

# Terms and Conditions of Purchase

## General Terms and Conditions of Purchase of J. H. Andress GmbH & Co. KG

### 1. General Provisions

The present terms and conditions of purchase apply to all orders placed by us. Any deviating conditions in any preceding quotations or in the supplier's confirmation of the order, even if we have not objected to them, shall only apply when we have expressly acknowledged them in writing.

Only written orders shall be valid. Deliveries and services, which have not been executed based on a written order, are not acknowledged by us. Orders placed orally are subject to written confirmation. The order must be confirmed immediately on receipt of the written order letter, however, within 8 days of the date specified in the order letter at the latest in writing including delivery date. If the order is not confirmed in writing within the above mentioned period, we are entitled to cancel our order by unilateral declaration to the supplier.

Invoices shall be immediately submitted to us in duplicate after delivery, with these being separate for each order. They must contain the order reference prescribed by us. Costs of packaging and shipping are to be stated separately.

### 2. Terms of Payment

Our payments shall be made 14 days after receipt of the invoice subject to deduction of a discount of 3% or after 30 days without deduction, subject to the condition that the goods have been accepted by us (inspection of incoming goods) upon receipt of the invoice. In case of a default on payment, we shall pay default interest to the statutory amount; in derogation of Art. 286 (3) of the German Civil Code (BGB), default shall occur after expiry of our term of payment (30 days without deduction). Assertion of an interest damage higher than the statutory default interest is only admissible when we have been notified thereof not later than 2 weeks before the commencement of the higher interest rate.

Claims against us may only be assigned to a third party subject to our consent.

### 3. Prices

The prices agreed are free our receiving plant Eisenach. Should the prices not be agreed in advance in exceptional cases, the contract shall not be deemed concluded until the binding prices set forth in the order confirmation have been confirmed by use in writing. Packaging shall only be paid if a remuneration for such has been expressly agreed upon.

### 4. Periods of Delivery, Contractual Penalty

The agreed periods and dates of delivery are binding, just like the agreed place of delivery. We shall be notified of any delays occurring in the delivery within 3 days of occurrence of the cause, stating the reasons. To the extent that the supplier is responsible for delayed deliveries, we shall be entitled, excluding any claims for damages of the supplier, to rescind the contract as a whole or in part, provided an additional period to be granted according to law has expired. In this case, the supplier shall be obliged to compensate us for any damage. In case

the supplier gets in default in performance of its services as a whole or in part, the supplier, notwithstanding our right of rescission, shall be obliged to pay a contractual penalty in the amount of 1% of the net order value per working day of the delay, however, not exceeding 20% of the net order value of the service in arrears. If we rescind the contract due to delay, the contractual penalty must be paid from the date of delay until the receipt of the declaration of rescission at the supplier. The contractual penalty shall also be paid when it is not expressly reserved upon (delayed) receipt of the service. Any further claims for damages are not excluded by assertion of the contractual penalty and/or our declaration of rescission. In particular, we shall be entitled to have recourse for any possible claims for damages asserted against us resulting from the supplier's default.

## **5. Property in Drawings, Samples, Models, etc.**

Any drawings, samples, models, etc. made available to the supplier by us continue to be our property. This applies in the same manner to any items and materials to be provided by us, whether tools or material to be processed.

The supplier is obliged to treat all property made available to him by us in a careful and considerate manner, to perform any maintenance and inspection work required and to insure it, if applicable; all costs incurred in this connection shall be borne by the supplier.

## **6. Reservation of Ownership**

Any form of extended reservation of ownership of the supplier towards us is excluded.

## **7. Assignment to Third Parties**

Any rights and obligations from this order may only be transferred to a third party subject to our written consent. This applies in particular also when the supplier intends to have services ordered by us performed by third parties (subcontractors) as a whole or in part.

## **8. Duties of information and care**

Since we inform the supplier about the purpose of use of the ordered parts/materials or their intended further processing, the supplier is obliged to give us a respective warning if he considers the part/material to be manufactured by him to be not or not optimally suitable for the specified purpose of use. In so far, the supplier is regarded as an expert with regard to the parts/materials to be manufactured by him.

## **9. Shipment Regulations**

Upon delivery, the advice of delivery with an exact statement of the delivery items is to be sent to us in duplicate. Partial deliveries must be expressly marked as such. Order numbers, reference and other notes requested in the order are to be stated. The supplier shall be responsible for the consequences of shipping documents that are incorrect, incomplete or received late.

The supplier must provide for appropriate packaging and shipment. The transport risk towards us shall be borne by the supplier; he shall effect a transport insurance at his own expense, if applicable.

## **10. Warranty**

The supplier assumes a warranty of freedom of his delivery from defects of quality and title for a period of 2 years of the acceptance of the contract subject matter goods by us. Applying Art. 651 German Civil Code (BGB), the scope of the warranty obligation depends on the regulations under the law governing contracts of sale. In an event of failure, default or refusal of subsequent performance (Art. 439 German Civil Code), we shall be entitled to substitute performance at the expense of the supplier. With regard to the expiry of the statute of limitation of warranty, we point in particular to the regulation under Art. 479 (2) German Civil Code that is applicable to the contractual delivery/service in any case.

We shall be exempted from the regulations under Art. 377 (1-4) Commercial Code (HGB) (referring to immediate notification of defects). For defects that are not externally visible and are only detected in the processing of the goods, liability of the supplier shall continue to exist until detection of the defect.

## **11. Inspection of Incoming Goods**

We inspect incoming goods on a sample basis, i.e. random samples are taken from the entire delivery. When, based on the sampling results, a sorting out of the parts is necessary, you have to expect return of the whole delivery.

## **12. Events of Force Majeure**

All measures of labour disputes (strike, lockout), war and other events of force majeure that cause a partial or complete discontinuation of our operations shall entitle us to delay the performance of purchase obligations assumed accordingly or, if the performance of the contract is objectively not of interest to us anymore and/or is economically unreasonable due to such circumstances, to rescind the contract as a whole or in part. Claims for damages cannot be asserted therefrom.

## **13. Secrecy**

The supplier obliges itself to observe strict secrecy towards anyone with regard to any information it has received from us in connection with the order placed, such as in particular design, manufacturing instructions, purpose of use and the like. The supplier is obliged to impose the same obligation to observe strict secrecy on all of its staff members that get in contact with our order. Any information that is generally known is exempted from the above. The obligation to observe secrecy shall continue to apply after termination of the contract.

## **14. Place of Performance and Place of Jurisdiction and Partial Invalidity**

Eisenach is the place of performance. As far as the supplier is a registered merchant, a legal person under public law or special assets governed under public law, Local Court Eisenach or Regional Court Eisenach will be agreed as the place of jurisdiction in case of potential disputes arising from the contracts and related legal relations for both parties at our discretion, depending on the object value.

The same shall apply when the place of resident or habitual residence of the supplier is unknown at the time when the complaint is issued. In all other cases, the jurisdiction of the Local Court Eisenach will be agreed for the legal dunning procedure (Art. 688 ff., German Code of Civil Procedure).

These terms of business and the entire legal relationship between the supplier and us shall be governed by the law of the Federal Republic of Germany.

If one or several of the above conditions should be or become invalid it will not affect the validity of the other conditions. The invalid provision shall be replaced by an effective one in writing which meets the intended economic purpose of the invalid provision as far as possible.

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