

## **General Terms and Conditions of Purchase of Armaturenwerk Hötensleben GmbH 01/2005**

### **I. Applicability of these Terms and Conditions of Purchase for goods and services**

1. These General Terms and Conditions apply to all (even future) orders for goods and services and the fulfilment thereof. Therefore, any deviations from these Terms and Conditions are valid only if expressly confirmed by us in writing. The terms and conditions of sale and delivery of our suppliers do not apply, even if we do not specifically contradict them. The acceptance of goods without objection or order confirmations and delivery notes that reflect the general terms and conditions of sale and delivery of our suppliers do not constitute a change to our Terms and Conditions of Purchase. Our Terms and Conditions of Purchase are considered final and binding upon fulfilment of our order.
2. If terms other than these Terms and Conditions are agreed upon for a specific order, these General Terms and Conditions of Purchase will apply secondarily and additionally.
3. Any quotations submitted to us will be free of charge and non-binding.

### **II. Prices**

The agreed prices include carriage paid to the delivery location specified by us, as well as freight, packaging and related costs. Where delivery is not included, we only bear the lowest possible freight costs unless we have stipulated a specific type of shipment.

### **III. Payment**

1. Unless otherwise agreed, the following terms of payment apply: we will pay invoices either within 14 days with a 3% discount, within 30 days with a 2% discount or within 60 days with no discount. If the payment terms of the supplier are more beneficial to us, then these will apply.
2. The above payment time limits begin as of the date of receipt of the invoice, but not before the goods are received or services are accepted or, if the services include any type of documentation, before said documentation is handed over to us as agreed. The above payment time limits will not begin before the delivery dates listed on the reverse and/or agreed upon.
3. Payment will be made via cheque or bank transfer. Payment is considered on time if the cheque is sent by post on or before the due date or the transfer request is submitted to the bank on or before the due date.
4. We reserve the right to offset invoices and withhold goods for payment to the extent allowed by law.

### **IV. Delivery time frames**

1. Agreed delivery dates and time frames are binding and must be met. The supplier may not deliver 8 or more days before the agreed delivery date without our express consent.
2. Possible delivery delays are to be reported to us immediately. If a delivery deadline is fully or partially missed, we have the right (any additional claims to damages notwithstanding) to impose a penalty of 1% of the total purchase price per full or partial week that delivery is delayed, but no more than 10% of the total purchase price, even if delivery is accepted.
3. In addition, if delivery is delayed, we reserve all other legal rights afforded to us. This includes, but is not limited to, the right to demand compensation for damage in place of the service after an appropriate grace period during which delivery is not made.

### **V. Retention of title**

With regard to retention of title by the supplier, these Terms and Conditions apply provided ownership of the purchased item is transferred to us upon payment and the expanded forms of retention of title known as current account retention (German: Kontokorrentvorbehalt) and group retention (Konzernvorbehalt) do not apply. If retention of title is exercised, the buyer may only demand the surrender of the goods if it withdraws from the agreement.

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**VI. Shipment and transfer of risk**

1. The supplier bears the risk of accidental destruction and accidental deterioration. This applies to carriage paid and carriage free deliveries as well. The place of fulfilment, unless otherwise agreed, is our operating facility or other delivery address indicated. The risk of accidental destruction and other risks is not transferred until we or our acceptors have accepted the delivered item and/or service, but no later than 2 months after handover of the goods at the destination.
2. Partial deliveries require our consent.
3. Deliveries containing more or less goods than ordered are permitted only where customary.
4. Packaging costs will be paid by the supplier unless otherwise agreed in writing. In exceptional cases where we cover the costs of packaging by written agreement, these are to be billed to us at the lowest amount possible. The obligation to accept returns is subject to the German Packaging Directive (Verpackungsverordnung) of 21 August 1998.

**VII. Declaration of origin**

In the event that the supplier declares the origin of the sold goods, the following applies:

1. The supplier agrees to allow the customs authorities to inspect the proof of origin and provide any necessary information or confirmations for this purpose.
2. The supplier is liable for any damage that results if the declared origin is not recognised due to inaccurate certificates or the inability of the responsible authorities to conduct an audit. However, the supplier is only liable under the above circumstances in the case of culpable actions or in the absence of a promised characteristic or guarantee.

**VIII. Inspection**

We and our acceptors are authorised to inspect the quality of the work during manufacture and/or the delivered items upon completion at the manufacturing site (in the case of items with protective covers and coatings, prior to application thereof). Any costs incurred at the manufacturing site will be paid by the supplier.

**IX. Quality of the goods/services**

Goods and services may not violate:

- a) the terms of accident prevention and other regulations under public law as well as generally accepted occupational health and safety rules
- b) applicable rules and requirements set by industry associations for goods and services of the type ordered third party property rights (patents, patent applications, utility models, registered designs, copyrights, etc.) and third party business and operational secrets. Should a lawsuit be filed against us by a third party due to violation of such rules and/or rights, the supplier will hold us harmless from any such claims immediately on first demand. All other claims to damages are reserved.

**X. Liability for defects and statute of limitations**

1. The supplier must provide the goods free of any material or legal defects. The goods will be inspected by us for quality and completeness upon receipt to a reasonable and technically feasible extent. Indications of defects must be reported within 10 business days to the supplier by letter, fax, email or phone. The time limit for reporting defects begins at the time we, or in dropshipping cases, our acceptors, discover or should have discovered the defect.
2. If the goods contain material defects, we may choose how to remedy the situation in accordance with the rights afforded to us by law. We may demand a refund from the seller of any expenses, including inspection costs, incurred by us in our relationship with our acceptor if the defect already existed at the time risk was transferred.
3. Our defect claims are subject to legal statutes of limitation.

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4. The supplier hereby cedes to us all claims of the supplier - on condition of fulfilment - against its sub-suppliers in the event of and in connection with the delivery of defective goods or goods lacking promised characteristics. The supplier will provide us with all the necessary documentation for enforcing such claims.

**XI. Tools, models, drawings and other documentation**

1. Tools, models, drawings and other documentation provided or created by us may only be used to fulfil our orders. These items are confidential and may not be made available to third parties without our consent. They are to be kept in proper storage until recalled, but no longer than 2 years after their last use, after which they must be returned to us.
2. The supplier may create and/or modify such tools, models, drawings and other documentation at our request provided we acquire title to these items as the manufacturer.

**XI. Place of fulfilment and jurisdiction**

1. Unless otherwise agreed, the place of delivery fulfilment is our operating facility.
2. Jurisdiction is Magdeburg. We may at our discretion file legal action against the supplier in its jurisdiction as well.