

## Terms and conditions of purchasing for Walz Leben & Wohnen GmbH

### 1. Scope

1.1 Only the following terms and conditions are valid for contracts about the delivery of products and the resulting legal relationships established between Walz Leben & Wohnen GmbH (hereafter called WALZ) and the supplier.

- these terms and conditions of purchasing (EKB)
- the Walz Textile quality guidelines
- the packing - identification - shipping procedures (VKV)
- the general condition contract

The respective current versions can be accessed in the supplier area of WALZ under [www.versandhaus-walz.de/Lieferantenportal.html](http://www.versandhaus-walz.de/Lieferantenportal.html). WALZ will inform the supplier in text form (e.g. by email) immediately about changes / amended versions. These changes are viewed as accepted if no written objection has been received by Walz from the supplier within one month after the receipt.

WALZ does not accept deviating terms and condition by the supplier. These WALZ terms and conditions are applicable without restrictions even if WALZ knows about contradicting terms and conditions or terms and conditions that deviate from these terms and condition but still accepts products without reservation.

1.2 The above mentioned terms and conditions are also valid for all future business relationships even if they have not been explicitly agreed once more.

1.3 Agreements (including supplements, addenda and changes) established in individual cases in writing between the contract parties have always priority over these terms and conditions.

### 2. Orders and contract closings

2.1 Quotations for the closing of a purchase contract (order) by WALZ will be provided by using the order forms of WALZ. The acceptance of the quotation by the supplier must be confirmed immediately by signing it and sending it back. WALZ is bound to the quotation for 14 days.

2.2 Drawings, plans and other documents, which are part of the order, will remain the property of WALZ, which reserves all rights especially copyrights for these documents. If the supplier does not accept the quotation by WALZ within the period stated in item 2.1, then these documents must be immediately returned to WALZ.

2.3 For first orders, the supplier agrees to accept the return of up to 50% of the delivered products in case of bad salability.

### 3. Prices / invoices / payments

3.1 The prices listed in the order by WALZ are net prices, they are binding for the supplier including free delivery to the WALZ location, assumed that no other agreements have been made in writing between the parties. They include packing and labeling in accordance with the **packing - identification - shipping procedures (VKV)**. The prices also include the delivery of the required instruction, installation and maintenance manuals as well as the repair manuals and spare parts lists. The invoice must include the unit price listed in the order.

3.2 The supplier is liable for orderly customs duty and tax payments for products originating in a foreign country if they are imported by the supplier.

3.3 Invoices must always be addressed to "Walz Leben & Wohnen GmbH, Rechnungskontrolle, Steinstraße 28, 88339 Bad Waldsee" and must not be attached to the product. Domestic invoices must be provided with two copies and export invoices must be provided with three copies. The invoices must include the supplier, order and product numbers as well as the quantity for each color number and size. Deliveries from other EU countries to the Federal Republic of Germany are free of sales tax, assumed that the supplier invoices the legal value added tax of the Federal Republic of Germany while listing its German sales tax identification number. The invoice must include a confirmation note in case sales tax must not be paid. In addition, the sales tax identification number of the supplier and of WALZ must be listed. Separate invoices must be established for products that are subject to different value added taxes.

3.4 The payment conditions and payment modalities are included in the general conditions contract by the parties, which was agreed separately.

3.5 The date of the payment transfer by WALZ determines the timeliness of the payment.

3.6 The payment of a supplier invoice does not represent an acknowledgement that the delivered product is free of deficiencies, that it provides the guaranteed or agreed characteristics/quality features or that the delivery is complete.

3.7 An assignment or pledge of receivables against WALZ is excluded; this does not apply if WALZ was informed in writing and in advance about the fact that the supplier is a processing operation and that an extended retention of title had been agreed with the subcontractor.

### 4. Manufacture / labeling / packing / delivery / delivery time / arrears

4.1 The supplier guarantees that the delivered products have not been manufactured through exploitative, health damaging or child labor nor through slave type of labor or prison labor that violates the human dignity.

4.2 In addition, the supplier is obligated to act as environmentally protective as possible in product development, in the work organization, in production and in sales. In any case, the supplier is obligated to deliver the product and its packing in accordance with the environmental and consumer protection regulations valid in Germany, the countries of the European Union and Switzerland. In addition, the specifications and regulation of the WALZ quality directives and the WALZ packing - identification - shipping procedures (VKV) are applicable.

4.3 If the supplier does not comply with the obligations in accordance with item 4.2, then WALZ has the right to update the products as agreed on the expense of the supplier or to return the products and request a reimbursement for the damages done.

- 4.4 If normal in business, then each product must be accompanied by instruction manuals, as well as installation and maintenance manuals in German, English, Dutch, French, Danish, Swedish, Polish, Italian and Spanish.
- 4.5 Models, samples, blocks, templates, tools, etc., which were made available by WALZ to the supplier, remain the property of WALZ and they and the products produced by them must neither be utilized/used outside of the contract, nor must they be handed to third parties or must be made available to third parties. They must be protected against unauthorized inspection or use and must be returned by the supplier undamaged and on its own expense together with the last delivery to WALZ.
- 4.6 All delivery dates listed by WALZ in the order are fixed dates. The products must have been received at the agreed dates at the individually listed delivery address. The date of shipment is authoritative for FOB deliveries.
- 4.7 The supplier may not make partial deliveries. Exceptions require the prior written approval by the responsible WALZ scheduler.
- 4.8 The diligent adherence to the bindingly established delivery time as well as the confirmed delivery date is mandatory for WALZ, especially for processing reasons in WALZ logistics and to prevent customer cancellations that generate damages. The assertion of a damage by delay is not excluded by the fact that WALZ agrees to a new delivery date with the supplier.
- 4.9 In case of a late delivery (arrears), the supplier is obligated - in addition to the fulfillment of the contract - to pay the following amount as a one-time contract penalty, however, not more than €50.00 for each product:
- |                                 |   |
|---------------------------------|---|
| Arrears ≥ 07 days and < 14 days | 05% of the purchase price of the product to be paid by WALZ |
| Arrears ≥ 14 days and < 21 days | 08% of the purchase price of the product to be paid by WALZ |
| Arrears ≥ 21 days               | 10% of the purchase price of the product to be paid by WALZ |
- No contract penalty is due if the arrears are less than 7 days.
- WALZ has the right to claim the contract penalty up to the fulfillment of the timely payment of the respective supplier invoice by WALZ even if the delivery was accepted without objection.
- 4.10 In case of non-fulfillment, the supplier is obligated to pay for each product that has not been delivered a contract penalty of 10% of the purchase price for the respective product to be paid by WALZ.
- 4.11 The contract penalty in accordance with item 4.9 and 4.10 is not due if the supplier provides evidence that the supplier is not responsible for exceeding the delivery time/non-fulfillment.
- 4.12 WALZ explicitly reserves the right to request – in addition to the contract penalty – its legal claims/an additional damage (e.g. costs of post deliveries, delivery failures, covering purchase, additional warehouse and handling costs).
- 4.13 In case of a covering purchase, the supplier waives all rights for the product, especially technical or aesthetic protection rights; evidence for the respective rights of third parties must be provided on the request of WALZ.

## 5. Warranty / guarantee / liability

- 5.1 WALZ is obligated to inspect the products after the delivery by the supplier within an adequate period for quality and quantity deviations. The notice for obvious defects is timely if it is sent by WALZ within two weeks after the delivery of the products; the notice of hidden defects is timely if it is sent by WALZ within two weeks after its discovery.
- 5.2 WALZ has the right to legal deficiency claims against the supplier and the supplier is liable against WALZ within the legal scope. In addition, WALZ has the right to resolve the deficiencies on its own and to charge the related costs to the supplier, if the supplier does not provide an orderly supplementary performance within an adequate period set by WALZ.
- 5.3 If not agreed otherwise, the supplier – in case of a warranty or warranty replacement – is obligated to make the spare parts required by WALZ as part of the processing of warranty cases immediately available in an adequate quantity and free of charge.
- 5.4 Products, which are returned to the supplier as part of a notice of defect, will continue to be the property of WALZ until the notice of defect has been resolved or until the purchase price has been reimbursed in case of a withdrawal from the purchase contract.
- 5.5 The statute of limitations for warranty claims is 36 months after the passing of risk, assumed that a deviating agreement has not been established and it starts with the transfer of the delivered purchase object to the WALZ customer.
- 5.6 The supplier guarantees that the products delivered by it are in accordance with the relevant legal regulations of the Federal Republic of Germany, the countries of the European Union, the European Union itself and Switzerland. If a delivered product cannot be brought to the market by WALZ because it is not possible or due to a ban based on a law or any other legal regulations or standards, then WALZ has the right to request the return of the existing stock against a reimbursement of the total purchase price even if the warranty rights have expired.
- 5.7 If the delivered product has a defect, then the supplier must release WALZ from all claims for damages, which are made by third parties against WALZ based on a domestic or foreign legal regulation due to this defect.

## 6. Product liability / product liability insurance

- 6.1 The supplier guarantees the product safety of its products as well as its marketability in all countries of the European Union and Switzerland. A complete labeling (e.g. warning notices, etc.) of all products in accordance with the valid regulations in the respective countries by the supplier is mandatory. If WALZ receives a claim for damages by a third party due to a product defect, then the supplier must release WALZ after its first request from all claims of third parties including the required costs for the defense of these claims.
- 6.2 If WALZ must implement a recall action based on a damage case in accordance with item 6.1 or if WALZ must implement damage prevention measures, then the supplier is obligated to reimburse WALZ all expenditures, which result from the recall action/damage prevention measures executed by WALZ. As far as it is possible and timely reasonable for WALZ, WALZ will inform the supplier about the content and scope of the recall action/damage prevention measure and will give the supplier an opportunity to comment. Additional legal claims by WALZ are not affected by the above.
- 6.3 The supplier is obligated to purchase and maintain a product liability insurance with a coverage adequate for the products. Additional legal claims by WALZ are not affected by the above. Opposing liability limitations by the supplier are not valid.

## 7. Rights/third party rights

- 7.1 The supplier guarantees that the rights of third parties, especially commercial, copyright and patent protection rights as well as third party brands are not violated through the advertisement and the sale of the contract related products in all countries of the European Union as well as in Switzerland.
- 7.2 If the supplier provides product texts, images, video material and databases to WALZ for the advertisement of the contract related products, then the supplier grants WALZ a compensation-free, single use, processing and usage right that is territorially and timely unrestricted for all known and future usage types. The supplier guarantees that the provided product texts, images, video material and databases are free of third party rights and that the supplier has the right to grant the rights to WALZ for the scope described above.
- 7.3 If a claim is made against WALZ due to a violation of the above listed rights (items 7.1 and 7.2), then the supplier is obligated to release WALZ after its first request from all claims. In addition, the supplier will reimburse WALZ all expenditures in connection with the claims by the third party and its defense and will accept the return of the products. WALZ is not obligated to clarify the alleged infringement in a court. The assertion of additional claims for damages is not affected.

## **8. Confidentiality/customer data**

- 8.1 The supplier must keep the information, especially business and operational secrets in connection with the business operation of WALZ, which became known as part of the cooperation, strictly confidential during the business relationship and after its termination and must not utilize them or make them available to third parties in any form.
- 8.2 The supplier knows about the importance of the address material for a mail order company. The supplier is obligated to carefully protect the address material, which is provided as part of the cooperation and which is the sole property of WALZ against access by third parties, not to use it for its own purpose during the time of the business relationship and after its termination (e.g. to lease or sell it), do not make it accessible to third parties and do not transfer it.

A contract penalty in the amount of €150.00 is due for immediate payment to WALZ for each improperly used customer address in case of a violation against the above obligation. The right to charge for additional damages is explicitly reserved.

## **9. Place of fulfillment/court of jurisdiction/applicable law**

- 9.1. The place of fulfillment and the court of jurisdiction for deliveries and payments (including check complaints) as well as all disagreements generated between the supplier and WALZ based on the contract agreed between them is Bad Waldsee / Baden Württemberg, assumed that the supplier is a "Kaufmann" (businessman) in accordance with the "Handelsgesetzbuch" (German Commercial Code) (HGB). WALZ on its own choice also has the right to sue the supplier at a different, legally permissible court of jurisdiction.
- 9.2. The relationships between the contract parties are exclusively subject to the valid laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is not applicable.

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