular apply to contracts for purchase, works and service or for work and materials.

2. Our terms and conditions of purchasing shall apply exclusively; Supplier's contradicting terms and conditions of purchasing or ones deviating from ours shall only be acknowledged if we have expressly approved their validity. Our terms and conditions of purchasing shall apply even if we accept without reservation despite knowledge of Supplier's contradicting terms and conditions of purchasing or ones deviating from ours.

3. The general terms and conditions of purchasing completely reflect the agreements made between ourselves and Supplier at the time of conclusion of the contract. The parties have made no oral sideagreements.

4. Our general terms and conditions of purchasing shall also apply to all future business with Supplier.

§ 2 Ordering - quotation documents

1. Our order shall be freely revocable before receipt of Supplier's declaration of acceptance by us.

2. Supplier can only accept our order within a period of 2 weeks by returning the signed duplicate of the order in question.

3. We reserve rights of retention and copyrights to illustrations, drawings, calculations and other documents produced for the purpose of drawing up or obtaining quotations or the performance of a contract. Supplier may not make the documents accessible to third parties without our express, written approval. They shall exclusively be used for the manufacture of the products on the basis of our order. After handling of the order, said documents shall be returned to us without specific request. A duty to confidentiality towards third parties shall exist.

§ 3 Prices - payment terms

1. The price stated in our order shall be binding. In the absence of a written agreement to the contrary, the price shall include „delivery free domicile“ inclusive of packaging. Upon our request, Supplier shall take packaging back according to the Packaging Ordinance, or, in the event of us being final consumers in the sense of the Packaging Ordinance, shall conclude a licence agreement with a provider of a dual system, with the result that we can dispose of packaging without incurring additional costs.

2. All prices shall be understood exclusive of the statutory value added tax valid at the time.

3. Supplier shall be obliged to state the order number/order designation stated on our order on its invoices in accordance with the requirements in our order. Statement of the order number/order designation shall be the prerequisite for us being able to process Supplier's invoices properly. The latter shall be responsible itself for all consequences of failure to comply with this obligation by Supplier, in particular for the delays in processing occurring as a result. This shall not apply to the extent that Supplier proves that it is not answerable for the missing or defective statement of the order number/order designation.

4. To the extent that nothing has been agreed in writing to the contrary, we shall pay the purchase price with 3% discount within 21 days starting from delivery and receipt of the invoice or net within 30 days of delivery and receipt of the invoice (without deduction).

5. Rights of setoff and retention shall accrue to us to the statutory extent.

§ 4 Delivery time - Acceptance - Part Acceptance - Place of delivery

1. The delivery time stated in the order shall be binding.

2. Supplier shall be obliged to notify us in writing without delay if circumstances occur or become recognisable for it from which it can be seen that the required delivery time cannot be complied with.

3. Insofar as Supplier does not render the service owed or not as owed, statutory claims shall accrue to us. In particular, we shall be entitled, following fruitless expiry of a suitable period of grace, to demand damages in lieu of performance, unless Supplier is not answerable for the breach of the duty. In the event of arrears in delivery, the statutory claims shall accrue to us.

4. Place of delivery (place of performance) shall be our headquarters unless another location has been expressly stated in our order.

§ 5 Passage of risk - documents

1. To the extent that nothing has been agreed in writing to the contrary, delivery shall be „free domicile“, i.e. at Supplier's expense and risk, to the place of delivery. Risk shall only pass to us with the handover of the goods to us or to the third parties determined by us at the place of delivery (passage of risk).

2. Transport risks and costs shall be to Supplier's detriment as a matter of principle.

3. Supplier shall be obliged to state our order number/order designation precisely on all dispatch papers and delivery notes according to the requirements in our order. Supplier shall be responsible itself for all consequences of failure to comply with this obligation by it, in particular for the delays in processing occurring as a result.

§ 6 Examination of defects - warranty for defects

1. We shall be obliged to examine the goods within a suitable period after delivery for all and any deviations in quality or quantity; notification of obvious defects shall be in good time insofar as it reaches Supplier orally, in a textual or written form within a period of 5 working days (Monday to Friday) after delivery. For hidden defects, our notifications of defects shall be in good time if they are made within a period of 5 working days after recognition. Payment of the delivery shall not imply a waiver of our rights to notification of defects.

2. The statutory warranty rights shall accrue to us without curtailment. Accordingly, in the event of delivery of defective commodities, we shall be entitled to demand subsequent performance from Supplier. In such a case, Supplier shall be obliged to bear all the expenditure necessary for remedying the defect or substitute delivery. We expressly reserve the right to withdraw from the contract or to reduce the remuneration as well as the claim to damages, in particular damages on account of nonperformance.

3. If the suitable period which we have set for Supplier for the remedying of the defect or substitute delivery expires fruitlessly, we shall moreover be entitled to have remedying done at Supplier's expense or to procure a replacement at its expense if Supplier is answerable for the defect.

4. The commodities ordered by us must fulfil the acknowledged rules of engineering and the statutory DIN, technical association and accident prevention directives.

5. The warranty period shall be 24 months, starting with passage of risk (§ 5 point 1).

§ 7 Product liability - indemnification - third-party liability insurance coverage

1. Supplier shall be liable for all damage caused by the delivered commodities, its vicarious agents or it personally for which it is answerable. Insofar as Supplier is answerable for the damage, it shall also be liable towards us for possible damage from defects and subsequent damage from defects.

2. Within this framework, Supplier shall also be obliged to reimburse all and any expenditure pursuant to §§ 683, 670 German Civil Code resulting from or in connection with a recall action or other measure to reduce damage carried out by us. To the extent possible and reasonably to be expected, we shall inform Supplier of the contents and the scope of the measures to be taken and give it an opportunity of commenting thereon.

§ 8 Protective rights

1. If claims are made against us by a third party on account of infringement of protective rights, Supplier shall be obliged to hold us harmless against said claims. Without Supplier's approval, we shall not be permitted to make any kind of agreement with the third parties, in particular concluding a settlement.

2. Supplier's indemnification duty shall relate to all expenditure necessarily incurred by us from or in connection with the claim made by a third party.

§ 9 Retention of title - indemnification - tools - confidentiality

1. To the extent that we provide objects to Supplier for the production of the ordered commodities, we reserve title thereto. Processing or reshaping by Supplier shall always be done on our behalf. If our conditional commodities are processed with other objects not belonging to us, we shall acquire coownership of the new object in the ratio of the value of our object to the other processed objects at the time of processing.

2. If the object provided by us is inseparably blended with other objects not belonging to us, we shall acquire coownership of the new object in the ratio of the value of the conditional commodity to the other blended objects at the time of blending. If blending is done in such a way that Supplier's object is to be regarded as the main object, it shall be deemed agreed that Supplier assigns coownership to us pro rata; Supplier shall keep the sole or coownership on our behalf.

3. We reserve title to tools; Supplier shall be obliged to use the tools exclusively for the production of the commodities ordered by us. Supplier shall be obliged to insure the tools belonging to us against fire, water and theft damage at new value at its own expense. At the same time, Supplier here and now assigns all claims to reimbursement from said insurance, we hereby accepting the assignment. It shall further be obliged to carry out all and any necessary maintenance and inspection work as well as all upkeep and repair work in good time at its own expense. It shall notify us without delay of all and any cases of disturbances; if it culpably fails to do so, claims to damages shall remain unaffected.

4. Supplier shall be obliged to strict confidentiality concerning all illustrations, drawings, calculations and other documents and information received. Intermediate copies, films, assembly films, files etc. shall pass to our ownership following completion of the commodities. Return of all documents/data and materials shall be an integral part of performance of the order.

5. The confidentiality duty shall also survive handling of the contract; it shall expire if and as soon as the production knowledge contained in the illustrations, drawings, calculations and other documents provided become public domain.

6. To the extent that the collateral rights accruing to us according to subsection 1 and/ or subsection 2 exceed the value of the objects provided by us by more than 10 %, we shall be obliged to release the collateral rights at our choice upon request by Supplier.

§ 10 Right of retention

A right of retention on account of claims from other contractual relationships or a right of offset with all and any claims of Supplier shall be ruled out unless they are undisputed or legally effective.

§ 11 Place of jurisdiction - Place of performance - Applicable law

1. If Supplier is a merchant, our headquarters shall be exclusive place of jurisdiction for all disputes from the contract between ourselves and Supplier; however, we shall be entitled to sue Supplier at the Court competent for its place of residence or headquarters, as the case may be.

2. The contract shall be governed by the law of the Federal Republic of Germany. The provisions of UN purchasing law shall not be applicable.