

International Conditions of Purchase of S. Goldmann GmbH & Co. KG

1. Scope of Application

- 1.1. All purchases orders placed by us are subject to Terms and Conditions of Purchase set forth below. These Terms and Conditions will also apply to future orders even if not expressly agreed to in each case. Any exception to these Terms and Conditions will be valid only if agreed to by us in writing. Terms and conditions of Seller unless that have not been expressly accepted by us in writing will not be binding upon us even if we fail to explicitly object to such terms and conditions.
- 1.2. Seller accepts our Conditions of Purchase as regards the present Contract at the very latest with effect upon commencement of performance.
- 1.3. We may cancel our order if Seller fails to confirm the order without any changes within two weeks.
- 1.4. Communication by e-mail and facsimile transmission will also suffice for the purposes of compliance with the written form requirement called for in these Terms and Conditions.

2. Execution of the Agreement

- 2.1. Seller will notify us in writing prior to execution of the Contract if the goods to be supplied are not unconditionally suitable for the use made known to Seller or assumed under the Contract or if the goods to be supplied make it necessary to observe special safety regulations or, finally, if the goods supplied can entail health, safety or environmental risks.
- 2.2. In the case of any differences between the quotation or confirmation of the order and our query or order, Seller will specifically indicate any such differences with emphasis.
- 2.3. All orders placed by our employees will become effective only upon receipt of written confirmation from us. Quotations received from Seller will remain valid for 14 calendar days. Our written confirmation of the order will be considered to have been issued in a timely manner if issued within 14 calendar days of receipt of Seller's quotation by us.
- 2.4. We will issue no confirmation if Seller has accepted an order from us by signing documents sent by us.

In all other cases, our confirmation of the order will constitute a binding Contract between us and its content will be binding even if it deviates, except as regards the purchase price and quantity, from the contractual statements of Seller and in particular as regards the exclusive validity these International Conditions of Purchase. In the event Seller does not agree with this provision, Seller must submit a detailed description of the unacceptable differences to us in writing within 10 calendar days following receipt of the written confirmation of the order. Order confirmations received from Seller will have no legal effect and will not require express notice of objection. Receipt of goods or other conduct by us will not constitute acknowledgement of such confirmation.

- 2.5. Our employees are not authorized to waive written confirmation of orders .

International Conditions of Purchase of S. Goldmann GmbH & Co. KG

3. Identification, Delivery, Shipment

- 3.1. Seller agrees to provide the goods ordered in the quantity and quality agreed packaged as agreed and to furnish such goods with the identification and markings, certificates of origin and certificates of analysis required in Germany. Seller agrees further to include accompanying documents and any instructions for processing and use requested by us in the order or in our confirmation of the order.
- 3.2. Each shipment must be accompanied by a bill of delivery showing the order number of the confirmation of the order and the corresponding customs tariff number for each type of goods. All documents accompanying goods must comply with legal requirements (Germany, EU, destination) and also be forwarded to us separately by electronic means.
- 3.3. Seller must comply with agreed delivery dates or windows. Failure to comply with a delivery date will constitute a fundamental breach of contract within the meaning of Art. 25 of the CISG. Seller may perform services after the agreed delivery date only if we agree accordingly in writing.
- 3.4. Seller must obtain and provide us with the documents necessary for export and import also in the case of the use of **ex works** Incoterm or similar. "Incoterms" will consistently be taken to mean Incoterms 2010.
- 3.5. Seller will regardless of the agreed Incoterms be responsible for shipment and packing as well as for loading. Seller will organize shipment of the goods and have the goods insured, and the systems of weights and measures used at the destination must be observed.
- 3.6. Seller agrees to collect packing materials used for shipment, sale or other purposes at its own expense at the delivery address provided in the written confirmation of the order.

4. Nature of Goods, Non-Compliant Goods

- 4.1. The goods must conform to the specifications agreed and not infringe the rights of any third parties. The goods must comply with the legal requirements in effect in the EU even if not agreed separately. The requirements as regards the nature of the goods will be included in the written order or our confirmation of the order.

Seller will inspect the goods prior to delivery to ensure compliance with the agreed quality, legal requirements and quantity as well as compliance with the type of packing agreed and verify the absence of any rights and claims of third parties.

- 4.2. Regardless any more stringent provisions of law, goods will be considered to be non-compliant if not compliant with the contractual understandings, the provision contained in paragraph 4.1, advertising claims, statements of Seller made to us or the applicable provisions of law in the European Union. This will not apply only if our confirmation of the order contains a different specification or if Seller can demonstrate that we were aware of the non-compliance of the goods when the contract was entered into.

International Conditions of Purchase of S. Goldmann GmbH & Co. KG

- 4.3. We will inspect the goods within 10 calendar days following receipt to ascertain the presence of any obvious breaches of contract and notify Seller accordingly of any such breaches upon conclusion of our inspection. We will notify Seller of any breaches of contract not recognized within 10 calendar days following their discovery. Notification will include clear identification of the breach of contract; further information on the nature or scope or the quantity of non-compliant goods will not be required.
- 4.4. Thorough examination of the goods will not be required until commencement of processing or use of the goods but at the very latest three months after receipt by us. We will, however, inspect the goods to determine typical deviations in their nature, quantity and quality as well as in packing materials.
- 4.5. Notwithstanding further contractual or legal claims, we may seek legal remedy under these Conditions if the goods have the characteristics objected to at the time of determination of the breach of contract. Seller may provide proof to the effect that the breach of contract was caused after passage of risk to us and attribute such breach to us.
- 4.6. We may also require replacement or cancellation of the Contract in the case of breaches that do not qualify as fundamental breaches of contract within the meaning of Art. 25 of the CISG.
- 4.7. Attempts undertaken by us or third parties to remedy breaches of contract will not in any way prevent us from using any available legal remedies.
- 4.8. We may withhold payment of the purchase until such time as any outstanding issues are resolved.
- 4.9. Seller will pay a flat processing fee in the amount of € 150.00 for each physical or legal deficiency.
- 4.10. The limitation period for our claims/remedies will commence upon delivery of the goods to the place of reception. If Seller requires time to assess a breach of contract asserted by us, that period will be extended by the time Seller requires to submit a conclusive opinion to us.
- 4.11. Claims arising from subsequent deliveries – for the purposes of replacement or correction – will become time-barred at the very earliest after two years. The limitation period will be extended to 10 years in the case of the violation of legal rights.

5. Rescission of Agreement

- 5.1. Seller may cancel the Contract only after prior notification in writing and expiration of an appropriate period set by Seller and communicated to us as required by law. Any further legal restrictions stipulated by law will remain intact.
- 5.2. We may cancel the Contract or any part thereof if Seller refuses to accept these Conditions, if insolvency proceedings are initiated in respect of Seller's assets or if Seller fails to fulfill material contractual obligations towards us without submitting a justified reason.

International Conditions of Purchase of S. Goldmann GmbH & Co. KG

- 5.3. In the case of breaches of contractual obligations that do not qualify as fundamental, we may require cancellation of the Contract in the case of failure on the part of Seller to cure the breach within a grace period set by us.
- 5.4. Each of the Parties to the contract may cancel the Contract in the event of failure to cure a breach within a period set by the respective other Party if fulfillment of the Contract has become impossible or significantly more difficult for reasons that cannot be attributed to either of the Parties.

6. Damages

- 6.1. Seller may bring claims for damages only in the case of a fundamental breach of contract by us. A fundamental breach of contract will be considered to exist in the case of violation of an obligation whose performance is of fundamental importance for implementation of the contract and may be legitimately relied upon by Seller.
- 6.2. We may without limitation claim damages from Seller on the basis of the provisions of law instead of or in addition to other rights.
Acceptance of the goods without reservation will not constitute waiver of claims for damages.
- 6.3. Damages will include all damages, losses and causes of action resulting, directly or indirectly, from a breach of contract unless Seller can demonstrate that the extent of such damages could not be foreseen upon execution or during the performance of the contract.
- 6.4. In the event of late delivery due to the fault of Seller, we may require payment of damages in the amount of 0.5 % value of the respective shipment, not to exceed 10 % of the contract sum.
- 6.5. In the case of default of payment, interest in the amount of 5 % above the base interest rate of the European Central Bank will accrue on amounts in arrears.

7. Miscellaneous

- 7.1. We retain all rights (patents, trademarks and copyright) to all documents made available to Seller in whatsoever form. Seller agrees to refrain from disclosing such documents to third parties and may use them only for the purposes of performance of the contract.
- 7.2. Seller agrees to hold us harmless from any claims of third parties based on provisions of law governing Seller's products or liability in connection with such products. This will also include indemnification for any expenses incurred by us as well as the cost of any recall that may be necessary.
- 7.3. In the case of any such situation (impending legal claims of third parties in connection with product liability requiring a recall), Seller will upon request provide us with appropriate security.
The same will apply if we are threatened with costs or fines or other costs by a regulatory body and such costs or fines are based on provisions of product law that would have required compliance by the supplier under these Conditions.

International Conditions of Purchase of S. Goldmann GmbH & Co. KG

8. Place of Performance, Applicable Law

- 8.1. Regardless of any Incoterms, Bielefeld will without exception be the place of performance, payment and fulfillment.
- 8.2. The Parties agree to the provisions of the English-language version of the CISG (United Nations Convention on the International Sale of Goods of 11.04.1980) and customary usage in Bielefeld/Germany.
- 8.3. The execution of the contract and the inclusion of these International Terms & Conditions, contractual and precontractual rights and obligations of the Parties, including accessory obligations and interpretation will be governed by the CISG in conjunction with these International Conditions of Purchase. The provisions of national German law will apply outside the scope of application of the CISG.
- 8.4. Any disputes arising from and in connection with contracts governed by these International Conditions of Purchase are to be settled by an arbitration tribunal on the basis of the arbitration rules of the German Institution of Arbitration (DIS). The place of arbitration will be Frankfurt am Main/Germany.
The arbitration tribunal will consist of a single arbitrator if the amount in controversy is less than € 150,000.00 and three arbitrators if the amount in controversy is higher. Arbitration proceedings will be conducted in English.
- 8.5. In the event any provision of these International Conditions of Purchase should be invalid, in its entirety or in part, the remaining provisions will retain their validity. The Parties to the contract will then replace the invalid provision by a clause that most closely approximates the economic intent and purpose of the invalid provision.