

# KONRAD HORNSCHUCH AG: GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. General

- (1) The present General Terms and Conditions of Business shall apply exclusively unless otherwise agreed in writing. We shall not accept contrary terms and conditions or the Seller's general terms and conditions unless we have expressly agreed to them in writing.
- (2) Our General Terms and Conditions of Business shall apply as set forth in paragraph (1) above also to all future business transactions with the Seller.

## 2. Execution of Contract

- (1) The Seller shall accept our order within a period of eight (8) days.
- (2) Orders and agreements are valid if they are in writing and have been signed by us in legally valid form. An order placed by e-mail or the like shall be deemed an order placed in writing. Verbal orders and agreements shall be deemed valid only insofar as the Seller gives us written confirmation of the order and of having accepted our General Terms and Conditions of Purchase within the period set forth in paragraph 1 above.
- (3) Calculations, drawings, plans and any other documents which also belong to the order shall remain our property. We reserve all copyrights to these documents. The Seller shall not pass these documents on to third parties without our written permission. Should the Seller fail to accept our order within the period set forth in paragraph (1) above, these documents are to be returned to us without delay.

## 3. Price and payment

- (1) The price stated in our order is binding and applies free to our address or free to the destination stated in the order, including packaging, unless otherwise agreed in writing. The price is quoted inclusive of value-added tax at the respective applicable statutory rate.
- (2) We shall make payment with a discount of 3% within thirty (30) days after full delivery and receipt of the invoice, or net within sixty (60) days after full delivery and receipt of the invoice. The form of payment shall be at our option.
- (3) All payments are made subject to verification of the invoice. Payment shall not be deemed to mean that the goods or services have been found to conform to the contract and are free of defects.
- (4) We are fully entitled to offset and withhold payments as permitted by law. We have the right to assign all claims under the purchase contract without the Seller's consent. The Seller has no right to assign claims under the contractual relationship to third parties without our prior written consent.

## 4. Delivery and delay in delivery

- (1) The delivery lead time or the delivery date stated in the order is binding on the Seller.
- (2) If the Seller is in arrears with delivery, we shall be entitled to exercise our statutory rights in full.
- (3) Earlier deliveries, in whole or in part, may be made only with our consent.
- (4) The Seller's goods and services must comply with all safety, industrial safety, accident-prevention regulations and the relevant provisions of standards, DIN, VDE and other specifications. The Seller shall provide the relevant protective devices within the agreed delivery period without additional charge. Over and above this, all documents required for acceptance, operation, maintenance and repairs (test protocols, drawings, plans, operating instructions, etc.) are to be provided at no extra charge. The order shall not be deemed performed until these documents have been supplied.

## 5. Passage of risk, packaging

- (1) The risk of accidental destruction and accidental impairment of the purchased goods shall pass to us upon their being handed over to us at the destination specified in the order.
- (2) Even in cases where delivery is made to a place other than the place of performance, risk shall pass to us only when the purchased goods are handed over to us at the destination specified in the order.
- (3) All packaging required for transportation and other packaging in accordance with packaging regulations is to be taken back by the Seller. The Seller shall provide for the disposal of packaging material at its own expense.

## 6. Liability for defects, other liability, limitation period

- (1) We shall be allowed a period of fourteen working days after receiving the purchased goods to submit a complaint on grounds of defects. Should a defect which was not evident on examination become apparent later, the period shall commence upon the date of discovery. The period shall be deemed adhered to if notice of a defect was sent to the Seller within that time.
- (2) Insofar as formal acceptance is required by law, we shall have fourteen (14) working days from delivery/handover date to perform it.
- (3) We are entitled to all statutory rights on grounds of defect provided by law. Instead of subsequent performance or abatement, pursuant to statutory regulations, we are entitled to withdraw from the contract, to demand damages or to demand a refund of expenses incurred to no avail. The Seller shall be liable for all damage or loss incurred by us or third parties on account of breaches of obligations on the part of the Seller. We shall be entitled without deduction to all claims permitted to us by law on grounds of breaches of obligations. In cases of urgency or of imminent danger, we shall have the right to repair defects ourselves at the Seller's expense.
- (4) The period of liability for defects is thirty-six (36) months from handover or acceptance date. With latent defects which become apparent only during handling, editing or processing, the liability period for defects begins only when handling, editing or processing commences. In the case of merchandise which we resell unchanged,

this period of liability for defects commences when our liability for defects against our customer commences, but at the latest, forty (40) months from handover by or acceptance of the sold goods from the Seller. With respect to defects of which we or our customers give notice within the period allowed for liability for defects, the Seller shall desist from raising objections on grounds of late notification of defects.

- (5) The Seller gives warranty that no third party rights are infringed through the delivery and use of the delivered goods. In the event of an infringement of such rights, the Seller shall indemnify us and third parties for all loss or damage thereby incurred. It shall hold and save us and our customers harmless from and against all claims arising from such infringements including the expenses necessary for defence against such claims, and this at our first request.
- (6) The Seller shall save and hold us harmless from and against any claims, including the expenses necessary for the defence against such claims, and this at our first request, such as may arise against us in connection with the goods or services delivered by the Seller, pursuant to product liability, in particular under the Produkthaftungsgesetz (law regulating product liability). It shall forego the defence of the statute of limitations to this extent and any rights to refuse performance unless these are based on due claims or claims which have been confirmed by final court decision. This shall apply in particular in cases where we resell the delivered goods unchanged under our own name.
- (7) If we are forced to recall products on account of a claim pursuant to paragraph 6 above, the Seller shall refund us all costs incurred in connection with the recall. Statutory claims over and above these shall not be affected.
- (8) The Seller shall take out and maintain product liability insurance with coverage commensurate with the subject matter of the contract, but at least EUR 2.0m per person for personal injury/damage to property. We reserve the right to make further statutory claims.

## 7. Reservation of title

- (1) All parts (goods under reservation of title) and tools that we have provided shall remain our property. Should the Seller perform any processing or changes thereto, this shall be deemed to have been done on our behalf. If the goods under reservation of title are processed with goods which are not our property, then the newly created object shall be our property in the ratio of the value of the goods under reservation of title to the other processed goods, as at the time of processing. This shall also apply when goods provided by us are inseparably mixed with goods which are not our property. If after mixing, the goods belonging to the Seller are to be considered the primary product, the Seller shall transfer pro-rata coownership to us. In all cases, the Seller shall hold the sole property and/or the co-owned property in safekeeping on our behalf.
- (2) The Seller may use tools provided by us solely for the goods that we have ordered, and may neither give nor make them accessible to third parties unless otherwise agreed in writing. The tools shall be adequately insured by the Seller at its own expense against elemental forces and theft. Any claims against the insurance company resulting herefrom are hereby assigned to us. The Seller shall perform maintenance and repair work on the tools at its own expense and in good time. After the contract has been discharged, the Seller shall return the tools to us without delay at its own expense.
- (3) If we acquire goods in which the Seller reserves title, the Seller has no right to assign the claim to payment that it has against us.

## 8. Lump-sum damages

Should we have a claim to damages against the Seller, its representatives or its vicarious agents - irrespective of the grounds thereof - we shall have the right to demand 20% of the agreed remuneration without further proof as indemnification. The right to claim higher damages or a greater reduction of value is reserved. The Seller is at liberty to prove that damage or depreciation either has not taken place at all or is substantially lower than the lumpsum.

## 9. Concluding provisions

- (1) The applicable laws are the national laws of the Federal Republic of Germany barring the application of the UN Convention on the International Sale of Goods (CISG).
- (2) The Seller gives warranty to comply with both laws and regulations of the country in which the goods are produced and laws and regulations of the country in which the goods are sold. These General Terms and Conditions are in effect accordingly, if work or services are ordered. The contractor especially guarantees that it pays its employees the wages that are common in the industry in accordance with the respective valid version of the minimum wage law of the Federal Republic of Germany.
- (3) The Seller shall accept to apply with BSCI code of behavior (Business Social Compliance Initiative).
- (4) The place of jurisdiction and performance is the place where we have our registered offices. However, we shall have the right to file our claims at any other court having jurisdiction.
- (5) The present General Terms and Conditions of Purchase shall apply analogously to other types of contract, in particular to contracts for work and services.
- (6) Should any provision be or become void either wholly or in part, this shall not affect the validity of the remaining provisions.