

# GENERAL TERMS AND CONDITIONS OF PURCHASING of the NORMA Distribution Center GmbH (hereinafter "NDC")



## 1. Conclusion of Contract

1.1 These General Terms and Conditions of Purchasing are applicable to all of our purchase orders, independently of whether these are individual orders or orders based on outline agreements. Deviating Terms and Conditions of Contract of the Supplier are only valid if we expressly consented to them in writing.

1.2 Purchase orders and other agreements made on the basis of concluded contracts are only binding if placed or confirmed by us in writing. Orders or confirmations transmitted per telecopy or by electronic data communication are deemed equivalent to the written form.

1.3 We expect a binding confirmation of our orders no later than within 3 days after the date of the order.

## 2. Forwarding of Orders to Third Parties

Supplier is not allowed to forward our orders, or material parts thereof, to third parties for execution without our prior written permission.

## 3. Non-Disclosure

3.1 All drawings, plans technical data, samples and other documents provided by us to Supplier for execution will remain our property. Supplier shall safeguard them against unauthorized disclosure to, or unauthorized use by, third parties and shall return them to us free of cost upon request for our free disposal.

3.2 Also the products manufactured on the basis of these documents and any documents prepared by the Supplier in connection with the execution of the order must neither be given to third parties nor may they be used for any purpose other than the contractual one.

3.3 This non-disclosure obligation also applies to the prices and other contractual terms and conditions agreed with the Supplier.

## 4. Observance of Terms and Dates

4.1 Agreed terms and stipulated dates are binding. Relevant for their observance upon delivery is the arrival of the goods at the place of delivery specified in the purchase order; in the case of a delivery including installation or assembly and other success-related services to be rendered - our completed acceptance.

4.2 If the agreed terms and dates cannot be met, Supplier is required to notify us thereof immediately, stating the reason for the delay and its expected duration. Our legal claims for default shall not be affected thereby.

4.3 Our approval is required for any deliveries of goods and services prior to the agreed dates.

## 5. Partial, Extra or Short Deliveries

5.1 Partial deliveries or partial services require our prior written approval.

5.2 We reserve our right to accept extra or partial deliveries in individual cases.

## 6. Prices and Shipment

6.1 The prices are to be understood to be fixed prices, excluding V.A.T., including packaging, "free place of receipt".

6.2 If "ex-factory" pricing is agreed in deviation from the foregoing, shipment shall be effected at the lowest cost if no special means of transport is stipulated.

6.3 Any extra costs incurred due to Supplier's non-compliance with the specified terms of shipment, or for accelerated shipment in order to meet a deadline, shall be borne by the Supplier.

6.4 All Bills of Lading/consignment notes, shipping notes, delivery notes, other forwarding notes and the invoices shall include the complete identification references of the purchase order.

## 7. Passage of Risk, Notice of Defects

7.1 For deliveries, the risk passes to us upon their arrival at the place of delivery specified by us. In the case of deliveries including erection or assembly, and in the case of other success-related services to be rendered, the risk passes to us after completed acceptance.

7.2 We shall notify Supplier of externally visible defects no later than within 14 days after delivery and of other defects immediately after their discovery. In the event that a defect came to our notice only after we received a respective customer complaint we shall notify such defect without delay after we received the customer's notice of defect.

## 8. Quality und Documentation

8.1 The supplier ensures, that for the performance of the ordered services only qualified personnel is used.

8.2 The supplier ensures that defective or faulty products or services, as well as other malfunctions or malpractices within the processes of the ordered services, will be immediately, latest 48 hours after occurred, announced in writing to NDC. This applies especially for already delivered products or services to enable NDC to take immediate measures or action.

8.3 Any changes concerning the specified ordered goods and services or the related processes are subject to prior approval in writing by NDC.

8.4 The supplier constantly examines and monitors the quality and specification of the ordered goods and services. Further the supplier keeps corresponding records of the test results available for NDC.

8.5 The supplier ensures, with respect to an audit, that NDC (as well as customers of NDC and superior authorities) has access to all facilities and documents concerning the placed order.

8.6 Documents to be filed will be archived for 10 years and will be secured against unauthorized access and protected against deterioration.

## 9. Invoice, Payment

9.1 The invoice shall be sent to us separately. It shall be issued in duplicate and completed in such a way that it can be checked against the delivery documents. The invoice shall include all the references contained in the purchase order.

9.2 Terms of payment and discount start running after receipt of a verifiable invoice, not however, before complete delivery free of defects or before the acceptance of services, respectively. Provided that these conditions are fulfilled, payment will be effected within 14 days with 2 % discount or within 60 days, net.

## 10. Rights in the Case of Defects

10.1 Supplier is obligated to deliver goods and services free of defects which possess the guaranteed characteristics. Supplier warrants that they are state-of-the-art and comply with the generally accepted technical and industrial medicine safety regulations of the respective government authorities and professional associations, that they comply with the valid environmental protection regulations and all other requirements mandated by the applicable legal provisions.

10.2 If machines, devices or plant are the subject matter of delivery, they must fulfill the requirements of the special safety regulations for machinery and equipment applicable at the time of contract fulfillment and shall be marked with a CE-mark.

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10.3 In the case of defects, we have the right to assert our claims against Supplier within the limitation periods provided by law. In this case we are entitled, at our option, to demand rectification of defects, replacement, or new manufacture in accordance with the applicable legal provisions. Supplier shall indemnify us for damages incurred in the meantime and for the expenses incurred for subsequent fulfillment.

10.4 If the subsequent fulfillment fails or is not completed within a reasonable term or, if setting a term was dispensable, we have the right to demand rescission, damages instead of the performance, compensation for futile expenditure or reduction of the purchase price in accordance with the applicable legal provisions without prejudice to any rights we have based on guarantees undertaken by the Supplier.

10.5 In the event that Supplier does not meet its obligation of fulfillment within a reasonable period of grace set by us - whereby Supplier does not have the right to refuse subsequent fulfillment - we have moreover the right to carry out the required measures ourselves, at Supplier's costs and risk.

## 11. Product Liability

11.1 Supplier shall indemnify us against any third party product liability claim based on a defect of the product delivered by Supplier.

11.2 Under the same preconditions, Supplier is also liable for damages incurred by us for preventive measures adequate in type and scope against third party product liability claims, e.g. by public warnings.

11.3 We shall notify Supplier timely about such claims for damages and shall neither make any payments nor acknowledge any claims without prior consultations with Supplier. Our right to lodge our own claim for damages against Supplier shall not be affected thereby.

11.4 Supplier shall take out adequate insurance coverage against potential claims based on product liability, or costs for potential recall actions, and provide proof of such insurance coverage to us upon request.

## 12. Infringement of Protected Rights of Third Parties

Supplier shall ensure that no patents or industrial property rights of third parties are infringed by our contractual use of the products or services provided. Supplier shall indemnify us against all claims asserted against us based on the infringement of a domestic industrial property right and shall undertake all reasonable efforts to place us in a position to use the products and services contractually without infringing the rights of third parties.

## 13. Retention of Title, Assignment, Insolvency

13.1 An individual agreement with us is required if Supplier wishes to secure any contractual claims which exceed the mere retention of title.

13.2 The assignment of claims against us is only permitted if such claims are undisputed, ready for decision or recognized by declaratory judgment. Consent shall not be unreasonably withheld.

13.3 In the event that insolvency proceedings are initiated against Supplier's property or denied due to a lack of sufficient assets to cover the cost of proceedings, or in the event that the orderly performance of the contract is in jeopardy because Supplier discontinues his payments not only on a temporary basis, we have the right to terminate the contract with immediate effect. The respective declarations require the written form.

## 14. Place of Performance, Venue, Governing Law

14.1 Place of performance for all deliveries and services is the place of receipt.

14.2 Venue is Arnsberg, if Supplier is a merchant in the sense of the Commercial Code. We can sue Supplier, however, also at its general place of jurisdiction.

14.3 Complementary to the contractual provisions, the law of the Federal Republic of Germany is applicable.

Marsberg, April 2008