

General Terms and Conditions of Purchase

Section 1 Scope

- (1) Any legal relationships between supplier (hereinafter: "Seller") and Lindauer DORNIER GmbH (hereinafter: "Purchaser") are exclusively governed by these General Terms and Conditions of Purchase (hereinafter: "Terms and Conditions"). Any modifications and supplements hereto require the written form. Any terms and conditions of Seller deviating from or contradictory to these Terms and Conditions will not be accepted by Purchaser unless Purchaser has expressly approved their applicability in writing. Any collateral agreements to these Terms and Conditions require Purchaser's written confirmation to be valid.
- (2) These Terms and Conditions shall also apply if Purchaser, being fully aware of terms and conditions of Seller deviating from or contradictory to these Terms and Conditions, accepts delivery without reservation.
- (3) These Terms and Conditions shall not apply to consumers within the meaning of Section 13 German Civil Code (BGB).

Section 2 Placement and acceptance of orders

- (1) Orders shall only be valid if placed in writing, by telefax or e-mail. Verbal orders and orders placed by telephone are only binding if Purchaser confirms them in writing, by telefax or e-mail.
- (2) If a purchase order contains obvious mistakes, typing errors or miscalculations, Purchaser shall be released from adhering to the information thereby affected.
- (3) Every purchase order must be confirmed in writing by specifying the exact price and delivery time. A purchase order shall be considered tacitly accepted unless Seller notifies Purchaser in writing that he declines within eight (8) days from the date of dispatch of the written purchase order.
- (4) Any changes to a purchase order by Seller shall require Purchaser's prior written consent by telefax or e-mail in order to be binding. Any price increase shall require Purchaser's express prior written consent (a telefax or an e-mail will suffice).

Section 3 Spare parts

Seller guarantees that for every purchase order placed spare parts and wearing parts will be available for a period of 15 years from the date of delivery.

Section 4 Transportation and delivery

- (1) Transportation and delivery shall occur at Seller's risk, freight paid to the delivery address specified by Purchaser.
- (2) Seller shall not be entitled to invoice Purchaser for any charges relating to transportation insurance taken out by Seller.
- (3) A shipping note containing Purchaser's full order number, a sufficient description of the goods delivered and – providing it is indicated on the purchase order – the relevant identification number of Purchaser will be included with every delivery.
- (4) Unless Purchaser determines otherwise, goods sent by mail will be sent to Purchaser's address in Lindau (Lake Constance). Any instructions by Purchaser as to choice of carrier have to be complied with. Any additional expenses caused by Seller's failure to comply with such instructions shall be borne by Seller.

Section 5 Delivery time and delay

- (1) The binding delivery date stated on the purchase order shall be the date for delivery of the ordered goods at the specified point of delivery (delivery address).
- (2) Any inbound delivery prior to the agreed delivery date and/or any partial delivery shall not be permitted. In this respect, the full risk of performance remains with Seller. Any costs incurred by Purchaser as a result of an early or partial delivery shall be borne by Seller.
- (3) Seller shall immediately alert Purchaser in writing to any circumstances considered by Seller to be potentially able to cause a delay in delivery (cases of force majeure, shortage of materials, stoppage and the like). Even in such cases Seller shall still be liable for any delay caused by it.
- (4) In the case of a delay in delivery on the part of Seller, Purchaser shall be fully entitled to all legal rights and claims, in particular to default interest and damages.
- (5) In the case of a delay in delivery Purchaser shall be at liberty to use any legal remedy at its disposal. In addition, Purchaser shall also be entitled to cancel the purchase order immediately.

Section 6 Interruption of operations

- (1) For the duration of any interruption of operations caused by force majeure or other unforeseeable circumstances beyond Purchaser's control, Purchaser shall be released from its obligation to take delivery of the goods ordered.
- (2) Without limitation, cases of force majeure are: work stoppages as a result of strikes, war, fire, floods and similar events which substantially interrupt or completely shut down Purchaser's operations.
- (3) If the interruption of operations lasts longer than two (2) months, Purchaser shall be entitled to withdraw from the contract without being liable to pay compensation.

Section 7 Prices and payment terms

- (1) In the absence of any notice to the contrary, prices are understood free of charge to the indicated delivery address, packaging included.
- (2) Invoices will be submitted in a single copy.
- (3) There will be no advance payments.
- (4) At Purchaser's discretion, invoices are paid within 14 days from due date less 2 % discount or within 30 days from due date without any deduction.
- (5) Purchaser will be entitled to return packaging free of all charges and to deduct the amount charged from its payment.

Section 8 Examination for defects

- (1) Unless the contracting parties have made other arrangements, e.g., in a quality assurance agreement, Purchaser's duty to examine the delivered goods for possible defects shall be governed by statutory regulations. Without limitation, subsections (2) through (4) below shall apply in all other respects.
- (2) Prior to delivery Seller must, at its own expense, conduct an inspection and acceptance check of the relevant goods paying special attention to any agreed-upon specifications of quality.
- (3) Unless Seller and Purchaser have agreed otherwise, each shipment shall be examined by Purchaser as to quantity and quality immediately upon receipt.
- (4) To the extent that this is not possible or would cause Purchaser to incur significant additional expenses, in particular where the material is intended for processing, installation or the like, the time limit for Purchaser to examine the delivered goods and to advise Seller of any defects, contrary to Section 377 German Commercial Code (HGB), shall not commence to run until after the goods have started to be used or processed. This does not apply to defects which at the time of inspection of the goods are obvious.
- (5) If there are discrepancies in weight and in quantity, the weight determined on Purchaser's calibrated scales and the quantity determined by Purchaser's inspectors shall be authoritative.
- (6) To the extent that Seller has put in place a quality assurance system in accordance with the requirements of ISO 9001 or a similar certified quality assurance system, Purchaser shall be entitled, after making an appointment with Seller, to conduct pertinent compliance audits at the latter's operation.

Section 9 Warranty/claims based on defects

- (1) Seller undertakes to observe all rules of technology accepted in Germany as well as all statutory provisions and regulations applicable in the country which it knows to be the country of destination for the shipment. In the absence of such rules and regulations in the country of destination, Seller undertakes to observe the relevant statutory provisions and regulations applicable in Germany, in particular those regulations, standards and guidelines issued by the legislator, the supervisory authorities, the trade associations and the German Association of Electrical Engineers (VDE) with respect to implementation, accident prevention and environmental protection. Regulations, laws, standards and guidelines shall apply in the version valid at the time of delivery. Any known amendments to such regulations shall be taken into account.
- (2) Seller must, to a reasonable extent, inform itself about the use, the place and the scope of its performance. Seller shall be obliged to notify Purchaser immediately in writing of any recognizable defects in the material or of any reservations regarding the intended implementation.
- (3) Purchaser is fully entitled to legal claims based on defects.
- (4) In the absence of an agreement to the contrary, the period of limitation for claims based on defects shall be three (3) years from delivery. In cases where longer statutory time limits apply (e.g., in the case of buildings), such longer time limits shall be effective.

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(5) If by reason of a defect in quality serious damage is expected to occur within such a short period of time that it is no longer possible to inform Seller of the defect and the imminent threat of damage and to give Seller a time limit for taking corrective measures, Purchaser may, at Seller's expense, rectify the defect itself, have the defect rectified by a third party or procure a replacement. Purchaser shall promptly notify Seller accordingly.

(6) Rejected goods will become Seller's property as soon as they have been replaced by Seller.

(7) Any claims of Purchaser based on defects in title shall become statute-barred within three (3) years of the date on which such defect became known or should have been known, but in any case no later than ten (10) years from delivery.

(8) Seller shall promptly inform Purchaser of any serial damage discovered by Seller. In the case of serial damage Purchaser shall be entitled to assert its claims based on defects in respect of all delivery items belonging to the series, even if only part of the delivered goods are found to be damaged.

Section 10 Damages

Any claims for damages on the part of Purchaser shall be subject to statutory provisions.

Section 11 Product liability

Unless the contracting parties agree otherwise, Seller shall be liable as follows:

(1) To the extent that Seller is responsible for a product defect, Seller shall be obliged to indemnify Purchaser against any third-party claims for damages on first demand. Seller shall compensate Purchaser for any costs already incurred by Purchaser in this context. This also applies to recall campaigns and similar costs incurred by Purchaser as a result of a product defect for which Seller is responsible, particularly so if such measures and costs are caused by pertinent directives issued by the competent authorities.

(2) In addition, Seller is obliged to enable Purchaser on request to prove to third parties that the product was free from defects by submitting relevant documentary evidence.

(3) In order to cover possible loss-entailing events Seller shall be obliged to take out commercial liability insurance and product liability insurance, including extended product liability, with adequate minimum coverage for damage to property, personal injury and economic loss.

(4) The conclusion of such insurance contracts must be evidenced upon demand by presenting certificates of insurance. On expiration of the cover note presented to Purchaser, Seller shall of its own accord furnish Purchaser with the new valid insurance certificate.

Section 12 ownership and reservation of ownership

(1) Any substances or components manufactured by Purchaser shall remain the property of Purchaser. They can only be used in accordance with the intended purpose. The processing of substances and the assembly of components shall occur on behalf of Purchaser. In the case of processing and mingling of the substances and components, Purchaser shall acquire co-ownership of the products manufactured by using its substances and components based on the value of the materials provided in proportion to the value of the end product at the time of processing or mingling.

(2) Any reservation of ownership by Seller shall expire upon payment in full of the goods. Extended reservation of ownership by Seller shall not be permitted.

(3) Purchaser shall be entitled to withdraw from the contract without thereby incurring any costs if Seller ceases its payments to Purchaser or third parties, files for insolvency or if proceedings are initiated against Seller under foreign law that are tantamount to insolvency or composition proceedings.

Section 13 Assignment, Set-off and Rights of Retention

(1) Seller cannot assign any accounts receivable from sales or services to third parties without obtaining Purchaser's prior written consent. Section 354a German Commercial Code (HGB) remains unaffected.

(2) Seller shall have no right of retention or set-off towards Purchaser unless Seller's counterclaims are uncontested or have been confirmed by a final judgment.

(3) Subsection (2) analogously applies to any rights of retention and rights to refuse performance. Moreover, these rights of Seller must arise from one and the same contractual relationship.

Section 14 Documents

(1) Any drawings, designs, data carriers and other documents provided to Seller shall remain Purchaser's property. Like the information embodied therein, they have to be treated confidentially and they may not be used for any purposes other than those contractually agreed, or be copied, reproduced, passed on to third parties or made accessible to third parties without obtaining Purchaser's express prior written consent.

(2) Upon fulfilment of the contract they must be returned to Purchaser without delay.

(3) Purchaser reserves all intellectual property rights in all of the documents handed over to Seller.

(4) Without being specifically requested to do so, Seller shall make available, in good time and at no charge, any records needed by Purchaser for the use, installation, assembly, processing, warehousing, operation, servicing, inspection, maintenance and repair of the delivery item.

Section 15 Industrial property rights

It is Seller's liability that the delivery of goods and the provision of services as well as the contractually agreed use thereof are not in breach of any industrial property rights and other third party rights.

Section 16 Advertising

The express prior written consent of Purchaser shall be required for making reference in information and promotional materials to the business relationship existing with Purchaser, and for publicly exhibiting components delivered to Purchaser by making reference to said business relationship.

Section 17 Place of performance, place of jurisdiction, and applicable law

(1) The place of performance for deliveries is the delivery point specified by Purchaser in its purchase orders. The place of performance for payments is Lindau (Lake Constance).

(2) To the extent legally permitted, the place of jurisdiction for any disputes arising in connection with deliveries or the validity of the delivery contract shall be Purchaser's registered seat Lindau (Lake Constance). Purchaser remains entitled to file a lawsuit at Seller's registered seat.

(3) All legal relationships between the contracting parties are governed by the laws of the Federal Republic of Germany to the exclusion of private international law and the UN Convention on the International Sale of Goods.

(4) Should one or several provisions of these Terms and Conditions be or become invalid, this will not affect the applicability of the remaining provisions or the validity of the contract as a whole. In the event of a gap in this contract, such a provision shall be deemed to be agreed which corresponds to the implied intention and the purpose of the contract.