



## General Terms and Conditions of Purchase of Wystrach GmbH

All our suppliers' deliveries, services, and quotations shall be based exclusively on these General Terms and Conditions of Purchase.

### 1. Quotation

- 1.1 The supplier shall adhere exactly to our request in the quotation; it shall expressly indicate any deviations.
- 1.2 The quotation shall be made free of charge.

### 2. Ordering

- 2.1 Supply contracts and delivery schedules as well as any amendments and supplements to them must be made in writing. The supplier is obliged to accept an order within a reasonable period of time, but at the latest within a period of two weeks from receipt of the order.
- 2.2 We expressly reserve the right to acknowledge excess or short deliveries.

### 3. Conclusion of Contract, Scope of Application

- 3.1 By accepting our order, the supplier also declares its agreement to these Terms and Conditions of Purchase.
- 3.2 The supplier's terms and conditions shall not apply, even if we do not separately object to their validity in individual cases. This shall also apply if we accept the service or delivery without objection.
- 3.3 These Terms and Conditions of Purchase shall also apply to future orders and contracts for deliveries and services with the supplier, even if they are not specifically referred to again.

### 4. Delivery Dates and Deadlines, Transfer of Risk

- 4.1 The delivery time (delivery date or deadline) specified by us in the respective order or otherwise decisive in accordance with these Terms and Conditions of Purchase shall be binding. The date of receipt of the goods at the place of receipt specified in the order shall be decisive for compliance with the delivery time.
- 4.2 The supplier shall be obliged to inform us immediately in writing if circumstances arise or become apparent that the delivery time cannot be met.
- 4.3 If the day on which the delivery is to take place at the latest can be determined on the basis of the contract, the supplier shall be in default at the end of this day without requiring a reminder on our part. In the event of a delay in delivery, we shall be entitled without limitation to the statutory claims, including the right of withdrawal and the claim for damages instead of performance after the fruitless expiry of a reasonable grace period.
- 4.4 In the event of delay in delivery, we shall be entitled, after prior written warning to the supplier, to demand a contractual penalty of 0.5%, but not more than 5%, of the respective order value for each commenced week of delay in delivery. The contractual penalty shall be set off against the damage caused by default to be compensated by the supplier.
- 4.5 Without our prior consent, the supplier shall not be entitled to premature delivery or partial deliveries.
- 4.6 Even if shipment has been agreed, the risk shall not pass to us until the goods have been handed over to us at the agreed destination.

### 5. Quality

The supplier guarantees that its deliveries a) comply with the contractually agreed requirements, b) are free of other defects or faults that negate or reduce the value or suitability of the respective delivery item for the contractually agreed or usual purpose, c) comply with the recognized rules of technology and the applicable statutory and official provisions, and d) are free of defects of title, e.g. rights of third parties.

### 6. Warranty, Notice of Defects

- 6.1 In the event of defects, we shall be entitled without restriction to the statutory claims. The warranty period, however, deviates from this and amounts to 36 months.
- 6.2 Defects as to quality shall in any case be notified in good time if we notify the supplier thereof within 5 working days of receipt of the goods by us. Concealed material defects shall in any case be deemed notified in good time if the notice is made to the supplier within 5 working days after discovery of the material defect.
- 6.3 The statute of limitations for warranty claims shall be suspended upon receipt of the notice of defects by the supplier until the supplier rejects the claims asserted by us or declares the material defect rectified or otherwise refuses to continue negotiations on the claims asserted by us. In the event of a replacement delivery or rectification of defects, the warranty period for replaced or repaired parts shall commence again, unless the conduct of the supplier gives us reason to assume that the latter did not consider itself obliged to take the measure, but carried out the replacement delivery or rectification of defects only as a gesture of goodwill or similar reasons.

### 7. Product Liability

- 7.1 The supplier is responsible for all claims asserted against us by third parties due to personal injury or damage to property that are attributable to a defective product it supplied and is obliged to release us from the resulting liability. If we are obliged to lawfully carry out a recall action against third parties due to a defect in a product supplied by the supplier, the supplier shall bear all costs associated with the recall action.
- 7.2 The supplier undertakes to maintain product liability insurance with a sum insured of EUR 10 million per personal injury / damage to property. This insurance need not cover recall risk or criminal or similar damage. The supplier is obliged to send us a copy of the liability policy upon request.

### 8. Industrial Property Rights

- 8.1 In accordance with the following paragraph, the supplier warrants that no industrial property rights of third parties in countries of the European Union or other countries in which it manufactures or will manufacture the products are infringed by products it supplies.

- 8.2 The supplier is obliged to indemnify us against all claims made by third parties against us due to the infringement of industrial property rights mentioned in paragraph 1 and to reimburse us for all necessary expenses in connection with this claim. This claim shall not exist if the supplier proves that it is neither responsible for the infringement of the industrial property right nor should it have been aware of such infringement at the time of delivery having exercised due commercial diligence.
- 8.3 Further claims due to defects of title shall remain unaffected.

### 9. Spare Parts

- 9.1 The supplier is obliged to keep spare parts for the products delivered to us available for a period of at least 5 years after delivery.
- 9.2 If the supplier intends to discontinue the production of spare parts for the products delivered to us, it shall inform us immediately after the decision to discontinue such production. Subject to paragraph 1 above, this decision must be taken at least 12 months before production is discontinued.

### 10. Prices, Invoicing, Payment

- 10.1 The agreed prices are fixed prices plus VAT insofar as prescribed by law. In the absence of a written agreement to the contrary, the price shall include delivery and transportation to the shipping address specified in the contract, including packaging.
- 10.2 If a price is agreed "ex works" or "ex store," we shall bear only the most favorable shipping costs. All costs arising until handover to the carrier, including loading and cartage, shall be borne by the supplier. The agreement on the place of fulfillment shall not be affected by the type of pricing.
- 10.3 Unless otherwise agreed, we shall pay the purchase price at our own discretion upon delivery of the goods and receipt of an invoice entitling us to deduct input tax:
  - within 14 days at 2% discount or
  - within 30 days net.
- 10.4 The order number, article number, delivery quantity, and delivery address must be stated in all delivery documents and invoices. Should one or more of these details be missing and processing by us be delayed as a result, the aforementioned payment deadline shall be extended by the period of the delay.
- 10.5 In the event of default in payment, we shall owe default interest in the amount of five percentage points above the base interest rate pursuant to paragraph 247 BGB (German Civil Code).
- 10.6 For organizational reasons, our payments shall always be made without examination of the services rendered by the supplier. They shall not represent any acknowledgment and shall not comprise a declaration that the deliveries are in accordance with the contract. We shall have the right of set-off and retention to the extent permitted by law.

### 11. Order Documents, Tools, Retention of Title

- 11.1 Upon request, the supplier shall submit to us plans, construction drawings, calculations, etc. relating to the delivery for inspection and approval and, if found to be correct, provide them to us in the number requested by us.
- 11.2 We reserve title or copyright to all orders and commissions and to all drawings, illustrations, calculations, descriptions, and other documents we place at the supplier's disposal. Without our express consent, the supplier may neither make them accessible to third parties nor use or reproduce them itself or through third parties. The supplier must return these documents to us in their entirety at our request if it longer requires them in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. In this case, copies made by the supplier shall be destroyed; the only exceptions to this are for storage within the scope of statutory storage obligations and for the storage of data for backup purposes within the scope of normal data backup.
- 11.3 Tools, devices and models that we make available to the supplier or that are manufactured for contractual purposes and charged to us separately by the supplier shall remain our property or become our property. They are to be marked as our property by the supplier, stored carefully, protected against damage of any kind, and used only for the purpose of the contract. Unless otherwise agreed, the contracting parties shall each bear half of the costs of maintenance and repair. However, insofar as these costs are attributable to defects in such items manufactured by the supplier or to improper use by the supplier, its employees or other vicarious agents, they shall be borne solely by the supplier. The supplier shall notify us immediately of any not insignificant damage to these items. Upon request, the supplier shall be obliged to return the goods to us in proper condition if it no longer requires them for the fulfillment of the contracts concluded with us.
- 11.4 The supplier's retention of title shall apply only insofar as it relates to our payment obligation for the respective products to which the supplier retains title. In particular, extended or prolonged reservations of title are inadmissible.

### 12. Severability Clause

Should any provision of these Terms and Conditions of Purchase or of the delivery or service contract be invalid, the invalid provision shall be replaced by a provision that comes as close as possible to the economic result of the invalid provision while maintaining the remaining provisions.

### 13. Place of Jurisdiction, Law

The place of jurisdiction, including for documentary proceedings, shall be Geldern (Rhineland). The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

As at November 2018

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Commerzbank AG, Goch  
Deutsche Bank AG, Kevelaer  
Volksbank an der Niers eG  
National-Bank AG, Essen

BIC: COBADEFF325 IBAN: DE55 3244 0023 0833 2538 00  
BIC: DEUTDEDD320 IBAN: DE27 3207 0080 0227 3647 00  
BIC: GENODED1GDL IBAN: DE65 3206 1384 0808 0800 10  
BIC: NBAGDE3E IBAN: DE65 3602 0030 0005 0136 74

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