

## **General Conditions of Purchase of FiWaRec Valves & Regulators GmbH & Co. KG**

### **1. Applicability of the conditions**

(1) Our terms and conditions shall apply only to business entrepreneurs (cf. Section 14 of the German Civil Code/BGB), legal entities under public law and special funds under public law. (2) The orders made by FiWaRec Valves & Regulators GmbH & Co. KG (the customer) shall be made exclusively on the basis of these conditions of purchase. They shall also apply to all future business transactions with the supplier, even if they are not explicitly agreed again. We do not accept any contrary conditions of purchase or any conflicting terms and conditions of the Customer, not even by accepting any delivery without raising an objection.

(3) All agreements which are made between us and the customer for the purpose of implementing a contractual relationship must be set out in writing in this contract. Any changes to this contract must also be agreed in writing.

(4) Unless these conditions of purchase specify anything to the contrary, the concepts and definitions in INCOTERMS 2000 shall apply.

### **2. Conclusion of contract and confidentiality**

(1) The supplier shall be obliged to accept our order within a period of 12 working days, otherwise the offer shall lapse.

(2) We reserve ownership, industrial property rights and copyright for any illustrations, drawings, calculations and other documents, samples, models and similar objects. They are subject to strict confidentiality and must not be made available to third parties without our explicit written permission. This shall also apply after the expiry of this contract for as long as the production knowledge contained therein is not generally known.

### **3. Prices and terms of payment**

(1) The price specified in our order shall be binding. The price shall include delivery free of charge to our premises, including normal packaging. The return of the packaging shall require a separate agreement.

(2) The statutory value-added tax is included in the price.

(3) On all invoices the supplier shall be obliged to state the order number given in our order in accordance with the supplier's invoicing standards.

(4) We shall pay the purchase price with a discount of 3% within 12 days after the receipt of the delivery and the invoice, or without deduction within 30 days after the receipt of the delivery and the invoice.

### **4. Delivery and acceptance**

(1) The delivery period stipulated in the order shall be binding. Delivery periods shall run from the date of the order.

(2) The supplier shall be obliged to notify us without delay in writing if any circumstances become apparent which indicate that the agreed deadlines cannot be adhered to.

(3) In the event of any delay in deliver, we shall be entitled to demand flat-rate delay compensation of 1% of the delivery value for each complete week of the delay, but not more than a total of 5%. The right to make any further statutory claims is reserved. The supplier shall be entitled to prove to us that no loss, or a significantly lesser loss, has been incurred due to the delay.

(4) The supplier shall be obliged to state our exact order number on all consignment documents and delivery notes.

#### **5. Place of performance and transfer of risk**

- (1) The place of performance shall be our registered place of business.
- (2) Delivery shall be free of charge to our premises.

#### **6. Material and legal deficiencies**

- (1) We shall inspect the goods for material deficiencies within a reasonable period after receipt at the delivery destination. If we redirect or forward the goods in the normal course of business and notify the supplier of this in good time, the inspection and objection period shall be extended accordingly.
- (2) The supplier shall be liable for material deficiencies irrespective of blame as set forth in sub-sections 3 and 4.
- (3) If there is any material deficiency in the goods at the time of the transfer of risk, we shall be entitled to demand subsequent fulfilment or a reduction in the price. The subsequent fulfilment shall be by repair of the defect or by replacement, at our discretion. The costs of such remedies shall be borne by the vendor.
- (4) If the supplier has made an unsuccessful attempt at subsequent fulfilment, if it refuses subsequent fulfilment or if it allows a reasonable extension period to expire without any remedy, we shall be entitled to eliminate the defect ourselves and to demand reimbursement of the necessary expenditure.
- (5) The legal right of revocation, the right of compensation, including but not limited to compensation in lieu of performance, and the right of recourse pursuant to Sections 478 and 479 of the German Civil Code (BGB) are reserved.
- (6) The supplier shall be liable for any legal deficiencies irrespective of blame.

#### **7. Industrial property rights**

- (1) The supplier guarantees that its delivery and the foreseeable use of this delivery by us does not violate any patents or other property rights of third parties.
- (2) If any claim is made against us by third parties for any such violation of any property rights, the supplier shall indemnify us against any such claim on first written demand and shall reimburse us for all necessary expenditure incurred as a result of the claim.
- (3) The above provisions shall not apply insofar as the supplier has manufactured the supplied goods according to documents, samples, models or similar instructions supplied by us and did not know, and should not have been expected to know, that they violated any property rights.

#### **8. General liability**

- (1) If the supplier is responsible for any damage to the product, it shall be obliged to indemnify us on first demand against any claims for compensation by third parties insofar as the cause lies in its sphere of authority and organisation and it is liable itself in any dealings with external parties.
- (2) Insofar as any recall is required because of such damage to the product the supplier shall be obliged, subject to the same limitations, to reimburse us for the necessary expenditure incurred.
- (3) This shall not prejudice any other claims which we may have.

(4) The supplier undertakes to take out product liability insurance providing appropriate cover.

#### **9. Reservation of ownership**

(1) Any material supplied by us shall remain our property. It must be stored separately as such, and it may only be used for our orders.

(2) Any processing or transformation by the supplier shall be carried out on our behalf. If it is processed or mingled together with other objects not belonging to us, we shall acquire co-ownership of the new object in proportion to the value of our property in relation to the other objects at this time. If the supplier's object should be deemed to be the main object, the supplier undertakes to assign proportional co-ownership to us.

(3) We reserve ownership of any tools provided or financed by us. The supplier shall be obliged to use such tools solely for the production or processing of the objects ordered by us. It shall be obliged to insure the tools belonging to us at reinstatement value and to maintain them.

#### **10. General**

(1) The rights of the supplier under this contract shall not be transferable. If any individual provisions should be null and void, this shall not affect the validity character of the other provisions.

(2) The place of jurisdiction for all disputes with the supplier shall be our registered place of business. However, we shall be entitled to the alternative of conducting such disputes at the general place of jurisdiction of the vendor.

(3) This contract is governed by German law to the exclusion of the provisions of UN commercial law (CISG).

(4) Versions of these General Conditions of Purchase may exist simultaneously in different languages. However, the German version shall always be the sole definitive version of the content and interpretation of the rights and duties of the customer and the supplier under these General Conditions of Purchase.

Föhren, 25.06.2009

**FiWaRec Valves & Regulators GmbH & Co. KG**  
**Europa-Allee 12**  
**54343 Föhren**