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Kunststofftechnik

Standard Terms and Conditions for the Purchase of import Goods Kunststoff- und Elektrotechnik GmbH

Import / Status January 2008

1. General

1.1 These Standard Terms and Conditions for the Purchase of Import Goods (Standard Terms) shall exclusively apply, save as varied by express agreement accepted in writing by both parties. Any additional or different terms and conditions are expressly excluded and shall not form part of any supply contract.

1.2 These Standard Terms shall govern any future individual supply contract between us and the Seller to the exclusion of any other terms and conditions.

2. Formation of Contract

The supply contract shall be deemed to have been entered into when, upon receipt of an order, the Seller has sent an acceptance in writing, by fax or email. Our offer shall remain valid and open for acceptance for a period of fourteen days from the date of order.

3. Requirements on Goods

Deliveries of components and materials to be used for the automotive industry have to correspond to the German scrap vehicle decree (Altfahrzeugverordnung). The Seller has to archive all materials used for the automotive industry in accordance with the International Material Data System (IMDS). We will inform the Seller, if our orders/purchases are to be used for the automotive industry.

4. Cancellation, Delivery, Delay

4.1 In case of bankruptcy of the Seller we reserve the right to cancel the supply contract.

4.2 Partial delivery is not accepted by us unless otherwise agreed upon in writing, by fax or email.

4.3 If the Seller domiciles in the European Union (EU), supply will be DDU, Delivered Duty Unpaid plant Mönchweiler (In-cotems 2000). If the Seller domiciles outside the EU, any supply will be DDP Delivered Duty Paid.

4.4 Delivery shall be effected on due date as fixed in the supply contract or in the order of purchase being subject to the supply contract. We reserve the right to cancel or to claim compensation for non-fulfillment, if this date is not met. We further reserve the right of ordering from another Supplier if the Delivery Schedule is not conformed to; resulting expenses will be charged to the late Seller. In any case of delay the Seller has to inform us about the delay and the reasons for delay immediately.

4.5 The Seller shall pack all goods duly. On our request, the Seller is obligated to take back without charge all packing material associated with the delivered goods (e.g. transport and sales packaging, etc.) or to retrieve the packaging material from our plant.

4.6 If the Seller fails for any reason whatsoever to effect delivery on due date we are entitled to recover from the Seller any loss suffered by reason of such failure (e.g. additional costs for transportation, insurance, storage etc.) but not exceeding an amount of 10 % of the total supply contract price.

5. Warranties, Liability, Period of Limitation, Force Majeure

5.1 With respect to goods not in accordance with any warranties, we may, without waiving any rights or remedies provided by law, the supply contract and/or elsewhere under these Standard Terms, require the Seller to correct or replace such goods at the Seller's risk and expense or refund such portion of the price as is equitable under the circumstances. Any items corrected or replaced shall be subject to the provisions of these Standard Terms in the same manner as those originally delivered hereunder. In urgent cases we are authorized to rectify defects or have such defects rectified at the expense of the Seller.

Return shipments of rejected goods to the Seller will be made at the Seller's expense. Where delivery is not effected according to these terms, the rights set forth in clause 4.4 hereunder shall apply accordingly. Moreover, we are entitled to claim compensation for proven damages.

5.2 We reserve the right to refuse acceptance of clearly faulty or damaged goods. Delivered goods shall be inspected by random samples. We shall give notice of any recognizable lack of conformity to the Seller within a period of 14 (fourteen) days after delivery. Should any non-conformity of the goods only be discoverable later (hidden defects), then the period for notification of the non-conformity shall commence upon discovery.

5.3 The Seller warrants and undertakes to us that in the performance of any supply contract the Seller will comply with all laws, rules, regulations, decrees and other ordinances issued by any governmental, state or other authority relating to the subject matter of these Standard Terms and to the performance by the parties hereto of their obligations hereunder.

5.4 The Seller warrants that the Goods are in its absolute property and none are subject of any option, right to acquire, assignment, mortgage, charge, lien or hypothecation or any other encumbrance whatsoever or the subject of any factoring arrangement, hire-purchase, conditional sale or credit sale agreement.

5.5 The Seller shall bear the liability for the quality and scope of performance of the delivered goods as described in the product description, drawings, the quality specification and, moreover, the generally accepted quality standards.

The Seller herewith warrants that the industrial property rights of third parties shall not be infringed by the delivery or use of the goods. Furthermore, the Seller shall compensate us for all damages that are attributable to defects in the product supplied by it for which it is responsible.

The Seller shall release us from third party claims resulting from statutory product liability insofar as the cause of such damages is judged to lie within the Seller's domain.

5.6 Seller's warranties hereunder shall extend to any defect or non-conformity arising or manifesting itself within three years after delivery.

5.7 Where force majeure (e.g. fire, accident, strike or labor disputes, violence, any laws or regulations of any government or any act or condition whatsoever beyond our reason-

able control) results in reduced ordering requirements, we are excused from our performance of any of our obligations hereunder and we reserve the right to cancel an order completely or in part without being subject to damage claims.

6. Terms of Payment

If not otherwise agreed upon, payment for the deliveries shall be made within fourteen days after delivery and receipt of complete invoice (including number and date of order) with a 2 % discount or within thirty days net.

7. Reservation of Title

With respect to the Seller's reservation of title, this condition shall apply with the stipulation that the ownership of the goods shall be transferred to us upon payment of said goods and that, accordingly, an ongoing form of the so-called current account shall not apply.

8. Loan for Use, Insurance, Property

8.1 Any and all our samples, tools, drawings, plans and other documents which are in the Seller's possession shall remain our property. On our request the Seller has to return all these tools and documents without right of retention. They shall not be reproduced, sold, assigned by way of security, mortgaged, charged or otherwise encumbered or disposed of nor used for the manufacture of goods for parties other than us without our express prior written consent. The Seller is not allowed to use these tools and documents for advertising.

8.2 The Seller shall cover and maintain appropriate insurance for our tools and documents which covers usual risks such as fire, violence and theft.

8.3 In case we put materials or goods at the Seller's disposal to process or if our material or goods are joined, mixed or processed by the Seller to create a new movable item, the Seller shall not acquire title to the new item and if these material or goods are joined, mixed or processed with items not belonging to us, we shall acquire co-title to the new item at a ratio proportionate to the invoice value represented by our materials or goods.

9. Setoff, Right of Retention

9.1 The Seller shall not be able to offset against claims not recognized by us or claims which are not unappealable.

9.2 Seller's right of retention shall only prevail if claims are recognized by us or if claims are unappealable.

10. Jurisdiction, Applicable Law

10.1 The court of jurisdiction as applicable in accordance with Section 38 of the German Code of Civil Procedure is exclusively Mönchweiler, Germany. We also reserve the right to undertake legal proceedings against the Seller in his principal place of business according to the laws of said place.

10.2 Supplementary to these Standard Terms, the laws of the Federal Republic of Germany shall govern all the contractual relationships including all supply contracts between us and the Seller. The provisions of the CISG (United Nations Convention on Contracts for the International Sale of Goods) shall not be applicable.

Amtsgericht Freiburg
HRB 600537

Geschäftsführer:
Horst Siedle
Arnold Klausmann