

CONDITIONS OF PURCHASE

The legal relations between the supplier and the Wilhelmshaven Tank Terminal GmbH - hereinafter referred to as the Buyer - comply with these conditions and any other agreements. Changes and updates must be made in writing. Other general terms and conditions of the supplier are not applicable even when they are not explicitly contradicted in an individual case.

1 Supply Agreement, Delivery Release Orders

- 1.1 Supply agreements (ordering and receipt) and delivery release orders as well as changes and updates to them must be made in writing. Delivery release orders can also take place through data transmission or through automatically readable data carrier.
- 1.2 If the supplier does not accept the order within one week of receipt, the Buyer is authorized to cancel it. Delivery release orders are binding at the latest if the supplier does not cancel within three working days.
- 1.3 The Buyer can demand changes to the construction and design of the delivered item within the framework of reasonability for the supplier. The impact, in particular with respect to additional and reduced costs as well as the delivery schedules, should be taken into consideration appropriately.

2 Payment

- 2.1 The payment shall be due according to contractual goods receipt and receipt of the correct and verifiable invoice within 60 calendar days net as long as nothing else has been agreed. Decisive for the payment are the quantities, weights determined by the Buyer or otherwise the determination of underlying units.
- 2.2 In the event of a defective delivery, the Buyer has the right to withhold payment for the faulty portion until the order has been properly filled.
- 2.3 Small quantity surcharges will not be paid unless otherwise agreed.
- 2.4 The supplier is not authorized without prior written consent from the Buyer to surrender his requirements or to have third parties collect them. Agreement may only be refused for factual reasons.
- 2.5 If there are other claims against the suppliers from other business, the Buyer has the right to exercise a right of lien or to declare offset if the claim against the supplier is legally decided or recognized.
- 2.6 Reimbursements for visits or the planning of offers and projects etc. are not guaranteed.

3 Delivery Dates and Periods, Default and Force Majeure

- 3.1 Agreed dates and periods are binding. Decisive for compliance with the delivery date or the delivery period is the receipt of the product at the point of usage named by the Buyer. If "free delivery" is not agreed, the supplier must make the product available with consideration for the normal time for loading and shipment. The supplier is in default upon expiry of the agreed date without the need for an other reminder.
- 3.2 If the supplier knows that the agreed dates cannot be met, then he must inform the Buyer immediately in writing stating the reason and the duration of the delay. In this case, the Buyer has the right to cancel the agreement. Cancellation must be made immediately and in writing to the supplier. The supplier is obligated to pay the Buyer delay damages. Neither the acceptance of the delayed delivery or service nor the declaration of cancellation indicates waiving of damage claims. If he so chooses, the Buyer can demand compensation for his expenses instead of damage compensation.
- 3.3 Force majeure, labor disputes, unrest, governmental measures and other inevitable events release the contractual partners for the duration of the disturbance and in the scope of their effect from their obligations. This also applies if these events occur at a time when the affected contractual partner is in default. The contractual partners are obligated within reason to immediately provide the required information and to adjust their obligations depending on the changed situation in good faith.

4 Prices, Packaging and Shipping

- 4.1 The agreed prices are fixed prices and exclude all types of additional claims. They include costs for packaging, freight and transport to the shipping address or point of use specified by the Buyer and for customs formalities and customs. If no prices are specified, the current list prices of the supplier with customary deductions apply.
- 4.2 Each delivery should be reported to the Buyer in the form of a delivery note immediately after completion, which is exactly divided by type, quantity and weight. Delivery notes, bills of lading, invoices and all correspondence must contain the order number of the Buyer.
- 4.3 The Buyer only accepts the quantities or number of items ordered by him. Over or underdeliveries are only possible after prior agreement.
- 4.4 Shipment is at the risk of the supplier. The risk of any degradation including accidental destruction remains with the supplier until delivery at the shipping address or point of use requested by the Buyer.
- 4.5 If nothing else was agreed, the products to be delivered must be packaged as is customary and appropriate. Packaging materials should only be used to the extent required to achieve this purpose. Only environmentally friendly packaging materials should be used.
- 4.6 The supplier is obligated to take back the packaging free of charge and bears the transport costs for it. Should the packaging be charged to the Buyer as an exception, then he has the right to return packaging that is in a good state to the supplier carriage paid for a refund of 2/3 of the resulting value from the invoice.
- 4.7 Cable drums, pallets and containers are treated as supplier property and will be returned in the exchange process.
- 4.8 The Buyer retains the right to name the shipping company or freight carrier.
- 4.9 Supplier shall at all times comply with rules and regulations which are applicable at site and will follow up instructions received. Neither Buyer nor supplier excludes or limits its liability for death or personal injury arising from its own gross negligence or willful misconduct or for any liability that cannot by law be excluded or limited.

5 Defects

- 5.1 The buyer must report defects in the delivery to the supplier in writing as soon as they have been identified according to the factors of normal business. In this respect, the supplier forgoes the objection of delayed notice of defects.
- 5.2 The supplier is obligated to check the defects within three business days. If a check is not performed within this period, the defect is considered silently admitted.
- 5.3 Legal provisions with regard to defects and lack of title apply unless subsequently otherwise agreed.

6 Quality

- 6.1 In his deliveries, the supplier must comply with the recognized rules of technology, safety regulations and the agreed technical information. Changes to the delivery item require prior written consent from the Buyer.
- 6.2 The supplier must constantly check the quality of the delivery items and inform the Buyer of potential improvements, if applicable.
- 6.3 For safety parts such as pipes, pushers, valves, armatures, etc. the required certificates/test certificates should be provided to the Buyer free of charge without being asked.

7 Warranty and Guarantee

- 7.1 In the event of defective products, the supplier must first be given the chance to figure out, improve or redeliver the product, unless this cannot be expected of the Buyer. If the supplier cannot do this or if he does not do so immediately, then the Buyer can withdraw from the contract and return the products at the supplier's risk. In urgent cases, the Buyer can perform the improvement himself or have a third party do so. The supplier bears the incurred costs.
- 7.2 If the same product is delivered with defects again, then the Buyer is also authorized to withdraw after written notice of another defective delivery also for the incomplete scope of delivery.
- 7.3 In the event of a defective delivery, the Buyer can also exert the remaining rights set forth in § 473 of the German Civil Code.
- 7.4 The legal regulations of § 438 of the German Civil Code apply to the statute of limitations regarding the defect guarantee claims. The statute of limitations period according to § 438 of the German Civil Code Para. 1 No. 3 of the German Civil Code is extended to three years.

- 7.5 The guarantee period in terms of § 443 of the German Civil Code is 24 months as long as not explicitly agreed otherwise. It begins with the transfer of the delivery item to the Buyer. In the case of devices, machines and systems, the guarantee period begins with the start of proper function, which is to be confirmed through an acceptance report to be created.
- 7.6 The guarantee period in terms of § 443 of the German Civil Code is 24 months after delivery.
- 7.7 If not otherwise stipulated above, the legal regulations shall apply.

8 Liability

- 8.1 The supplier is obligated to cover damages that the Buyer incurred directly or indirectly as a result of a defective delivery, due to infringement of governmental safety regulations or due to domestic or international product liability provisions.
- 8.2 The Buyer will inform and consult the supplier comprehensively if he wants to claim this. He will give the supplier the chance to examine the case of damage.
- 8.3 Further legal claims of the Buyer are applicable provided that the statutes of limitation of the § 438 Para. 1 No. 3 and 634a Para. 1 No. 1 of the German Civil code are extended to three years.
- 8.4 The fulfillment claim of the Buyer is only dropped when compensation has been provided.
- 8.5 At the discretion of the Buyer, he can demand in all cases compensation for his expenses rather than compensation for damages.
- 8.6 The supplier is obligated to effect and maintain insurance on his own account during the term of this agreement, covering the risk. The insurances to be effected by the supplier have to completely cover the risks and activities respectively which are required to fulfill this order. The supplier presents the Buyer on demand a respective proof of insurance.

9 Trademark Rights

- 9.1 The supplier is liable for claims resulting from contractual use of the delivery items from the infringement of trademark rights of third parties. It releases the Buyer and his acceptors from all claims from the use of such trademark rights.
- 9.2 The contractual partners are obligated to inform each other immediately about known infringement risks and alleged infringement cases and to give each other opportunity to amicably counter corresponding claims.
- 9.3 If there are deviations between the prototypes and the drawings or in the information from the Buyer, the supplier is obligated to inform the Buyer immediately and to submit a clarification before beginning production.

10 Property Right

The Buyer acquires full ownership with full payment and/or processing, mixing, commingling of the delivered products. Property rights of the supplier or third parties are not recognized.

11 Export Control and Customs

The supplier is obligated to inform the Buyer in his business documents of possible permitting obligations with regard to (re-)exports of his goods subject to German, European, US export and customs regulations as well as the export and customs regulations of his goods' country of origin. To this, the supplier states at least in his offers, order confirmations and invoices in the corresponding line item the following information: The export list number subject to Annex AL to the German foreign trade regulations, the ECCN (Export Control Classification Number), the origin of his goods, the commodity code (HS Code) and whether the goods were transported through the USA, produced or stored in the USA, or produced with the support of US-American technology. The supplier is obligated to inform the Buyer in writing of all further foreign trade data with regard to his goods and to immediately provide written information of all changes of the aforementioned data.

12 Confidentiality

- 12.1 The supplier is obligated to treat as confidential and refrain from making accessible to third parties all clear and technical details becoming known to him through the business relationship.
- 12.2 Subcontractors have the same obligations.

13 Compliance

The supplier is obligated to observe the respective statutory rules of conduct with regard to employees, environmental protection and occupational health and to work on the reduction of adverse people's and environmental effect during his activities. To this, the supplier will, if possible, establish and expand a management system according to DIN EN ISO 14001. Furthermore, the supplier will observe the principles of the United Nations Global Compact. These concern mainly the protection of the international human rights, the right of collective bargaining, the abolition of forced and child labor, the abatement of discrimination in engagement and employment, the responsibility for the environment and the prevention of corruption. Further information on the United Nations Global Compact is available under www.unglobalcompact.org.

14 Corrupt Payments

The Parties recognize that the United States Foreign Corrupt Practices Act of 1977 ("FCPA"), the United Kingdom Bribery Act of 2010 ("UKBA"), and similar legislation of other countries including Germany, prohibit the payment or giving of anything of value either directly or indirectly to an official of a foreign government for the purpose of influencing an act or decision in his or her official capacity, or inducing him or her to use his or her influence with the foreign government, to assist a company in obtaining or retaining business for or with, or directing business to, any person. The Parties represent and covenant that they and their officers, directors and employees will not take any action which would constitute a violation of any such applicable law of any country. The Parties agree that any violation of the FCPA, UKBA, or other anti-bribery law shall be a material breach of this Agreement.

15 General Provisions

- 15.1 If one contractual partner stops payments or if bankruptcy proceedings are initiated on his assets or a judicial or extrajudicial reorganization proceeding is initiated, then the other party has the right to withdraw from the incomplete portion of the contract.
- 15.2 The law of the Federal Republic of Germany applies exclusively with the exception of the uniform law on the international sale of goods.
- 15.3 Place of fulfillment of the delivery obligation, unless otherwise explicitly agreed, is the point of use or shipping address named by the Buyer. Otherwise, the place of fulfillment is Wilhelmshaven.
- 15.4 Place of jurisdiction is Wilhelmshaven.
- 15.5 Should individual parts of these purchase conditions be ineffective, the efficacy of the other provisions remains unaffected. The contractual partners are obligated to replace the ineffective provision with an effective one that comes closest to its content and economic sense.

HES Wilhelmshaven Tank Terminal GmbH
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