

# General Terms and Conditions of Purchase of ARGO HYTOS GmbH

## 1. General provisions

The following terms and conditions of purchase shall apply exclusively to all our orders and repeat orders. Contrary conditions of the supplier shall not apply except if expressly agreed upon in writing. Our terms and conditions of purchase shall also apply if we accept delivery despite being aware of contrary or deviating terms of the supplier. Our terms and conditions of purchase shall also govern all future transactions.

Changes and supplements shall be made exclusively by our management. Oral agreements or declarations of other persons not expressly authorised for this purpose shall only be effective if confirmed in writing by our management.

## 2. Orders and confirmation

We reserve the right to revoke an order at any time if the order is not confirmed by the supplier in writing and with an indication of the price and the date of delivery within 14 days after receipt of the order. All correspondence, including the confirmation, bill of delivery, dispatch notifications and invoices relating to our order must bear our full order number as well as - to the extent available - our EDP parts number, designation and, where applicable, the index of changes in regard to the drawing.

## 3. Offers

shall be free of charge and non-binding for us.

## 4. Delivery dates and delays

Agreed dates and deadlines shall be binding. Compliance with the delivery date or period shall be determined by reference to the time the goods were received by us. Any anticipated delays in meeting the agreed delivery schedule, in part or entirely, shall be notified to us by the supplier - indicating the reasons and the expected duration of the delay - as soon as he becomes aware of them. The delivery date or period shall run from the time of receipt of the order. If the supplier does not deliver within the agreed period, we shall have the right - at our option and after unsuccessful expiry of a grace period - to demand damages in lieu of performance or obtain substitute delivery by a third party or cancel the contract. We shall be entitled to retain partial deliveries already made and cancel the contract in all other respects. Any damage caused by a delay in performance shall be compensated by the supplier.

## 5. Delivery and shipment

Delivery and shipment shall be made free of charge at the expense and risk of the supplier to the address specified by us. If we have agreed to bear the costs of shipment, the shipments must be made at the lowest cost in each case, unless we have expressly prescribed a specific mode of shipment. Additional costs, for example, for expedited shipment in order to meet a delivery date, shall be borne by the supplier. Insurance costs will not be borne by us. A dispatch notification shall be sent to us on the date of shipment for each delivery. A packing label or a bill of delivery must be enclosed with each shipment. The values established by us at our incoming goods inspection shall be decisive for determining the number of items and weights; excess deliveries or short deliveries shall be inadmissible.

## 6. Packaging

The supplier shall ensure careful packaging. We reserve the right to accept packages invoiced to us as our property or to return the materials against credit. Special or reusable packaging not invoiced to us shall be returned to the supplier at the supplier's expense.

## 7. Invoices

that do not bear our full order numbers, designations and - to the extent available - our EDP parts numbers shall be deemed to have not been issued until full clarification by the supplier. The same shall apply mutatis mutandis to bills of delivery and dispatch notifications. Partial and residual deliveries must be identified as such on invoices and delivery bills. The invoices may under no circumstances be included with the goods.

## 8. Payments

shall be made, unless otherwise determined, at our option either within 14 days subject to a 3% discount for early payment or net within 30 days; in both cases after receipt of the invoice and delivery pursuant to Section 7. If the invoice is received later than the ordered goods, the period for the early payment discount shall be calculated as of the date of the receipt of the invoice pursuant to Section 7 instead of the date of receipt of the goods. Costs - also shared costs - for tools, moulds, models, etc., shall only be acknowledged and paid by us after release of the type sample.

## 9. Notifications of defect, warranty

The duty to inspect the supplied goods in regard to type, quantity and quality and to notify a defect only commences upon receipt of the goods including accompanying documentation by us. From this point on, we may submit notifications of any defects within an adequate period of time. Notifications of defects pursuant to Section 377 of the German Commercial Code are deemed to be timely if dispatched within ten days after detecting the defect. Defects that are only detected during processing of the delivered goods or upon taking the delivered good into use may still be notified without undue delay after their discovery. To this extent, the objection of an untimely notification of the defect is excluded. Without prejudice to any other rights available to us under the law, we shall be entitled in the case of a notification of defect - at our option and after the unsuccessful expiry of an appropriate period set by us for repair or new delivery -

- a) to return the defective goods to the supplier at the supplier's expense and risk and to obtain substitute goods for the returned goods from a third party at our own initiative or
- b) to sort out the fault-free goods at the expense of the supplier and/or to remove the notified defect ourselves or to have it eliminated by a third party or
- c) to cancel the order in part or entirely.

The repair shall be deemed to have failed after one unsuccessful attempt to eliminate the defect. In the event of a substitute delivery or elimination of the defect, the period of warranty for the substitute goods or the successfully repaired goods shall begin again. All costs resulting from the substitute delivery or the elimination of the defect shall be borne by the supplier. The supplier's warranty shall also extend to the parts and materials provided by the supplier's subcontractor. The warranty period shall be 36 months, starting from the transfer of risk.

Any modification of the composition, of the manufacturing procedure or of the goods to be delivered requires our prior written approval. Without such approval, the delivered goods will not be accepted. The initial delivery after an approved modification must be marked specifically.

The supplier undertakes to manufacture and/or test the goods pursuant to our delivery specifications and in accordance with our prescribed and applicable drawings, specifications, tests, means and methods of testing and to present initial sample test reports. Without presentation of the initial sample test reports, the goods will not be

released for serial production. The general provisions of DIN ISO 9000\*9004 shall apply. The test records must be stored for a period of ten years after the date of invoice for the last delivery and must be presented to us upon request.

## 10. Liability

The supplier warrants that the supplied goods comply in quality, composition, form, processing, appearance and warranted characteristics with the standard of safety that can be reasonably expected in view of their presentation and their reasonable use at the time of putting the delivered goods into circulation. Without prejudice to any other provisions of liability contained in these terms and conditions, the supplier shall be liable to compensate damage incurred directly or indirectly by us as a result of a defective delivery, to the extent that the supplier was at fault in causing the damage.

If a claim asserted is against us under German or foreign law on the basis of vicarious liability by a third party by reason of a defect in the delivered goods, the supplier shall be liable to us to the same extent as if the supplier were directly liable. The supplier undertakes to hold us harmless to that extent from any claim or damage as well as to bear all costs incurred by us in order to mitigate the damage (e.g. call-back campaigns).

The supplier undertakes to conclude civil liability insurance with adequate coverage to satisfy any compensation claims resulting from defective goods delivered by the supplier. At our request, the supplier shall provide proof of the conclusion of the insurance without undue delay. However, the conclusion of the insurance shall not release the supplier from liability for any further claims for compensation not covered by the insurance.

The supplier shall hold us harmless from all claims asserted by our customers based on advertised claims made by the supplier, any subcontractor or any person engaged by them, and which would not exist or would not exist in this way or to this extent in the absence of the advertised claim. This provision shall apply irrespective of whether the advertisement claim was made before or after the conclusion of this agreement.

## 11. Pricing

Retrospective price increases shall not be effective without our written acknowledgement. If a reduction in material, pricing or wages leads to lower manufacturing costs, the agreed prices are to be reduced without prompting for any goods that are still to be delivered under the order.

## 12. Patent protection and legal recourse

The supplier warrants expressly that to the best of its knowledge no intellectual or industrial property rights of third parties in Germany or abroad are vested in the delivered goods. The supplier shall be liable for any damage incurred by us as a result of the violation of such property rights by the delivered goods and undertakes to hold us harmless from any claims asserted by the holder of such property rights. The same shall apply to deliveries made by third parties.

## 13. Goods and materials supplied by us

Any testing and manufacturing devices and materials provided by us remain our property. We retain title to these goods and materials in the way that the supplier manufactures the goods to be delivered on our behalf. We are in agreement with the supplier that we are entitled to ownership of the goods in their respective manufacturing stages. The supplier shall store the devices and objects as well as the materials supplied by us free of charge. The materials supplied by us and/or the objects manufactured from the materials must be stored with a clear indication of our ownership, and must be adequately protected against fire, water, theft and catastrophes at the expense of the supplier. Furthermore, the goods and materials supplied by us may only be used according to their intended purpose.

## 14. Patterns

Drawings, standard sheets, print templates, calibres, models, profiles, tools, press and injection dies and similar objects, as well as any goods made in accordance with them, may not be transmitted to third parties or used on behalf of third parties or used for advertising purposes or for the supplier's own purposes without our written consent. These objects must be protected against unauthorised access or use. Unless otherwise agreed, they must be returned to us in a usable condition at the latest upon the last partial delivery. In the case of non-compliance, the supplier shall be liable for full compensation of the damage; furthermore, we shall be entitled to cancel the contract entirely or in part after an adequate period of notice. Tools, dies and similar objects shall become our property upon being manufactured. The supplier shall store and maintain them with care and replace them as needed to ensure that they are at all times ready for use. In the event of manufacturing problems of the supplier, we shall be entitled to demand free delivery of dies and similar objects partially or fully paid for by us.

## 15. Offset, assignment

The supplier shall not be entitled to offset any claims that have not been acknowledged by us or assessed in a legally binding judgement. Claims may only be assigned with our written consent.

## 16. Place of jurisdiction and place of performance

The place of jurisdiction and, unless otherwise indicated in the order, the place of performance shall be at the seat of our business. The legal relations between the parties shall be governed exclusively by German law. The contract language shall be German. Application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

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