

TERMS AND CONDITIONS OF PURCHASE

1. General provisions

- (1) These Terms and Conditions apply exclusively to all products and services, including services furnished to Wilkhahn by the SUPPLIER, even if the SUPPLIER states that its own terms and conditions apply.
- (2) Each contract comes into force when Wilkhahn places an order and when the order is confirmed by the SUPPLIER, or the SUPPLIER executes the order. Wilkhahn rejects any order confirmation where the price stated in the order, the payment terms, the specifications of the product or service, or the place/time of the delivery have been changed. Verbal orders are only binding if followed by an identical order in writing (or by e-mail or fax).

2. Delivery of products, payment, delay, guarantee

- (1) Products are supplied as stated in the orders (excluding statutory inspection duties pursuant to article 377 HGB [*German Commercial Code*] art. 38 CISG). Product attributes are governed by specifications in the order, the drawing (including the product labelling stipulated), relevant technical standards and samples forwarded to and/or approved by Wilkhahn.
- (2) The prices stated in the order are fixed prices and do not include VAT. Payment will occur upon receipt of the invoice within 14 calendar days, minus a 3% discount or 30 days net. Payment is made on time when Wilkhahn arranges for payment in a timely manner.
- (3) Receivables from Wilkhahn may only be assigned after prior consent by Wilkhahn has been given in writing.
- (4) The delivery periods or dates stated in the order are binding; the date of the order determines how the delivery period or date is calculated. Wilkhahn reserves the right to demand as damages a flat rate of 0.5% of the value of the order per each new week of the delay, but not more than 15%: without prejudice to statutory entitlements. The SUPPLIER can prove that no or a lower loss has been incurred. Should a delay in delivery occur, Wilkhahn may procure a replacement and demand that the additional costs for such replacement be compensated for.
- (5) Delivery is carriage-free. Should Wilkhahn meet the shipping costs, the products must be transported on the specified route, or on the least expensive route should no route be specified.
- (6) Should products be faulty and fall under guarantee, the SUPPLIER must replace or rework such products within 3 days. Once such deadline has expired, Wilkhahn may rectify such faults itself or request others to do so and demand reimbursement for the costs thereof (should it rectify such faults itself such costs include costs for materials plus time at cost price plus logistics costs). Furthermore, Wilkhahn is also entitled to reimbursement with regard to guarantees from third parties as stated in article 478 BGB [*German Civil Code*].
- (7) The guarantee period runs for 30 months from delivery of the product.
- (8) To ensure delivery, the SUPPLIER assigns entitlements to delivery of goods by third parties herewith, insofar as the delivery to Wilkhahn is more pressing, to Wilkhahn and Wilkhahn accepts such assignment herewith.

3. Development and design services (if ordered)

- (1) The SUPPLIER undertakes to acquire expertise based on Wilkhahn's requirements and the state of the art with regard to service life, fitness for purpose and reliability in order to achieve the specifications concerned and to use this and existing expertise (development) to create process and product specifications that are ready for production (design). All dates specified by Wilkhahn are binding.
- (2) Wilkhahn defines the design and functions in the specifications or through reference samples (optical quality). Wilkhahn can change these specifications at any time; the SUPPLIER is not permitted to make changes to the specifications. The SUPPLIER must check these specifications. Should changes be necessary as a result, the SUPPLIER must supply notification thereof in writing; changes of this type do not constitute grounds for any differences in recompense.
- (3) The SUPPLIER must present the results of the development and the design to Wilkhahn for approval. He will document the development and design in writing and provide such documentation to Wilkhahn on request. Wilkhahn will receive a complete set of drawings and all data, including the data for tools, upon project completion.
- (4) Should the SUPPLIER not comply with deadlines wilfully or negligently, he will incur a contractual penalty of 0.5% of the value of the order for each new week in which the delay occurs, but to a maximum of 15% of the value of the order without prejudice to statutory entitlements; amounts will not be offset.
- (5) The SUPPLIER will create a design sample or functional model for each standard product/part free of charge and an initial sample for approval of a pilot series.

4. Tool manufacture

- (1) The obligation under contract to provide specific tool attributes and service life is considered binding when such attribute or service life is required to produce parts and components in the developed and designed manner based on the state of the art.
- (2) The SUPPLIER must provide samples of the tools free of charge to Wilkhahn. After inspecting the samples, Wilkhahn approves the tool, but does not however waive rights to entitlements under guarantee.
- (3) The ownership of the tools passes to Wilkhahn upon full payment thereof. Instead of forwarding the tools, the SUPPLIER will keep the tools for Wilkhahn free of charge.
- (4) The SUPPLIER may only use the tools for the exclusive manufacture of industrially manufactured products for Wilkhahn. The tools must be la-

belled by the SUPPLIER in such a way that they can be identified as Wilkhahn's property at any time and must be kept in a state in which they are ready for use, unless Wilkhahn specifies otherwise.

- (5) The SUPPLIER must care for and maintain the tools and update labelling systems for the production date of the products made with the tools. The SUPPLIER must insure the tools against, fire, theft, breakage and loss and notify Wilkhahn of the name of the insurance company. The SUPPLIER assigns entitlements resulting from the insurance policy to Wilkhahn; Wilkhahn accepts such assignment.
- (6) The SUPPLIER undertakes to provide information to Wilkhahn every six months in the form of an overview of the quantity, type and location of the tools.
- (7) At Wilkhahn's request, the SUPPLIER must hand over the tools immediately at his cost, or Wilkhahn must be given access to the tools.
- (8) Rights of retention to tools are ruled out.

5. Property rights, confidentiality

- (1) Wilkhahn alone will acquire all rights to design or technical solutions generated while executing services; such provision also applies to tools or other accessories used in rendering the services. The SUPPLIER waives the right to be named as the inventor, creator or similar. Insofar as inventions falling under the Arbeitnehmererfindungsgesetz [*German Employee Inventions Act*] are concerned, the SUPPLIER exercises all rights vis à vis the inventor and pays the remuneration thereof.
- (2) The SUPPLIER undertakes to keep business relationships with Wilkhahn confidential, in particular technical documents and expertise gained of the basic principles, methods and manufacture of products and procedures, even if such items are not specified as being secret/confidential.

6. Non-compete and design-protection clause

- (1) During the term of each contract, but for a maximum of five years however, the SUPPLIER may not, either directly or indirectly, compete with or encourage competition with regard to the industrially manufactured products to the detriment of Wilkhahn and may not, either directly or indirectly, manufacture or have manufactured products or perform services that compete with the industrially manufactured products. Such stipulation applies up to one year after the contract has ended.
- (2) The SUPPLIER will incur a contractual penalty of 40,000 euros for each culpable breach thereof. Damages at a flat rate of 100% of the sales price must be paid to Wilkhahn for every product copied; the SUPPLIER has the right to prove that no or a lower loss has been incurred without prejudice to statutory entitlements to damages.

7. Product liability, recalls

- (1) The SUPPLIER exempts Wilkhahn from any claims by third parties resulting from defects in products that fall under the responsibility of the SUPPLIER and will advance any legal expenditure required. Such entitlement to exemption also includes an advance on costs for appropriate measures to prevent any claims by third parties, such as for example the precautionary replacement of products.
- (2) Should product recalls prove necessary, the SUPPLIER must provide all the necessary information and is liable for all extra expenditure incurred as a result of insufficient product labelling.

8. Ancillary provisions

- (1) German law applies with the inclusion of the CISG, provided that all cases covered by guarantee are considered key infringements of contracts in the sense of the CISG.
- (2) Place of performance and venue are the registered office of Wilkhahn, or at Wilkhahn's discretion the registered office of the SUPPLIER.

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