

General Terms and Conditions of Purchase of the Hubert Stüken GmbH & Co. KG

1 Contract Conclusion

- 1.1 STÜKEN exclusively orders on the basis of their General Terms and Conditions of purchase. Other conditions do not become part of the contract, even if STÜKEN does not explicitly object to them. If STÜKEN accepts the goods/services without expressed objection, it cannot be automatically be assumed that STÜKEN accepts the supplier's terms of delivery. With the submission of quotations, the supplier must acknowledge acceptance of STÜKEN'S General Terms and Conditions. If such an explicit declaration is omitted, the execution of the order shall in any case be deemed as acceptance of STÜKEN'S General Terms and Conditions of Purchase. These General Terms and Conditions also apply to all future contractual relationships with the supplier.
- 1.2 If the supplier generates a quotation based upon an inquiry made by STÜKEN he then has to adhere exactly to STÜKEN'S request; any deviations have to be noted explicitly.
- 1.3 Should the supplier not accept the order in writing within 10 working days after receipt, STÜKEN is entitled to cancel said order.
- 1.4 Only written orders are legally binding. Orally placed orders or orders issued over the telephone need subsequent written confirmation to be legally binding. The same applies to oral sub-agreements and any amendments to the contract. Performed services or deliveries without a written order will not be accepted. Orders, delivery schedules as well as any changes or additions to them can - upon prior written agreement - be submitted by remote data transfer or machine readable media. For informal business transactions the order serves as the commercial letter of confirmation
- 1.5 Allowances for visits or the preparation of quotations, projects, etc. shall not be granted unless a compensation is not agreed upon explicitly or a legal claim is existent.
- 1.6 If STÜKEN can prove by presenting a transmission report that a declaration was sent by fax or data transmission it is assumed that the supplier has received this declaration.
- 1.7 The Supplier shall treat the contract confidential and may only refer to business relations with STÜKEN in advertising materials after receiving written consent from STÜKEN.
- 1.8 The contracting parties commit to treating all non apparent commercial or technical details that are known to them through the business relationship as a trade secret. Sub-contractors shall be bound accordingly.
- 1.9 STÜKEN may require changes to the delivery item even after the conclusion of the contract if this is reasonable for the supplier. With these contract modification the implications on both sides, in particular with regards to the increase or decrease in costs as well as delivery dates, are to be duly acknowledged.

2 Prices, Shipping, Packaging

- 2.1 The agreed prices are fixed prices and exclude supplemental claims of any kind. Costs for packaging and transport to the appointed STÜKEN delivery address or point of use, respectively as well as for customs formalities and duties are included in these prices. If a price is agreed upon as "ex works", "ex warehouse" or equivalent, the house forwarder as stipulated by STÜKEN is to be commissioned. All costs incurred up to the transfer to the carrier, including loading and haulage are borne by the supplier. If prices are not specified in the order, the current list prices of the supplier shall apply with the customary deductions. The nature of the pricing does not affect the agreement about the place of fulfillment.
- 2.2 Delivery notes, bills of lading, invoices and all correspondence have to contain the STÜKEN order number. Quotations have to contain the inquiry number.
- 2.3 STÜKEN accepts only the ordered quantities or lot sizes. Surplus deliveries or insufficient quantities delivered are only permitted if previously agreed upon with STÜKEN.
- 2.4 The shipping is carried out at the risk of the supplier. The risk of any deterioration including accidental loss until the delivery to the desired STÜKEN shipping address or place of use hence remains the responsibility of the supplier.
- 2.5 The obligation of the supplier to take back the packaging is based on the statutory provisions. The goods must be packed in such a way that transport damages are avoided. Packaging materials are to be used only in the required scope to achieve this objective. Only environmentally-friendly materials are to be used. The relevant legislation on packaging and the limits for pollutants specified therein have to be complied with. In the event that STÜKEN is being billed separately for exceptional packaging, STÜKEN is entitled to return packaging that is in good condition for a credit of 2/3 of the resulting invoice value to the supplier, freight paid.

3 Invoicing and Payment

- 3.1 Invoices, if necessary for the understanding, are to be submitted separately in a proper form with all relevant documents and data after the delivery. Pending the submission of a proper invoice, STÜKEN is entitled to a right of refusal. With regards to the payment, the actual

quantities, weights, or otherwise underlying units of measurement as well as the agreed prices are applicable.

- 3.2 Payment is submitted in the customary manner. Upon receipt of the invoice in the first half of the month a bank transfer occurs to the end of the month; if received in the second half of the month, payment is issued to the 15th of the following month, with a 3% discount in each case.
- 3.3 If material test certificates are agreed upon, they form an integral part of the delivery and are to be sent together with the delivery to STÜKEN. However, they must arrive no later than 5 days after receipt of the invoice at STÜKEN. The payment deadline shall not commence prior to the receipt of the agreed certificate.
- 3.4 The payment of an invoice shall not constitute a waiver of a notice of defect regarding the invoiced goods. In case of a defective delivery STÜKEN is entitled to withhold the payment proportionally until proper performance.
- 3.5 For advance payments, the supplier has to provide adequate security in the form of a bank guarantee in accordance with the STÜKEN model.

4 Delivery dates, delayed delivery, Force majeure

- 4.1 The agreed delivery dates are binding; the supplier automatically is in default with the delivery with the passing of a fix delivery date without the need for a reminder. Authoritative to the compliance with the delivery date or the delivery period as far as debt to be discharged at creditor's domicile, the receipt of goods at the STÜKEN designated point of receipt or place of use is binding. If inspection and approval is required, the supplier is in default without warning if he has either not performed or has only partially performed at the agreed time, so that inspection and approval may be denied. (§ 640 paragraph 1 sentence 2 - German Civil Code).
- 4.2 If the supplier realizes that an agreed delivery date cannot be met for any reason he has to inform STÜKEN immediately in writing stating the reasons and the expected duration of the delay.
- 4.3 Should the supplier be in delivery default by exceeding the delivery date, STÜKEN is entitled to ask for a penalty of 0.1% of the contract value per workday up to a maximum of 10% of the total order. Notwithstanding the application of the penalty may be claimed until payment of the invoice. The penalty shall be offset against any delivery default indemnity claim.
- 4.4 The supplier may only refer to the omission of necessary documents to be supplied by STÜKEN if he has reminded Stueken of the documents in writing and did not receive them within a reasonable time.
- 4.5 Force majeure exempts the contracting parties for the duration of the disruption and to the extent of their effect of the contractual obligations. The contracting parties are obliged to, within reasonable limits, to immediately provide the necessary information and to adapt their obligations to the changed circumstances in good faith. STÜKEN is exempted from the obligation to accept the ordered goods/services fully or partially and entitled to withdraw from the contract if the delayed delivery/service caused by the Force Majeure - taking into account economic aspects - is no longer usable.
- 4.6 If parts are delivered early, STÜKEN reserves the right to make the return at the expense of the supplier. If an early delivery is not returned, the goods shall be stored at STÜKEN until the agreed delivery date at the expense and risk of the supplier. STÜKEN reserves the right to issue payment only on the agreed due date in the case of premature delivery.
- 4.7 STÜKEN only accepts partial deliveries after explicit agreement. In case of agreed upon partial deliveries the remaining quantity is to be listed.

5 Full liability

The supplier is liable for any form of breach of contract according to statutory regulations if not stated otherwise in the general terms of agreement.

6 Warranty

- 6.1 The agreed specification is part of the order and can only be changed by mutual consent. Any binding description of the scope of delivery or a drawing shall be considered a specification.
- 6.2 The supplier shall use environmentally-friendly products and processes for his supplies/services and also for subcontracted supplies or services of third parties or ancillary services of third parties in the scope of the economic and technical possibilities. The supplier is liable for the environmental impact of the supplied products and packaging materials, as well as for all damages caused by the violation of his statutory disposal obligations. If requested by STÜKEN the supplier shall issue a certificate of inspection for the goods delivered.
- 6.3 STÜKEN will notify the supplier of obvious defects of the goods/services and transport damages immediately in writing as soon as they are discovered in the course of normal business operations, but at the latest within 10 working days upon receipt of the delivery at STÜKEN. In that regard, the supplier waives the right to objection of a delayed letter of complaint.
- 6.4 The agreed appearance and workmanship of an object or a work includes properties that STÜKEN may expect on grounds of public statements

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made by the seller, the entrepreneur, the manufacturer (§ 4 sentences 1 and 2 of the German Product Liability Act) or its agents, particularly in advertising or labeling about certain properties, unless they are in conflict with the agreed properties. This does not apply if the other party was unaware of the statement and did not need to know that at the time of the conclusion of the contract it was equally entitled or that it was unable to influence the purchase decision.

- 6.5 STÜKEN generally has the right to choose the type of supplementary performance according to the contract unless it is the contracting parties right to refuse supplementary work or STÜKEN chooses an unreasonable supplementary performance against the entrepreneur.
- 6.6 STÜKEN may due to a defect of the delivered product or the work created remedy the defect himself and demand reimbursement of the necessary expenses after the expiry of a reasonable supplementary performance period, unless the supplier's refusal of subsequent performance is justified. In this regard, the legal regulation of self-performance of the work contract applies (§ 637 BGB) to the purchasing agreement accordingly. Notwithstanding the legal statutes, STÜKEN has the right to repair the defect at the supplier's expense in cases of urgency, especially to prevent an imminent risk of serious damage even without fixing a deadline for subsequent performance.
- 6.7 The warranty period shall be 24 (in words: twenty four) months unless explicitly agreed upon otherwise. It begins with the delivery of the goods to STÜKEN or the STÜKEN designated third party at the STÜKEN prescribed location of receipt or use, respectively. If approval dates are agreed upon, the guarantee and warranty period commences with the successful acceptance. If approval is delayed through no fault of the supplier, the warranty period shall begin no later than 12 (in words: twelve) months after the allocation of the item for approval.
- 6.8 If a defect occurs within the first 12 months (guarantee period) of the warranty period it is assumed that this defect already existed at the time of the risk transfer, unless this presumption is incompatible with the type of object or defect.
- 6.9 For delivery items that during their investigation of the defect and/or remedial measures could not remain in operation, the remainder of the current guarantee or warranty period is extended by the time of the interruption.
- 6.10 For re-worked or newly delivered parts the guarantee or warranty period begins again at that moment - beyond the legal inhibition.
- 6.11 Claims that already exist at the beginning of the warranty period or are being incurred during the warranty period shall expire correspondingly to the statutory period of limitations. The statutory period of limitations begins with the arising of the claim.
- 6.12 In case of defects of title, the supplier releases STÜKEN from any possible claims of third parties. As far as defects of title are concerned, the limitation period is three years. This limitation period begins at the end of the year in which the claim arose and STÜKEN became aware of the substantiating circumstances of the claim and the party liable or, without gross negligence, should become aware of regardless of knowledge or grossly negligent lack of knowledge in ten years commencing from its emergence.
- 6.13 If STÜKEN had to take back the object supplied or the delivered work, respectively from a contracting party as a result of a deficiency or had to accept a purchase price or compensation reduction, or provide his customer with compensation for loss suffered or reimbursement of expenses, an otherwise required notice for a claim issued against STÜKEN by the customer is not necessary for the rights referred to in § 437 BGB against the other party. The afore mentioned warranty period begins in these cases with the transfer of risk to STÜKEN'S buyer. The statutory limitation of the afore mentioned claims begins earliest two months after the moment during which STÜKEN has fulfilled the requirements of its customer. This suspension of statute of limitations shall expire latest five years after the moment during which the contractor has delivered the goods or the work to STÜKEN.
- 6.14 Should STÜKEN be held reliable for a violation of official safety regulations or due to domestic or foreign product liability regulations or laws due to defects of the product that are caused by supplier's goods, then STÜKEN is entitled to claim compensation from the supplier for this loss if it is caused by the products delivered. These damages also include the cost of any recall action. If an error occurs in one part supplied by the supplier, it is assumed that the fault is entirely the responsibility of the supplier.
- 6.15 The Supplier shall perform a state of the art quality assurance appropriate to the type and extent of the defect and has to verify this to STÜKEN when prompted. The supplier will conclude an appropriate quality assurance agreement with STÜKEN where STÜKEN deems it necessary.
- 6.16 The Supplier shall insure itself against all risks of product liability including the recall risk at an appropriate level and supply STÜKEN upon request with the insurance policy for inspection.

7 Guarantee

- 7.1 The supplier guarantees and ensures that all goods/services are state of the art and meet the relevant legal provisions and rules and regulations of

public authorities, trade associations and professional associations. If deviations from these regulations are necessary in individual cases, the supplier must obtain a written consent. The warranty obligation of the supplier is not affected by this agreement. Should the goods supplied to STÜKEN, according to relevant legislation and regulations through trade associations, contain declarable substances or prohibited substances subject to an usage ban for which there is a legal exception, these substances have to be made unbiddenly known to STÜKEN if not yet done so. The supplier is obliged to always provide STÜKEN with the current safety data sheet for hazardous materials. If the supplier has reservations about the desired type of implementation by STÜKEN, the supplier has to indicate this to STÜKEN immediately in writing.

- 7.2 The supplier guarantees and ensures that all deliveries are free of third party rights and in particular that the delivery and use of the delivery patents, licenses or other rights of third parties in Germany are not violated. If the supplier is aware that its products are distributed by STÜKEN in certain countries, the afore mentioned also applies to these countries.

8 Industrial Property Rights

- 8.1 The supplier shall release STÜKEN and its customers of third-party claims from possible violations of patent rights and shall bear all costs that STÜKEN may incur in this context.
- 8.2 STÜKEN is entitled, in consideration of the duty of care of a prudent businessman, to obtain the approval to use the delivered items and services from authorized persons at the expense of the supplier.

9 Foreign transactions

If the supplier is established in a foreign country the following shall also apply:

- 9.1 The relationship between the supplier and STÜKEN is exclusively governed by German law to the exclusion of the laws of the Convention on the International Sale of Goods (CISG).
- 9.2 The contract language is German. If the contracting parties alongside make use of another language, the German wording has priority.

10 Final Provisions

- 10.1 If any part of these General Terms and Conditions is invalid, the validity of the remaining provisions will not be affected.
- 10.2 The supplier shall not be entitled to transfer the order or essential parts of the contract to a third party without the prior written consent of STÜKEN.
- 10.3 The Supplier is not entitled to assign its outstanding debts against STÜKEN without the prior written consent of STÜKEN, which may not be unreasonably withheld.
- 10.4 STÜKEN will handle personal related data of the supplier in accordance with the Federal Data Protection Act.
- 10.5 Unless expressly agreed otherwise, the place of performance for the delivery obligation is the STÜKEN desired delivery address or point of use, for all other obligations of both parties it shall be Rinteln.
- 10.6 For all disputes arising from the contractual relationship, if the supplier is a general merchant, a legal entity under public law or a public special fund, the suit is to be filed in a court having jurisdiction over the STÜKEN headquarters. STÜKEN is also entitled to sue the supplier at any other permissible place.