

## TERMS AND CONDITIONS OF PURCHASE

### 1. **Applicability**

The terms and conditions cited hereinafter shall apply exclusively unless we confirm otherwise in writing. Any divergent conditions of the Seller, e.g. such set forth in an order confirmation or acceptance of order, have no binding effect upon us, even if we fail to expressly object to these conditions.

### 2. **Purchase Orders**

- 2.1 Purchase orders, agreements or other declarations are only binding if they have been submitted or confirmed by us in writing. Our purchase order must be confirmed no later than within ten (10) days after order date fully in compliance with contents and with the printed form "Order Acceptance", if appended. In any case, the purchase order is deemed accepted as per these conditions with the Seller's performance of the purchase order. Moreover, the INCOTERMS, as they are amended from time to time, apply.
- 2.2 The Seller shall take subsequent change orders into account. Should a change order make a schedule or price adjustment necessary, such adjustments must be arranged with us in writing.
- 2.3 The Seller may not subcontract significant parts or components of the scope of supply and services to a third party without receiving our written authorization, except for standard purchased parts.

### 3. **Prices and Payments**

- 3.1. The prices are fixed prices. They include everything that the Seller must provide in order to fulfill his obligation to deliver "packaged and carriage paid to destination". If "packaging on loan basis" is agreed upon on an individual case basis, packaging is returned at the Seller's expense. The price includes all technical documents that are required, e.g. for planning, installation, commissioning, maintenance and operation, in the quantity and language we require as well as the coating that is appropriate for the intended purpose and preservation.
- 3.2 Compensation is only granted for offers, project engineering, planning, trials, etc. if such has been agreed upon in writing.
- 3.3 Invoices are to be submitted in duplicate for the respective purchase order number (no collective invoices). In case of payment within fourteen (14) days after receipt of the relevant invoice and the objects of delivery in full, we are entitled to a three percent (3%) cash discount. Installments or final payments do not constitute an acknowledgement of correctness or conformity of the supplies and services with the contract. Claims vis-à-vis Ventilatorenfabrik Oelde may only be assigned with our written authorization. The Seller may only offset any claims that are undisputed by us or such that have been determined as legally valid or as a result assert a right of retention.

### 4. **Delivery Period and Shipment**

- 4.1 The agreed upon delivery dates must be strictly observed. If it becomes apparent that a deadline cannot be met, the Seller must inform us immediately about the reason and the expected duration.
- 4.2 Notwithstanding this, we are entitled to charge a contractual penalty of 1% of the contractual price for each week of delay or fraction thereof, however no more than 10% of the contractual price, without furnishing proof of damage. The right to assert the contractual penalty can be declared up to the time of the final payment even after successful acceptance.
- 4.3 We must be informed promptly about each shipment. Packages, delivery notes and shipping documents must include all information that is necessary for identification purposes, especially our purchase order number and item numbers. Our relevant shipping and packaging instructions are to be observed.

#### **Ventilatorenfabrik Oelde GmbH**

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Registered Office: Oelde  
Registered at Münster No. HRB 7687  
VAT Reg. No.: DE 123 994 613



## **5. Warranty**

- 5.1 The objects of delivery must have the warranted characteristics, comply with the intended purpose and good engineering practice as well as the statutory and official regulations at the envisaged location of use and must not violate any third party rights, e.g. industrial property rights.
- 5.2 The Seller must inform himself about the intended purpose and all other relevant conditions in good time and comprehensively and must take such into consideration. The Seller must notify us immediately about any omissions or recognizable errors. The Seller is responsible for ensuring the use of materials that fulfill the intended purpose, proper design and implementation, proper functioning and achievement of the agreed upon performance. The Seller guarantees that it shall provide us with spare parts and/or wear parts for a period of ten (10) years starting on the day of the original delivery.
- 5.3 Within a warranty period of two (2) years of operation we are entitled to demand subsequent improvement or delivery free-of-charge in addition to the statutory warranty claims. In urgent cases or should the Seller fail to comply with its warranty obligations in spite of a set time limit, we are entitled to perform the necessary measures on our own at the Seller's expense and risk. The warranty period starts over for the subsequently improved or replaced parts.
- 5.4 Acceptance takes place subject to the examination for freedom from defects, especially for correctness, completeness and suitability. We are entitled to examine the contractual object insofar and as soon as it is possible based on the ordinary course of business; we shall report identified deficiencies immediately after their discovery. In this regard, the supplier waives the plea of late notification of defect. The expiry of the warranty period is interrupted with the lodging of a notification of defect. The warranty is not limited by the fact that we have checked or approved the Seller's calculations, drawings, layout plans, etc., made suggestions or performed quality inspections.

## **6. Quality Assurance**

The Seller must perform all the necessary quality inspections on its own as part of its delivery obligations and shall make the inspection records available. In addition, we are entitled to review the Seller's quality records, perform or have performed our own inspections, during which the Seller shall provide its support to us free-of-charge, e.g. by providing testing equipment, etc..

## **7. Additional Provisions**

- 7.1 The use of our inquiry or purchase order for promotional purposes and publications in connection with such require our written authorization. All information, data, drawings, models, etc. based on which the Seller gains knowledge from us or about us may not be used for any other purpose than our inquiry or purchase order without our written authorization. They may not be disclosed or made available to third parties and must be returned in full upon request.
- 7.2 In case of retention of ownership on part of the Seller, we are entitled to make use of the goods within the framework of our business operations. If we provide the Seller with parts, these remain our property. Processing and redesigning shall be implemented for us. If our parts are processed or combined with other objects, we become part owners of the new product.
- 7.3 Place of fulfillment for all deliveries and services including the warranty obligations is the intended location of use, for payments our registered domicile. Oelde is agreed upon as place of jurisdiction. We are nonetheless entitled to take the Seller to court at its general place of jurisdiction. The relevant laws for legal relationships between companies with registered domicile in the Federal Republic of Germany apply exclusively.
- 7.4 Should any individual provision or any part of any provision of the terms and conditions of purchase be or become void or unenforceable, the validity of the remaining provisions hereof shall in no way be affected. The void or unenforceable provision shall be replaced with a provision that comes as close as possible to the economic sense and purpose of the void or unenforceable provision.