

# General Purchasing Conditions

## Neways Deutschland GmbH

### Article 1. Definitions

**Affiliates** are the companies affiliated with Neways according to Section 15 et seqq. German Stock Corporation Act (Aktiengesetz) having registered places of business in Germany.

**Neways** means Neways Deutschland GmbH and/or its Affiliates as specified in the individual Purchase Order.

**Neways Deutschland GmbH**, registered with the commercial register of the local court of Kassel under HRB 5798, Miramstrasse 87, 34123 Kassel, Germany.

**Purchase Contract** means any Purchase Order accepted by Seller pursuant to Article 3 (1).

**Purchase Order** means any order for the purchase of goods or services issued by Neways to Seller.

**Seller** means the party to whom the Purchase Order is addressed.

### Article 2. Scope

(1) All deliveries, services and offers of the Seller shall be based exclusively on these General Terms and Conditions of Purchase. They shall form a component part of all contracts concluded between Neways and the Seller for deliveries and services. The General Terms and Conditions of Purchase shall also apply to all future deliveries, services and offers to Neways even if not specifically agreed again.

(2) General terms and conditions of the Seller or of third parties shall not be effective even if Neways does not expressly repudiate these in each case. Reference on part of Neways to communication which contains, or refers to, terms and conditions of the Seller or of third parties shall not constitute agreement with their validity.

### Article 3. Purchase Orders

(1) All legal relations between Neways and the Seller shall be governed exclusively by the Purchase Contract based on the written Purchase Order of Neways including these General Terms and Conditions of Purchase. Seller will forward a written acceptance of the Purchase Order within fourteen [14] working days after Seller's receipt of said Purchase Order. Acceptance of a Purchase Order by Seller is expressly limited to the terms of the Purchase Order and to these General Terms and Conditions of Purchase. In any event any performance by Seller in relation to a Purchase Order will constitute acceptance of such Purchase Order. In the event that Seller does not forward a written acceptance or does not start performance in relation to a Purchase Order within fourteen [14] working days after Seller's receipt of the Purchase Order, Neways shall be entitled but not obliged, to revoke such Purchase Order without incurring any liability to Seller. Additions and modifications to the Purchase Contract including these General Terms and Conditions of Purchase and any notifications according to these shall be required in writing to be legally effective.

(2) Neways shall reserve the right to change the time and place of delivery and the type of packaging at any time through notification in writing at least fourteen [14] calendar days before the agreed delivery date. The same shall apply to changes in product specifications where these can be implemented by the Seller during the normal production process without significant extra costs. In such case, the above notification period shall be at least four [4] weeks. Neways shall reimburse the Seller for any additional reasonable and verifiable costs incurred due to these changes. Where these changes result in delays in delivery which cannot be avoided by taking reasonable efforts during the normal production and operations of the Seller, the delivery date originally agreed shall be extended accordingly. The Seller shall advise Neways in writing of the carefully estimated additional costs or delays in delivery prior to the delivery date and not later than within two [2] working days from the receipt of Neways' notification as specified in sentence 1 and sentence 2. If the additional costs or delivery delays are unreasonable in the opinion of Neways, Neways will be entitled to cancel the respective Purchase Contract without being obliged to indemnify the Seller, provided that the cancellation has taken place four [4] weeks prior to the confirmed delivery date at the latest.

(3) Neways shall have the right to terminate the Purchase Contract at any time in writing, specifying the reason for the termination, if the ordered products can no longer be used in the operations of Neways due to circumstances occurring after conclusion of the Purchase Contract. In such case, Neways shall compensate the Seller for any part performance effected up to this point.

### Article 4. Prices, Terms of Payment, Invoice Details

(1) All prices specified in the Purchase Order shall be binding.

(2) In the absence of a written agreement to the contrary, the prices shall be in Euro (excl. VAT). The prices shall be based on DDP (Delivery Duty Paid) (Neways' warehouse as specified in the individual Purchase Order) according to Incoterms 2010 and shall include delivery, packaging and transport to the shipping address specified in the Purchase Order. If the Purchase Contract does not contain a specific address for shipment delivery shall be made to Neways Neunkirchen GmbH, Am Gneisenauflöz 6, D-66538 Neunkirchen, Deutschland.

(3) Unless otherwise agreed, Neways shall pay the purchase price within fourteen [14] days from delivery of the goods and receipt of the invoice less three per-cent [3.0%] cash discount or within sixty [60] days net. Payments owed by Neways shall be made on time if the bank of Neways has received the transfer order within this period. The place of performance for the payment obligation of Neways shall be the principal place of business of Neways.

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(4) All order confirmations, delivery documents and invoices shall quote the order number of Neways, the product type, the item no., quantity delivered, the price, the delivery address and, if applicable, any statement which entitles the Seller to a tax deduction. Where one or several of these details are missing and this results in a delay in processing by Neways, the payment deadlines specified in para. (3) shall be extended by the period of delay.

(5) Neways may elect to offset any amounts owed to the Seller against any claims that Neways and/or Affiliates have on the Seller. The Seller shall not be permitted to offset any claims against Neways that Neways contests and that have not been established by final court decision. The Seller waives any and all rights of retention and of refusing performance including pleading non-performance of contract.

### Article 5. Delivery, Period of Delivery, Transfer of Risk, Packaging

(1) The delivery period specified in the Purchase Order (delivery date or period) shall be binding. Early deliveries shall only be accepted upon request and written confirmation by Neways.

(2) The Seller shall be required to notify Neways promptly in writing where circumstances occur or indicate that delivery periods cannot be met. The Seller's notification will include the reason of the late delivery and measures to be taken to prevent and/or limit the delay.

(3) If the date by which delivery is to be made at the latest can be determined based on the Purchase Contract, the Seller shall be deemed in default at the end of that date even without a reminder of Neways.

(4) In case of delayed deliveries, Neways shall have full rights under law including the right to withdraw from the Purchase Contract and entitlement to damages instead of performance ("Schadensersatz statt der Leistung") after unsuccessful expiry of the period of grace.

(5) In case of delays in delivery, Neways shall have the right after prior written notification of the Seller to charge a contractual penalty of half a per-cent [0.5%] of the respective order value up to a maximum of five per-cent [5.0%] of the order value for each week of delay or part thereof. The contractual penalty shall be credited according to sec. 340 para. 2 BGB against any damages to be paid by the Seller due to delay in performance.

(6) The Seller shall not be entitled to make part deliveries without the prior written consent of Neways.

(7) Even if shipment was agreed, the risk shall not pass to Neways until the goods have been delivered to Neways at the agreed shipping address.

(8) If required, Neways or designated third parties shall be entitled to pre-delivery inspection or testing of the ordered products at Seller's premises during ordinary working hours. The Seller shall assist Neways or designated third parties without imposing limits, and offer the necessary facilities and assistance for this purpose without costs.

Irrespective of whether Neways exercises its right pursuant to this paragraph and irrespective of the findings of the inspections and test, and irrespective of Neways' comments to the Seller, the Seller shall remain fully liable for the proper execution of the Purchase Order.

(9) The Seller is responsible for adequate packaging of the products and will ensure that the packaging is labelled and shipped with due care and in accordance with applicable statutory regulations and any additional agreements between the parties. Unless otherwise agreed in writing the costs for packaging and load carriers shall be included in the pricing. Any non-environmental friendly packaging must be avoided by the Seller. If any recyclable packaging and load carriers are used, the packaging and load carriers will not be charged to Neways and shall be collected by Seller for its own risk and expense upon notification by Seller. In the event any inadequate packaging and load carriers are used, Neways shall be entitled to return the products at Seller's risk and expense.

### Article 6. Protection of Ownership

(1) Neways shall retain ownership of, or the copyright in, any Purchase Orders and Purchase Contracts submitted by Neways and any materials, drawings, illustrations, calculations, descriptions and other documents made available to the Seller. Without the prior consent of Neways, the Seller shall not be permitted to make these available to third parties nor disclose, copy or use these or permit their use by a third party. The Seller shall return all documents at request of Neways where they are no longer needed in the ordinary course of business or where negotiations fail to produce a contract. Any copies made by the Seller shall be destroyed. This shall only exclude retention as stipulated by law and the storage of data for backup purposes as part of the usual backup process.

(2) Tools, devices and models made available to the Seller or produced for the purposes of the Purchase Contract and charged to Neways at extra cost shall remain property of Neways or pass into the ownership of Neways. These shall be identified by the Seller as property of Neways, stored carefully and protected against any type of damage and shall be used only for the purposes of the Purchase Contract.

(3) Retentions of title by the Seller shall only be permitted where these relate to the obligation of Neways to pay for the relevant products in which the Seller retains ownership. Specifically, extended or prolonged retentions of title ("*erweiterte und verlängerte Eigentumsvorbehalte*") shall not be permitted

### Article 7. Warranty Claims

(1) In the event of defects, Neways shall have full rights under law. However, in derogation of this the warranty period shall be thirty-six [36] months.

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(2) Quality and quantity-related deviations shall be deemed notified in good time if Neways advises the Seller accordingly within three [3] weeks from the receipt of the goods by Neways. Hidden material defects shall be deemed notified in good time if the Seller is advised accordingly within three [3] weeks from their discovery. The commercial obligation to examine products and notify defects shall apply with the proviso that the obligation of Neways to examine products is limited to defects which become evident through outward inspection, by the incoming goods department of Neways and in random checks as part of the quality control procedure of Neways (e.g. damage in transit, incorrect or short deliveries). In other respects, it shall depend on whether an inspection is possible in the ordinary course of business taking into account the circumstances of each case.

(3) Acceptance or approval of samples or specimens presented to Neways shall not waive the right of Neways to file claims under warranty.

(4) The statute of limitations for warranty claims shall be suspended where the Seller receives written notification of defects from Neways. In case of delivery of replacements and removal of defects, the warranty period for replaced and repaired parts shall restart unless Neways had to assume from the conduct of the Seller that replacement was provided or defects were removed by the Seller merely as a courtesy or for similar reasons, not based on obligation.

### Article 8. Liability, Indemnification

(1) The Seller executes the Purchase Order for its own risk. All damages, both direct and indirect and including any loss of profit and costs arising from or in connection with the execution of the Purchase Order incurred by Neways or third parties shall be compensated by the Seller, irrespective of whether the damage is caused by the Seller itself, its employees or any other persons the Seller engages for the execution of the Purchase Order. The Seller shall hold Neways harmless in the event of any third party claims on Neways arising from or relating to the acts or omissions of the Seller in performance of the contract with Neways, including but not limited to damage incurred by third parties having been supplied with a faulty product.

(2) For any subcontractor which has been assigned by Seller, Seller will bear responsibility, consequently Seller shall be liable for any acts and omissions by its subcontractor as if it performed the services itself.

(3) To the fullest extent permitted by law and without limitation of Neways' statutory damage claims, the Seller agrees that it shall indemnify and hold harmless Neways against all claims, including but not limited to indirect damages, consequential damages and/or any costs and expenses, such as reasonable attorney fees and/or penalties that arise from or relate to or evolve from Seller's non-compliance with the Purchase Contract or applicable law, regardless if the foregoing results from an act or omission.

### Article 9. Product Liability

(1) The Seller shall be responsible for any claims filed by third parties based on personal injury or damage to property where these are due to a faulty product provided by the Seller. The Seller shall undertake to indemnify Neways against any resulting liability on part of Neways.

The Seller shall be obliged to take out and maintain a product liability insurance at its own expense. The insurance shall cover a minimum amount of EUR 5,000,000.00 (in words: five million Euro) per damage event. Unless otherwise agreed in each case, the insurance may exclude cover for the recall risk and for criminal or other similar damage. On request, the Seller shall send Neways a copy of the insurance policy at any time.

### Article 10. Force Majeure

(1) Any delay or non-performance of either party's obligations under the Purchase Contract which is unforeseeable and reasonably outside the control of the party shall suspend that party's obligation to perform, provided that a written notice has been given to the other party stating the cause, the expected delay or non-performance and providing proof of the force majeure event. Force majeure will in no event include shortage of personnel, strikes, shortage of materials and/or allocation, imputable failure or unlawful acts of suppliers or third parties engaged by the Seller and/or liquidity or solvency problems on the part of the Seller.

(2) In the event that the force majeure event will exceed a thirty [30] days period Neways will, without prejudice to its other rights, be entitled to immediately terminate the Purchase Contract in part or in full, without any further (compensation or payment) obligations towards Seller.

### Article 11. Industrial Property Rights

(1) Seller shall indemnify, defend and hold Neways harmless from and against all liabilities, costs, damages, claims and expenses (including court costs and legal expenses and any settlement of such claim or action) incurred by Neways in respect of any claim or action brought by any third party against Neways that the goods or their use by Neways or Neways' customer infringe the industrial property rights of such third party. Notwithstanding the foregoing, Seller shall not be liable to the extent that the infringement results from the manufacture of the goods in accordance with instructions received from Neways and Seller taking the level of care that is customary in the industry could not have known that following these instructions would result in an infringement of a third party's industrial property right.

(2) The parties will inform each other forthwith of all such third party infringements or allegations of third party infringements of which they become aware. At Neways' option, Neways may select its own legal representation subject to the approval of Seller, such approval not to be unreasonably withheld, in the defence of any such claims or actions. Seller will assist Neways in its investigation, defence or handling of any such claim, including by providing any documents needed by Neways to defend the action. If Neways determines that it may be desirable for Seller to intervene in any action, Seller agrees to consult with Neways and to consider any reasonable request that Seller intervene in the action. However, the decision to intervene in an action remains Seller's sole decision.



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(3) If Neways selects its own legal representation, Seller's indemnification obligation under para. (1) extends to the reasonable costs and fees associated with such representation. If Neways does not select its own legal representation, Neways will give Seller sole conduct of the defence of any such claims or actions.

(4) Upon Neways' request, Seller shall specify any and all industrial property rights known or becoming known to him, which are used in the design or manufacture of, or which otherwise affect or relate to the goods.

(5) In the event of a claim of infringement of any third party rights that is communicated to Seller, Seller shall take the needed steps to insure for Neways a non-infringing source of supply, which may involve securing the needed licenses (if any), redesign of the product (subject to any contract requirements and qualification obligations), or other steps Seller deems necessary to ensure that a non-infringing product is delivered to Neways.

### Article 12. Spare Parts

(1) The Seller shall be obliged to store spare parts for products delivered to Neways for a minimum period of ten [10] years following delivery.

(2) Where the Seller intends to discontinue the production of spare parts for products delivered to Neways, Neways shall be notified promptly of this decision. Subject to para. (1), Neways shall be notified at least twelve [12] months prior to the discontinuation of production.

### Article 13. Confidentiality

(1) The Seller shall be obliged to keep any terms and conditions of the Purchase Order along with any information and documents made available for this purpose (excluding information which is publicly available) confidential during and after termination of the Purchase Contract and to use these exclusively for the execution of the Purchase Order. After processing enquiries or execution of the Purchase Order, these shall be promptly returned to Neways on request.

(2) The Seller shall not be permitted without the prior written consent of Neways to refer in advertising material, brochures, etc., to the business relations of Neways and shall refrain from displaying products supplied to Neways.

(3) The Seller shall be required to hold its employees, directors, agents and sub-suppliers to the same requirements as specified under this Article 13.

### Article 14. General Provisions

(1) With regards to export the Seller shall ensure that it shall comply with all applicable laws and regulations. Seller warrants that the products delivered to Neways are in accordance with the rules of RoHS (Directive 2011/65/EC), REACH (Regulation 1907/2006/EC), WEEE Directive 2002/96/EC and will aim for compliancy with Dodd-Frank Act's section 1502 on conflict minerals.

(2) Should any provisions of the General Terms and Conditions of Purchase become invalid or unenforceable by court the remaining articles will not be affected and remain in full force. The invalid or unenforceable provision will be substituted by a provision which has the similar or closest to similar intent as the original provision.

(3) The Seller shall not be permitted to assign any claims under the Purchase Contract to third parties. This requirement shall not apply to pecuniary claims.

### Article 15. Place of Performance and Jurisdiction, Applicable Law

(1) The place of performance for the contractual parties and the exclusive place of jurisdiction for any disputes arising out of the Purchase Contract shall be Neways' place of business as specified in the Purchase Order.

(2) All contracts concluded between Neways and the Seller shall be governed by the laws of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods ("CISG").