

GENERAL TERMS AND CONDITIONS OF HVP HIGH VOLTAGE PRODUCTS GMBH

1 GENERAL / CONTRACTUAL BASIS

- 1.1. Our terms of delivery and sale (hereinafter Terms and Conditions) shall apply exclusively to all our offers and business relationships which we enter into for the first time, currently and in future with entrepreneurs in the sense of § 14 of the German Civil Code (hereinafter Contractual Partners or buyers).
- 1.2. We shall not recognise conditions of our Contractual Partner which deviate from our Terms and Conditions unless we have expressly agreed to their validity in writing.

2 OFFERS, ORDERS, CONCLUSION OF CONTRACT

- 2.1 Our offers shall fundamentally be non-binding and without engagement unless they are expressly identified as binding offers. The sending of our price lists shall not be regarded as an offer. The technical data, information on purpose of use and product illustrations received in our publicity and/or in our brochures and other sales documents shall not comprise any offer to give a guarantee in the sense of § 443 of the German Civil Code.
- 2.2 The ordering of a product and/or service shall imply the binding request of the Contractual Partner to seek to acquire the product/service. We shall be entitled to accept the offer of contract submitted with the order within two weeks of receipt of the order. Acceptance of the offer may be given by us in writing or by delivery/execution of the ordered product/service to/for the Buyer. We shall reserve the right not to accept orders, including without giving a written statement or detailed explanation. In case of doubt, our silence after expiry of the term of acceptance shall count as refusal.
- 2.3 Should the order be made electronically, we shall immediately confirm receipt of the order. The confirmation of receipt shall not in itself constitute a binding acceptance of the order, although the confirmation of receipt may on our part be associated with the declaration of acceptance.
- 2.4 In the case of verbally agreed contracts, the scope of performance of our deliveries shall be specified by our written affirmation of contract.

3 DELIVERY

- 3.1 Partial deliveries or partial performance shall be permissible and shall obligate our Contractual Partner to payment of proportional remuneration unless the partial delivery or partial performance should be unacceptable to him.
- 3.2 For delivery contracts at call, the entire ordered quantity shall be deemed called by the Contractual Partner one month after expiry of the period agreed for the call or in the absence of an agreed period three calendar months after conclusion of contract. The maximum term of a call order shall be twelve months beginning with the month following acceptance of the order unless otherwise expressly agreed in writing and confirmed with our declaration of acceptance.
- 3.3 If the Contractual Partner is entitled to the allocation of call allotments and does not undertake the allocation within one calendar month after expiry of the respectively agreed call period or in the absence of such a period one month after request by us, we may allocate, deliver and invoice the entire ordered quantity at our discretion. The same shall apply if the maximum term of a call order has been reached.
- 3.4 Our deliveries shall be made ex works (EXW) unless otherwise expressly agreed. Buyer and seller duties shall be determined in all cases according to the International Commercial Terms (INCOTERMS 2000) in their current version, regardless of the chosen clause.
- 3.5 In all cases and irrespective of any INCOTERM clause agreed in individual contracts which deviates from these terms of delivery and sale, we shall not be obligated to arrange the provision for the Buyer of any type of import documents to the country of shipment.
- 3.6 The delivery and performance periods stated by us may alter due to delay in delivery or production or operational disruptions. In the case of subsequent contractual changes or amendments, delivery periods and deadlines, even if previously already confirmed by us, shall start running afresh or shall be postponed accordingly insofar as no deviating agreement has been reached with the Contractual Partner in a particular individual case.

- 3.7 Should we come into default of delivery for reasons for which we are answerable, our liability shall be limited to foreseeable, direct damage, insofar as no gross culpability is imputed to us and insofar as no injury to life, limb or health obtains which is based on a culpable dereliction of duty on our part or that of our legal representative or our agents.
- 3.8 Occurrences of force majeure as well as other unforeseeable causes for which we are not at fault which hinder our deliveries or make them impossible shall entitle us to postpone delivery for the duration of the hindrance or to withdraw from the contract wholly or in part without a right to damage compensation or subsequent delivery thereby accruing to the Buyer. This shall expressly include failure of deliveries by our presuppliers as well as operational disruptions, fire, accidents, etc. with us and our suppliers. Reasons for non-compliance with a delivery deadline for which we are not responsible shall also include import bans or restrictions of the Federal Republic of Germany or export bans or restrictions of our supplier countries.

4 DEFAULT OF ACCEPTANCE

- 4.1 Should the Buyer come into default of acceptance or violate other duties to cooperate, we shall be entitled without prejudice to our rights according to Items 3.2 and 3.3 to withdraw from the contract at our discretion after expiry of an appropriate period of grace imposed on the Buyer and to demand the damages accruing to us through this, including additional expenditures.
- 4.2 In the case of default of acceptance the risk of accidental destruction or accidental deterioration of the delivered thing shall also pass to the Buyer at the point in time at which the latter comes into default of acceptance.

5 PRICES AND PAYMENTS

- 5.1 Our prices shall in principle be understood to be in EUR net cash, ex works, plus shipping and packaging costs, unless otherwise agreed in writing. Statutory levies, tariffs and taxes shall be paid separately in the amount respectively applicable on invoicing.
- 5.2 In the case of payments from abroad half the bank charges shall be borne by the Buyer.
- 5.3 Our prices shall apply for six weeks from the day of conclusion of contract.
- 5.4 Price changes shall be permissible if more than six weeks lie between conclusion of contract and agreed delivery date. If between then and the conclusion of the delivery the wages, material costs or market purchase prices (list prices) should increase or should the currency rates change, we shall be entitled to increase the price commensurately according to the cost increases.
- 5.5 In the case of an order value of 50,000 euros upward, we shall be entitled to invoice 10% of the order amount plus the statutory levies, tariffs and taxes on receipt of order.
- 5.6 Our invoices shall be due for payment within 14 days net cash from issuing of invoice or an equivalent payment schedule. Complaints shall in principle have no postponing effect on the due date of the payment, unless claims of the Buyer are undisputed or recognised by declaratory judgement.
- 5.7 If after conclusion of contract our Contractual Partner experiences a significant deterioration in their financial situation and if in particular our payment claim is endangered, we shall be entitled immediately to accelerate all claims and to demand prepayments or security for future deliveries.
- 5.8 In the case of delayed payment or deferral we shall be entitled without further provision of evidence to charge interest per year on the purchase price in the amount of eight percentage points above the respective base interest rate of the European Central Bank.
- 5.9 For every written reminder of a an invoice sent after default has occurred, we shall be entitled to demand a flat processing fee of 5.00 EUR per reminder procedure.
- 5.10 Payments may only be made with discharging effect to representatives and/or mandatees if the latter produce a written collecting power.

6 RESERVATION OF TITLE

- 6.1 All goods delivered by us shall remain our property until the purchase price (including any transport costs) has been paid in full. The Buyer shall be prohibited from pawning or pledging as security the goods under reservation of title. The Buyer shall immediately inform us of an attachment or any other encroachment of our property rights by third parties and confirm it in writing both to us and also to third parties.
- 6.2 The Buyer shall however be entitled to work, process and/or resell the goods in the proper course of business. The working and processing by the Buyer shall always take place in our name and on our behalf. The Buyer shall now cede resulting claims to us in the amount of our invoiced claim including the statutory levies, tariffs and taxes. We shall accept the cession. The Buyer shall continue to remain entitled to collect these claims. Our entitlement to collect claims shall remain unaffected by this. We shall however undertake not to collect the claim as long as the Buyer does come into default with payment of the purchase price. If the Buyer comes into default with payment of the purchase price, his authorisation to process, install and/or resell the reserved goods shall expire.
- 6.3 Any processing or transformation of the reserved goods shall take place on behalf of the Seller to such an extent that the Seller is to be regarded as a manufacturer in the sense of § 950 of the German Civil Code. In the case of the Buyer processing, combining or mixing the reserved goods with other goods not belonging to the Seller, the Seller shall be entitled to joint ownership of the new thing in the proportion of the invoice value of the reserved goods to the invoice value of the other goods at the time of processing, combining or mixing. The Seller shall now offer the Buyer the granting of an expectancy right to the co-ownership share accruing. The Buyer shall accept this offer. If the reserved goods are sold together with other goods after processing, combining or mixing, the cession of the claim from the resale shall apply only up to the amount of the invoice value of the goods delivered by the Seller.

7 WARRANTY

- 7.1 In principle only the product description of the manufacturer shall be deemed agreed as the condition of the goods.
- 7.2 The warranty periods shall begin at the time the goods are delivered. Goods delivered by us shall be deemed approved according to contract if we do not within 14 days after receipt of the goods or at the latest 18 days after their delivery ex works receive a written notification from the Buyer which specifically states what complaints are being made. The Buyer shall be obligated to comply with his duty to inspection and objection owed according to § 377 of the German Commercial Code. Differences in quantity of less than 5% in bulk articles shall not justify a notice of defects. Unless otherwise agreed in writing, our deliveries shall be undertaken respectively in the standard existing on ordering.
- 7.3 Subject to prompt inspection and notice of defects according to § 377 of the German Commercial Code we shall provide warranty with the following proviso:
- 7.3.1 In the case of defects in the item being purchased we shall be entitled at our discretion initially to provide supplementary performance in the form of subsequent improvement or defect-free replacement delivery.
- 7.3.2 Should the Buyer following unsuccessful supplementary performance opt for withdrawal from the contract because of a defect of title or quality, he shall not be additionally entitled to a compensation claim because of the defect.
- 7.3.3 Should the Buyer following unsuccessful supplementary performance opt for compensation, our liability shall not extend to damages that have not occurred on the delivery item itself. Liability for loss of profit or other financial losses shall be excluded.
- 7.3.4 The warranty period for defects of quality and title shall be twelve months. This shall not apply insofar as the law according to § 479 Para. 1 of the German Civil Code prescribes longer periods, as well as in cases of injury to life, limb or health, in the case of deliberate or grossly negligent violation of duty, in the case of fraudulent concealment of a defect and insofar as in individual cases we have provided a guarantee for the

condition of the goods. The statutory provisions on suspension of expiry, suspension and renewal of terms shall remain unaffected. For the rest the statutory prescription provisions shall continue to apply.

- 7.4 The Buyer shall not receive guarantees in the legal sense from us. Manufacturer's guarantees shall remain unaffected by this.
- 7.5 Should the Buyer or a third party undertake corrective maintenance or alteration work, any liability for defects shall expire.

8 LIABILITY

- 8.1 Unless a different situation arises, claims of the Buyer for compensation besides the performance or instead of the performance irrespective of the legal basis, in particular on grounds of violation of duties arising from the obligatory relation and from tortious acts, shall be excluded in principle. This shall apply in particular to damages external to the item being purchased as well as to claims for compensation of loss of profit.
- 8.2 The exclusion of liability regulated in 8.1 shall not apply to damages from injury to life, limb or health based on a culpable dereliction of duty on our part or that of our legal representative or our agents. It shall furthermore not apply to damages based on a grossly negligent dereliction of duty by us or on a deliberately negligent dereliction of duty by a legal representative or agent of ours. In the case of culpable violation of an essential contractual obligation (cardinal duty), liability shall not be excluded, but limited to the damages typical for the contract if none of the exceptions listed in Clause 1 or Clause 5 obtains. Our liability shall also be limited in cases of gross negligence to the foreseeable damages typical for the contract if none of the exceptions listed in Clause 1 or Clause 5 obtains. The exclusion of liability shall furthermore not apply to cases in which according to the product liability law liability for personal or property damage to privately used objects obtains in the case of defects in the delivered item.
- 8.3 The above Items 8.1 and 8.2 shall also apply to claims for compensation of wasted expenditure with the exception of that under § 439 Para. 2 of the German Civil Code.
- 8.4 A change in the burden of proof to the detriment of the Buyer shall not be associated with the foregoing provisions.
- 8.5 Insofar as the Buyer is entitled to compensation claims according to this regulation, these shall lapse on expiry of the period of limitation according to Item 7.3.4. In the case of compensation claims according to the product liability law the statutory limitation regulations shall apply.

9 OFFSETTING/RETENTION

Offsetting rights shall only be due to the Buyer if his counterclaims are undisputed by us, are acknowledged or if they are recognised by declaratory judgement. The Buyer is entitled to exercise a right of retention only insofar as his counterclaim rests on the same contractual relationship established with us.

10 MISCELLANEOUS, PLACE OF FULFILMENT, PLACE OF JURISDICTION

- 10.1 Verbal side agreements shall only be considered components of the contract if they are confirmed in writing by us. Should a clause of these contractual conditions be wholly or partly void and/or ineffective, this shall not affect the remaining provisions. An ineffective provision shall instead be replaced by one that most closely approximates to the economic intention.
- 10.2 In the context of the contractual relationship we shall process the necessary data by means of EDP.
- 10.3 The place of jurisdiction shall be Munich.
- 10.4 The law of the Federal Republic of Germany shall be regarded as agreed upon to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

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