

## General Terms and Conditions of Purchase

### 1. General

- 1.1 These General Terms and Conditions of Purchase are applicable to all purchases of VISCOTHERM AG. They are considered to be acknowledged by the Supplier as of his acceptance of the order.
- 1.2 Derogating or additional terms and conditions, in particular Supplier's General Terms and Conditions, are only applicable as far as they are expressly agreed upon in writing.

### 2. Orders

- 2.1 Only orders issued by VISCOTHERM AG in writing are valid. Orders as well as extensions, amendments or derogating terms and conditions which are issued verbally or by telephone, are only binding for VISCOTHERM AG once VISCOTHERM AG has confirmed the order in writing.
- 2.2 As far as VISCOTHERM AG has not received a written statement within 2 days upon issuance of the order, the order is considered to be accepted by the Supplier with the terms and conditions contained therein.

### 3. Transfer to Third Parties

- 3.1 The complete transfer of VISCOTHERM AG's orders from the Supplier to Third Parties without the express consent of VISCOTHERM AG is not admissible.
- 3.2 In case of admissible transfer of VISCOTHERM AG's orders the Supplier is liable for the Third Party's conduct as it is for its own. In case of inadmissible transfer of orders to Third Parties, the Supplier is also liable for contingency and force majeure.

### 4. Prices

- 4.1 The prices indicated by the Supplier are considered to be fixed prices.

### 5. Time of Delivery

- 5.1 The delivery must reach VISCOTHERM AG on the agreed delivery date. In case that deliveries are not effected on time, VISCOTHERM AG may grant a grace period or withdraw from the agreement and place the order with another party.
- 5.2 In case that the Supplier must assume that a timely delivery is partially or entirely impossible, he will immediately inform VISCOTHERM AG thereon stating the reasons and the presumable duration of the delay. The Supplier shall bear any additional costs caused by the delay, such as express delivery, etc.
- 5.3 Partial or advance deliveries are only allowed upon VISCOTHERM AG's express written consent.

### 6. Over and Short Delivery

- 6.1 Over and short delivery exceeding a deviance of more than 5% compared to the issued order may only be effected upon express written consent of VISCOTHERM AG.
- 6.2 In case that an over delivery is effected, VISCOTHERM AG is entitled to return the not ordered surplus quantity to the Supplier at his cost without further warning.

## **7. Transport, Risk, Insurance and Packaging**

- 7.1 The terms and conditions applicable to the order are also applicable to the transport.
- 7.2 Unless otherwise agreed, the risk of loss or damage is transferred to VISCOTHERM AG upon delivery.
- 7.3 The Supplier is liable for the proper packaging, labelling and the conclusion of an insurance; the Supplier carries the incurred costs, unless otherwise agreed in writing.

## **8. Guaranty and Liability**

- 8.1 The Supplier guarantees that the delivered goods are free of any defects which would impair their value or aptitude regarding the purpose for which they are intended, as well as that the goods have the agreed properties, and that the goods correspond to the stipulated performance and specifications. The delivered goods must comply with the relevant national laws, accident prevention regulations, etc. at the place of delivery. Furthermore, the Supplier will obtain, at its own cost, the necessary Certificates of Origin or any further documentation necessary for the import or export of the goods and/or for compliance with other legal requirements or regulations.
- 8.2 The Supplier guarantees regarding the delivery that he will repair any defects at its own costs or will deliver a replacement free of defects; the Supplier bears any costs incurred. In urgent cases or in cases of delay and prior information of the Supplier, VISCOTHERM AG is entitled to repair the defects himself or have the defects repaired or have the goods replaced at the Supplier's expense. The Supplier is liable for any damages caused by the defective goods, unless he proves that he or his subcontractors did not cause the damages by fault. This liability towards Third Parties who have suffered damages is also carried directly by the Supplier. In case of repeated defective deliveries, VISCOTHERM AG will charge a lump sum of CHF 500.- per delivery to the Supplier; notwithstanding any additional legal claims, which may be claimed by VISCOTHERM AG at any time.
- 8.3 The Supplier's guarantee also covers the parts produced by the sub-contractors, unless expressly otherwise agreed in writing.
- 8.4 The guarantee lasts for 24 months, unless expressly otherwise agreed in writing. This period starts to run upon acceptance of the goods by VISCOTHERM AG. The same guarantee applies to goods which have been replaced or repaired. The guarantee period begins to run upon the reparation or replacement of the goods.

## **9. Invoicing and Payment**

- 9.1 Invoices shall be sent to VISCOTHERM AG in duplicate with proof of origin in accordance with the applicable regulations.
- 9.2 Unless otherwise agreed, payment is due within 30 days upon receipt of the invoice, or at the earliest, 30 days upon delivery of the goods. The settlement of the claim with a due counter claim remains reserved.
- 9.3 Assignments of claims are not recognized, unless VISCOTHERM AG expressly agrees in writing.

## **10. Inspection of the Deliveries, Notice of Defects**

- 10.1 The Supplier produces and inspects the products in compliance with current technical standards, the stipulated properties and in accordance with his own production and inspection procedures, as well as, where applicable, in compliance with any additional requirements set by VISCOTHERM AG. The Supplier must document the inspections for every product and provide this documentation to VISCOTHERM AG upon request.
- 10.2 VISCOTHERM AG shall inspect the deliveries within a reasonable time period regarding defects that are apparent and shall report any defects to the Supplier within an appropriate time period. Any hidden defects shall be reported by VISCOTHERM AG as soon as they are discovered.

10.3 The performance of payments does not entail any waiver of complaints.

#### **11. Technical Documents and Secrecy**

11.1 None of the information, drawings etc. which are provided to the Supplier by VISCOTHERM AG in relation with the production of goods, may be used for other purposes, be copied or made available to Third Parties. Any copyrights belong to VISCOTHERM AG. Upon request of VISCOTHERM AG, all documents as well as all copies must be returned to VISCOTHERM AG without further notice.

11.2 Should no order be issued after the provision of documents to the Supplier, the Supplier shall return the documents, including any duplicates and copies to VISCOTHERM AG without further request.

11.3 The Supplier must consider the order as well as any work carried out and performed deliveries as business confidential information and, therefore, keep in confidence. Furthermore, even without mentioning the name VISCOTHERM AG, the Supplier may not give particulars to Third Parties regarding business confidential information.

#### **12. Infringements of Patents**

12.1 The Supplier guarantees that the delivery or use of the offered, respectively delivered goods does not infringe any patents or other Third Party's rights. The Supplier is, however, not liable for any infringements of Third Party's rights, as far as they may be attributed to the specifications of VISCOTHERM AG.

12.2 Any legal disputes which may arise as a result of a delivery or the use of offered respectively delivered goods with respect the alleged infringement of patents or of other Third Party's rights, shall be resolved, at VISCOTHERM AG's choice, either by VISCOTHERM AG itself at the Supplier's expense, or by the Supplier at its own expense.

#### **13. Applicable Law and Jurisdiction**

13.1 The contractual and commercial relationship between VISCOTHERM AG and the Supplier is exclusively governed by the Laws of Switzerland, excluding all conflict rules as well as the Vienna Convention on Contracts for the International Sale of Goods.

13.2 The exclusive place of jurisdiction for all disputes based on this agreement is Uster. The Commercial Court of the Canton of Zurich shall have material jurisdiction to adjudicate any disputes.