

General Terms and Conditions of Purchase

Wandres GmbH micro-cleaning

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§1 Conflict in scope of application, legal form

(1) The present General Terms and Conditions of Purchase ("GTCP") apply for all business relations between the company Wandres GmbH micro-cleaning ("Buyer") and its suppliers ("Seller"). The GTCP shall only apply if the Seller is a business owner (according to § 14 German Civil Code), a legal entity under public law or public-law special funds.

(2) The GTCP apply especially for contracts regarding the sale and/or the delivery of moveable items ("goods") irrespective of the fact whether these goods have been produced by the Seller himself or whether they have been bought from suppliers (§§ 433, 650 German Civil Code). Unless otherwise agreed, the most recent and valid version of the GTCP at the time of the Buyer's purchase order serves as a framework agreement for similar future contracts without the Buyer's obligation to explicitly refer to them in each individual case.

(3) The Buyer reserves the right to change the GTCP at any point in time provided that the changes - while taking into account the Buyer's interests - are just and reasonable for the Seller. Changes shall only apply for future contracts, if the contract partner has been informed about them in writing.

(4) The GTCP shall apply exclusively. Any diverging, conflicting or supplementary General Terms and Conditions of the Seller shall be binding only if and insofar as they have been explicitly recognized by the Buyer. The requirement of consent applies in every case, even if the Seller refers to his General Terms and Conditions of Business in his order confirmation and if the Buyer has not expressly objected to them. Even if the Buyer refers to a document that contains the Seller's or a third party's General Terms and Conditions of Business, this action does not constitute any agreement to the validity of these conditions.

(5) Individual agreements and information such as framework contracts or quality assurance agreements as well as indications in the Buyer's purchase order shall prevail over the GTCP.

(6) Legally relevant declarations and notifications of the Seller that refer to the contract (e.g. setting of time-limits, admonitions, rescission) need to be done in writing according to § 126 of the German Civil Code. Legal formalities and procedures and further evidence, especially if the declarator's legitimacy is doubtful, shall remain unaffected.

(7) References to the validity of statutory provisions are for clarification purposes only. Therefore, these provisions shall apply even if this kind of clarification has not been given and unless they have not been directly changed or explicitly excluded by these GTCP.

§ 2 Conclusion of contract

(1) The Buyer's purchase order shall - at the earliest - be deemed as binding when sent or confirmed in writing. Before adopting the purchase order and for the purpose of correctness and completion, the Seller must indicate any obvious errors to the Buyer (e.g. typing or calculation errors) or any missing items relating to the purchase order or its appurtenant documents. If the Seller has not complied with his duty of notification, the contract shall be deemed as not concluded.

(2) If the purchase order does not expressly contain a commitment period, the Buyer will abide by it for 14 days following the issue and the sending of the quotation. Acceptance will be seen as punctual at the time of the Buyer receiving the Seller's acceptance statement.

(3) The Seller shall confirm the Buyer's purchase order in writing within a time frame of 14 days. This time frame starts with the sending of the quotation. The Seller shall send the goods without reservation (acceptance).

(4) After expiry of the time frame mentioned, the Buyer is entitled to withdraw from his purchase proposal.

§ 3 Delivery time and default in delivery

(1) Unless otherwise agreed, the time of delivery mentioned in the Buyer's purchase order shall be deemed as binding. The Seller shall inform the Buyer in writing immediately, if it becomes obvious that - for whatever reason - he probably cannot meet the agreed delivery time.

(2) If the Seller fails to perform within the agreed delivery time or if he is in default, the Buyer's rights - especially regarding withdrawal from the contract and damage compensation - shall be determined according to the statutory regulations.

(3) If the Seller is in default, the Buyer can, apart from further legal claims, demand compensation for his default damage on a flat-rate basis amounting to 0.25% of the net price per calendar day. Compensation for late delivery, however, may not exceed 5% of the total net price of the goods. The Buyer may prove, that the actual damage was higher. The Seller may prove that no damage has occurred at all or that the damage was considerably lower.

§ 4 Performance, delivery, transfer of risk, default of acceptance

(1) Scope of performance shall be seen in the respective purchase order.

(2) Within reasonable limits and no later than 14 days before the agreed delivery date, the Buyer shall be entitled to change time and place of delivery and the type of packing at any time. These changes need to be effected in writing and as long as the Seller has not yet fully fulfilled his contractual obligations. The same shall apply for changes in product specifications as long as the Seller is still able to bring them about without substantial extra efforts and within his normal production processes. The Buyer shall pay the Seller for any verified and reasonable additional costs incurred due to the requested changes. If such changes cause delays in the delivery that are unavoidable within the Seller's normal production and business processes despite reasonable extra efforts made by the Seller, the originally agreed delivery date will be postponed accordingly. After carefully assessing the expected additional costs and after considering any potential delays in delivery, the Seller shall inform the Buyer accordingly in writing no later than 7 working days after having received the Buyer's message (see paragraph 1).

(3) Unless otherwise agreed, the Seller is not entitled to let third parties (e.g. subcontractors) perform any owed deliveries or services for him. Unless otherwise agreed for individual cases (e.g. limitation to stock), the Seller shall bear the procurement risk for his performances.

(4) Within Germany, delivery shall be effected "carriage paid" to the place stated in the purchase order. If no agreement has been made or if no target place is mentioned in the purchase order, delivery shall be effected to the Buyer's plant in Stegen, Germany. The target place shall also be the place of performance for the delivery and for any potential supplementary performance.

(5) Goods need to be packed carefully, so that they are not damaged during transport or during any loading processes. The use of packaging material shall be limited to the amount required for this purpose. The Seller's obligation to take back any goods or packaging material shall be governed according to statutory regulations. The Seller declares that all packaging materials are duly licensed and registered at the respective system provider and that all fees have been fully and properly paid.

(6) A delivery note stating a date (issue date and shipment date), the content of the delivery (part number and number of units) as well as a purchasing code (date and number) shall accompany the delivery. If there is no such delivery note or if the information is incomplete, the Buyer may not be held responsible for any delay that may occur in processing the case or in paying for the goods. The Seller must send a separate dispatch note to the Buyer containing the same information as the delivery note.

The risk of accidental loss or accidental deterioration shall pass to the Buyer not later than with the handing over of the goods at the place of performance. If an acceptance procedure has been agreed on, the transfer of risk shall be the decisive feature. Regarding the acceptance procedure, the statutory regulations of the work contract law shall apply for all other aspects, too. The handover or acceptance is the same if the Buyer is in default of acceptance.

(8) The start of a default of acceptance shall be governed by the statutory regulations. The Seller must expressly offer his performance to the Buyer even if a certain period of time has been agreed on for an action or participation of the latter (e.g. provision of material). If the Buyer is in default of acceptance, the Seller may request compensation for extra expenses according to the statutory regulations (§ 304 German Civil Code). If the contract regards a specific item that the Seller needs to manufacture (single-unit production), the Seller shall only be entitled to further rights if the Buyer has undertaken to participate and has failed to render such participation.

§ 5 Prices and payment conditions

(1) Unless otherwise agreed (e.g. scaled prices), the price mentioned in the purchase order shall be binding. All prices include the statutory value-added tax if this tax is not listed separately.

(2) Unless otherwise agreed for individual cases, the price includes all services and ancillary services of the Seller. It also includes all ancillary costs (e.g. suitable packaging, transport costs including transport and liability insurances).

(3) If the agreement on the price does not include packaging, if the price for the packaging has not been expressly stated and if the packaging has not been provided on a loan basis, it shall be invoiced at the proven cost price. When required by the Buyer, the Seller needs to take back the packaging at his own expense.

(4) The agreed price needs to be paid within 30 calendar days. Payment period starts after complete delivery and performance (including an eventual acceptance procedure) and after receipt of a valid invoice. If the Buyer effects his payment within 14 calendar days, the Seller grants him a 3% discount on the net amount of the invoice.

(5) The Buyer does not owe any late-payment interests. The statutory regulations shall apply for any defaults in payment.

(6) The Buyer has set-off and retention rights and a right to object to non-fulfilment of the contract within the scope of the law. The Buyer has the right to hold back any payments due as long as he has claims against the Seller regarding incomplete or faulty performances.

(7) The Seller only has set-off and retention rights if he has legally valid and uncontested counter-claims.

§ 6 Secrecy and reservation of title

(1) The Buyer reserves a reservation of title and copyrights for any pictures, plans, drawings, calculations, instructions, product descriptions, CAD data or other documents that he might supply. This type of documents may only be used to render the contractual performance or service. These documents must not be disclosed to third parties even after the termination of the contract. The confidentiality obligation expires if the content of the documents provided has become common knowledge. Special non-disclosure agreements and statutory rules to protect confidential information remain unaffected.

(2) The above provisions apply for tissues and materials (e.g. software, finished and half-finished products), tools, templates, samples and other objects that the Buyer may make available to the Seller for manufacturing purposes. As long as they are not processed further, this type of objects shall be insured to the usual extent against destruction and loss at the Supplier's cost.

(3) The processing, mixture or combination (further processing) of the items provided by the Seller will be effected for by the Buyer. The same applies for further processing of the delivered goods by the Buyer so that the Buyer becomes a manufacturer. The Buyer will attain ownership of the product in accordance with the statutory regulations and no later than with the further processing mentioned above.

(4) Unconditional transfer of the ownership of the goods to the Buyer has to be effected irrespective of the payment of the price. If the Buyer accepts the Seller's offer to transfer ownership with the payment of the price in individual cases, the Seller's reservation of title expires as soon as payment for the delivered goods has been effected. In the regular course of business, however, the Buyer will be entitled to sell the goods to a third party even before having paid the purchase price. This can be done with advance assignment of the resulting claim (alternatively, the simple reservation of title extended to the resale shall apply). This excludes all other forms of reservation of title, in particular the extended reservation of title, the forwarded reservation of title and the reservation of title extended to further processing.

§ 7 Defective delivery

(1) The statutory regulations shall apply regarding the Buyer's rights in the case of defects to quality and title including false or short delivery, inadequate installation, faulty instructions or any other breach of the Seller's obligations. Furthermore, the following additions and clarifications shall apply exclusively in favour of the Buyer.

(2) According to statutory regulations, the Seller is responsible that the item has the contractually agreed condition at the time of the passing of the risk. The agreed condition of the item is based on product descriptions that form part of the respective contract or that are included in the contract in the same manner as the present GTCP. Of particular importance are those product descriptions that are mentioned or referred to in the Buyer's purchase order. In this case, it is of no importance whether the product description comes from the Buyer, the Seller or the manufacturer.

(3) If the goods contain digital elements or have digital contents, the Seller must make these digital contents available and needs to update them as far as this is required to fulfil a contractually agreed condition according to paragraph 2. This also applies for product descriptions from the manufacturer made by himself or on his behalf, contents on the internet, in advertising or on the product's label.

(4) When concluding the contract, the Buyer shall not be obliged to examine the goods or to make inquiries as to potential faults. Contrary to some parts of § 442 paragraph 1, sentence 2 in the German Civil Code, the Buyer shall have unlimited claims for defects even if a defect has remained unknown due to the Buyer's gross negligence at the time when the contract was concluded.

(5) Subject to the following restriction, the statutory regulations (§§ 377, 381 German Commercial Code) shall apply for the commercial obligation of examination and notification of defects. The Buyer's commercial obligation of examination is limited to faults that are easily detected during incoming goods inspection through external survey including the shipping documents (e.g. transport damages, faulty or short deliveries) or that become apparent during the Buyer's quality controls (sample checks). Apart from that, it is important whether an examination is feasible according to proper business routines and when taking into consideration the circumstances of a particular case. The Buyer's obligation to give notice of defects that are detected later remains unaffected. Irrespective of the obligation of examination, the Buyer's assertion of a claim (notice of defects) is considered to be immediate and in time if it is made within 5 working days after detection or - with obvious faults - after delivery.

(6) Subsequent performances also include the dismantling of faulty goods and re-installations if the goods have been integrated into another object or if they have been added to another object prior to detecting the defect in question. The Buyer's legal right to compensation for expenses (dismantling and integration costs) remains unaffected. The expenses necessary to examine the situation and bring about subsequent performance, especially transport, road, labour and material costs as well as costs for dismantling and integration, shall be borne by the Seller even if it becomes apparent that there was no defect in the end. With unjustified requests to remedy defects, the Buyer's compensation liability remains unaffected. The Buyer will only be liable in such cases, if he discerns or if he does not recognise by gross negligence that there is no defect.

(7) Irrespective of the legal rights and regulations, the following shall apply: If the Seller does not meet his obligation for subsequent performance - rectification or replacement according to the Buyer's choice - and if the Buyer has given the Seller a reasonable period of time to do this, the Buyer may remedy the defect himself and claim compensation for his expenses or demand a respective advance payment. If the Seller's subsequent performance has failed or if it is unacceptable for the Buyer (e.g. if the matter is very urgent, if operational safety is at risk, impending occurrence of disproportionate damages) no period of time needs to be given. In such circumstances, the Buyer shall inform the Seller immediately, if possible in advance.

(8) As for the rest, the Buyer shall be entitled to a reduction of the purchase price or withdrawal from the contract according to the statutory regulations in the case of defects of quality and defects of title. Furthermore and according to statutory regulations, the Buyer is entitled to compensations of damages and expenses.

§ 8 Suppliers' recourse

(1) Apart from claims for defects, the Buyer is entitled to unrestricted legal expenditure and recourse claims within a supply chain (delivery recourse according to §§ 478, 445a, 445b and §§ 445c, 327, paragraph 5, 327u German Civil Code). In particular, the Buyer is entitled to demand the exact type of subsequent performance (rectification or replacement) from the Seller that the Buyer is obliged to deliver to his customer. If the goods contain digital elements or have digital contents, the Seller also must make digital updates available. The Buyer's statutory right to choose (§ 439, paragraph 1 German Civil Code) shall not be restricted by the above.

(2) Prior to accepting or fulfilling any defect claims filed by his customer (including expenditure compensation according to §§ 445a paragraph 1, 439 paragraph 2,3,6, sentence 2, 475 paragraph 4 German Civil Code), the Buyer shall inform the Seller accordingly, giving him a short summary of the situation and asking him to make a written statement. If no such well-founded statement is made within a reasonable period of time and if no amicable solution is suggested, the Buyer's claim for defects actually granted shall be deemed to be owed to the Buyer's customer. In this case, the Seller is responsible for providing evidence to the contrary.

(3) Claims from the Buyer's suppliers' recourse are valid even if the defective goods have been further processed by the Buyer, his customer or a third party, e.g. by integrating them into or attaching them to other products, by installing them, by mechanically connecting them to other products or by further processing them in any other way.

§ 9 Spare parts

(1) For a period of at least 10 years after delivery, the Seller shall have the obligation to make spare parts for the delivered goods available to the Buyer.

(2) If the Seller intends to terminate the production of such spare parts at the end or after the aforementioned period of time (paragraph 1), he needs to inform the Buyer immediately and shall give him the opportunity to order the said parts one last time. The Seller's decision in this respect must be made at least 3 months before the actual end of production.

§ 10 Liability

(1) If the Seller is responsible for a product damage, he shall hold the Buyer harmless from any third-party claims to the extent that the cause lies within his sphere of control and organization and he himself is liable in relation to third parties.

(2) Within his obligation to hold the Buyer harmless, the Seller shall compensate expenditures according to §§683, 670 German Civil Code that result from or are related to third party claims including product recalls organised by the Buyer. If possible and reasonable, the Buyer will inform the Seller about the contents and scope of his product recalls and give him the opportunity to make a statement. Further legal claims will remain unaffected.

(3) The Seller shall take out and maintain a product liability insurance policy with a lump-sum amount insured of at least 10 million EUR per case of personal injury / material damage.

§ 11 Statute of limitations

(1) Unless otherwise agreed, mutual claims of the contractual parties lapse according to statutory regulations.

(2) After receiving the Buyer's written defects report, the limitation of warranty claims is inhibited until the Seller rejects the claims, until the defect is declared to have been eliminated or if the Seller rejects any further negotiations regarding the Buyer's claims. For replacement deliveries or after having eliminated defects, the warranty period starts again for replaced or repaired parts unless the Buyer must assume from the Seller's behaviour, that the latter did not feel obliged to perform this type of action and that the Seller made the replacement delivery or eliminated the defects as a gesture of goodwill or similar reasons.

(3) Contrary to § 438, paragraph 1 no. 3 German Civil Code, the limitation period for defect claims shall be 3 years starting with the transfer of risk. If the parties agreed on an official acceptance, the limitation period shall start with the day of the acceptance. The 3-year limitation period shall also apply for legal defects. However, the legal limitation period for third parties return claims in rem (§ 438, paragraph 1, no. 1 German Civil Code) shall remain unaffected. Claims going back to legal defects shall not lapse as long as a third party can still exercise its rights against the Buyer, especially in the absence of limitation.

(4) Limitation periods of commercial law including the aforementioned prolongation shall apply for all contractual defect claims to the extent as provided for by law. If the Buyer has detected a defect and if he is entitled to non-contractual damage compensation claims, the statutory limitation period (§§ 195, 199 German Civil Code) shall apply unless the application of limitation periods of commercial law in particular cases provides for a longer limitation period.

§ 12 Assignment

The Seller is not entitled to cede his contractual claims to third parties. This does not apply if the above is about monetary claims.

§ 13 Choice of law and place of jurisdiction

(1) For these GTCP and for the contractual relation between the Buyer and the Seller, the law of the Federal Republic of Germany shall apply. The application of UN purchasing law or other international uniform law is excluded.

(2) If the Seller is a merchant according to the German Commercial Code (HGB), a legal entity under public law or a separate property under public law, exclusive place of jurisdiction for national and international matters and for any disputes arising from the contractual relationship shall be the Buyer's plant in Stegen, Germany. The same applies, if the Seller is a businessmen/entrepreneur according to § 14 German Civil Code. The Buyer, however, shall be entitled in all cases to file a suit at the place of performance for the delivery according to these GTCP and/or according to overriding individual agreements or at the Seller's general place of jurisdiction. Preferential statutory regulations, especially rules of exclusive jurisdiction, shall remain unaffected.

§ 14 Final clauses

(1) Ancillary agreements, changes or additions require, as well as their removal, the written form to take effect.

(2) In the event that a provision becomes or is invalid, this will not affect the validity of the other provisions.