



TRIDELTA®

General terms and conditions – Purchasing of the TRIDELTA Group

1. Scope

1.1 All our orders and contracts – also those placed and concluded in future – are and shall be subject to the present Conditions of Purchase. Any amendments to these Conditions require our written confirmation to be legally effective.

1.2 We shall not accept Supplier's conditions that are contrary to or deviate from our Conditions of Purchase, unless we have expressly given our written consent to the validity thereof. Our Conditions of Purchase shall also apply if we accept Supplier's delivery in full knowledge of the fact that Supplier's conditions are contrary to or deviate from our Conditions of Purchase.

2. Offer, Order, and Conclusion of Contract

2.1 The Supplier is obliged to accept our order within a period of one week or to reject it without delay. After expiration of this time we shall no longer be bound to our order. Orders shall only be effective if made in writing or confirmed by us in writing. Purchase orders and calls for delivery may also be placed by remote data transmission or fax.

2.2 We reserve titles and copyrights to all pictures, drawings, calculations and other documents furnished to the Supplier. They may only be made available to third parties if our rights are preserved. The Supplier guarantees that our rights are not injured by third parties. The use of these documents shall be limited to production purposes based on our purchase order. They have to be returned to us without request upon completion of the purchase order.

2.3 Offers made by the Supplier are binding and free of charge for us.

2.4 The Delivery and Packaging Instructions of the purchaser are part of each contract.

2.5 Collateral agreements, supplements, and amendments to the contract shall only be valid if confirmed in writing by us. That also applies to the annulment of the written form clause.

3. Dates and Times

3.1 The agreed date is binding and must be observed. The decisive factor for compliance with the delivery date is the receipt of the goods on our premises. The Supplier is obliged to inform us immediately in writing if circumstances arise or become apparent to him that indicate the impossibility to meet the delivery date.

3.2 If the time limit is exceeded, we shall grant the Supplier an additional period of time of reasonable length. If he also fails to deliver the goods within the additional period of time, we shall be entitled to withdraw from the contract and to claim damages for non-performance.

3.3 If the time limit is exceeded, we shall be entitled to claim from the Supplier a contractual penalty for delay. For every calendar day of default in fulfilling the contractual obligations, the penalty amounts to 0.15 % of the value of the defaulting part of the contract, up to a maximum of 5 % of the total contract value.

3.4 Partial deliveries and deliveries ahead of time are subject to our prior written consent. They do not place us under the obligation to make partial payments or payments before the deadline.

3.5 Dates or terms the compliance with which is hindered by circumstances of force majeure shall be extended – except in the case of fixed-date purchases – by a period of time that corresponds to the duration of the circumstances of force majeure, plus a reasonable start-up period. The Supplier has to inform us of the occurrence of the circumstance of force majeure within 3 calendar days after obtaining knowledge thereof. If the contractual obligation becomes unacceptable to us because of circumstances of force majeure, we shall be entitled to terminate the contract.

3.6 Force majeure constitutes an extraordinary, unforeseeable and unavoidable event (e.g. a natural disaster, war, revolution, kidnapping, and fire) the consequences thereof cannot be averted by economically reasonable arrangements. Included are also administrative measures and acts of government, as far as they have not been foreseeable or have not been conditioned or at least partially caused by acts or omissions attributable to the Supplier. Recurrent natural events and unlawful lockouts are not considered as force majeure.

4. Prices, Terms of Payment

4.1 The agreed price is binding and understood to include all ancillary costs according to Incoterms 2010. The return of packing requires a special agreement.

4.2 Invoices can only be handled if the order number according to our purchase order and the number of the delivery note are indicated therein. The Supplier is responsible for all consequences resulting from the non-compliance with these requirements.

4.3 Supplier's claims become due only after complete receipt of goods or complete performance of services ordered, as well as upon receipt of the properly prepared invoice documents.

4.4 If we pay before the due date or within 14 calendar days from receipt of goods or completion of performance or, optionally, after receipt of the invoice in the event that it arrives later than the goods, we shall be entitled to take a discount of 2 %, unless otherwise agreed. Payments are made by transfer or cheque, unless otherwise agreed. A payment does not constitute the acceptance of the delivery as being faultless.

4.5 We are entitled to set-offs and retentions within the legal extent.

4.6 The Supplier may only dispose of its claims against us after having obtained our written consent thereto.

5. Passing of Risk, Documents

5.1 Delivery is made as per agreement in accordance with Incoterms 2010. The Supplier shall bear the material risk until the goods are accepted by us or our agent at the location to which the goods are to be delivered according to the order.

5.2 The Supplier is obliged to indicate exactly our order number and the delivery address in all shipping documents and delivery notes. In case of default, any delays in processing shall be borne by him.

6. Warranty, Notice of Defects

6.1 Acceptance of the goods is subject to examination for faultlessness, particularly for correctness, completeness, and suitability.

6.2 The statutory provisions concerning defects of material and title shall apply, unless otherwise stipulated below.

6.3 Furthermore, in the event of defects of title, the Supplier shall exempt us from any existing claims of third parties. In this case a limitation period of ten years applies.

6.4 Claims based on material defects shall be barred after two years, unless the goods have been used in the usual manner for a building structure. Then, a limitation period of five years applies. The limitation period for material defect claims begins with the handing over of the subject of the contract (passing of risk).

6.5 If a material defect becomes apparent within six months of the date on which the risk passed, it shall be presumed that the goods were already defective when the risk passed, unless this presumption is incompatible with the nature of the goods or of the defect.

6.6 We are generally entitled to select the type of subsequent performance. The Supplier shall be entitled to reject the type of subsequent performance selected by us under the provisions of § 439 para. 2 BGB [German Civil Code].

6.7 If the Supplier fails to begin to remedy the defect immediately after our request to do so, we shall be entitled in urgent cases, particularly in order to avert dangers or to avoid damage, to remedy the defect ourselves or have it remedied by a third party at the expense of the Supplier.

6.8 For parts of the delivery repaired within the limitation period of our warranty claims, the limitation period shall begin anew upon completion of the subsequent performance.

6.9 The Supplier shall bear any costs incurred by us as a result of a defective delivery of the subject of the contract, particularly transport, travel, labour and material costs, or costs for the incoming-lot control that exceeds the usual scope.

6.10 If we take back any products manufactured and/or sold by us as a result of the defectiveness of the subject of the contract delivered by the Supplier, or if our customer reduces the purchase price for this reason or we are held liable in any other way as a result thereof, then we shall reserve the right of recourse against the Supplier, without any need to fix a time limit as otherwise required in order to enforce our rights.

6.11 We shall be entitled to demand that the Supplier reimburse any expenses we have been forced to bear against our customer, because our customer has a claim on us for reimbursement of the expenses incurred for the purpose of subsequent performance, particularly the costs of transport, travel, labour and material.

6.12 Not with standing the provision of clause 6.3, the limitation period in the cases of clauses 6.9 and 6.10 shall end, at the earliest, two months following the time at which we have fulfilled the claims filed by our customer against us; it shall end, at the latest, five years following the acceptance from the Supplier.

7. Product Liability and Recall

If claims are asserted against us by third parties on the basis of product liability, then the Supplier shall be obliged to exempt us from such third party claims insofar as the damage was caused by a defect in the subject of the contract delivered by the Supplier. In the cases of a no-fault liability this shall only apply if the Supplier is at fault. If the cause of the damage lies within the Supplier's sphere of responsibility, it shall bear the burden of proof. In these cases, the Supplier shall take over all costs and expenses, including the costs of any legal proceedings or recall campaigns. The statutory provisions shall apply in all other respects.

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7.2 The Supplier is obliged to take out a product liability insurance to a reasonable amount of cover and to furnish proof thereof upon request.

8. Reservation of Title, Provision of Materials, Tools, Maintenance of Secrecy

8.1 A reservation of title of the Supplier shall only become part of the contract if the reservation of title expires upon payment of the price agreed for the conditional commodity and we have authority to resell and process it in the orderly course of business. Any additional reservation of title of the Supplier shall not be accepted.

8.2 Any parts and/or tools provided by us to the Supplier remain our

unlimited property. The Supplier is obliged to use the tools exclusively for manufacturing the goods ordered by us. The Supplier holds these things carefully in safe custody. It is obliged to insure these tools at replacement value, at its own expense, against damage caused by fire, water and theft and to carry out any maintenance and inspection work required.

8.3 The Supplier is obliged to treat all received samples, drawings, calculations and any other documents and information as strictly confidential and to put its subcontractors under the same obligation. The obligation of secrecy shall also apply after carrying out this contract. It shall expire as soon as and insofar as the content of the samples, drawings, calculations and other documents provided has become a matter of common knowledge.

9. Property Rights, Rights of Use

9.1 The Supplier guarantees that in connection with its delivery no third party rights shall be infringed, and releases us from any claims of third parties. The release by the Supplier refers to any expenses and damage accruing to us from or in connection with the claims filed by a third party.

9.2 The exclusive rights of use and the property rights in samples, drawings, product descriptions and data sheets are herewith transferred to us insofar as they have been created or produced on our behalf. We are entitled, solely and exclusively, to use or exploit the results thereof.

9.3 We are entitled to publish the work results prepared for us. Publications by the Supplier require our prior written consent.

10. Execution of Work

Persons who carry out work at our premises in order to fulfil the contract shall observe the provisions of the respective company regulations. Liability for accidents at our premises in which these persons are involved shall be excluded, unless they were caused by an intentional or grossly negligent breach of duty by our legal representatives and/or vicarious agents.

11. Place of Performance, Place of Jurisdiction

11.1 The place of performance is our place of business, unless otherwise stipulated in the order.

11.2 The place of jurisdiction for all disputes arising from any business under these General Conditions is our place of business, for legal actions taken by us as well as for such taken against us.

12. Final Provisions

12.1 If a Quality Assurance Agreement has been concluded with the Supplier, it shall prevail or it shall apply supplementarily.

12.2 The relations between us and the Supplier are exclusively governed by the law of the Federal Republic of Germany.

12.3 The applicability of the UN Sales Convention, the Hague Uniform Laws on the Sale of Goods and the Convention on Contracts for the International Sale of Goods (CISG) is excluded.

12.4 TRIDELTA has the right to amend or adapt the General Terms and Conditions at any time.

12.5 If a provision of these General Conditions or a provision within the framework of other agreements is or becomes invalid, the validity of the remaining provisions or agreements will not be affected hereby. The invalid provision will be replaced by a valid provision that most closely reflects its economic intent.

Status October 2010