



MAURER & WIRTZ  
HOUSE OF PERFUMES

## General Terms and Conditions of Purchase of MÄURER & WIRTZ GmbH & Co. KG

### 1. Applicability

- 1.1 Any deliveries, services and offers of our suppliers shall be based exclusively on these General Terms and Conditions of Purchase. They shall apply also to any future deliveries, services or offers of the suppliers even if they are not again agreed upon separately.
- 1.2 Any other business terms deviating from our terms and conditions of purchase shall not apply even if their applicability is not expressly objected to by us. This shall apply even if, having knowledge of terms and conditions of the supplier deviating from or opposing our terms and conditions of purchase, we accept the supplier's delivery without any reservation.

### 2. Secrecy / Return of Documents

- 2.1 The supplier shall use offers, the terms and conditions of an order as well as any information and documentation made available for the purpose (except information accessible to the general public) exclusively for the purposes of the contract and shall keep these secret also after termination of the contractual relationship.
- 2.2 The supplier shall impose these obligations upon his employees and subcontractors.
- 2.3 If so requested by us, the supplier shall return or properly destroy during the term of the contractual relationship and, besides, upon termination of the contractual relationship the documents placed at the supplier's disposal. In the latter case, the supplier shall confirm in writing the proper destruction of such documents.

### 3. Orders / Order Confirmations / Prices

- 3.1 Only written orders, contracts and calls shall be legally binding. The written-form requirements shall be deemed to have been satisfactorily met also if an electronic signature pursuant to § 127 para 3 of the German civil code is provided. Orders placed by word of mouth or by phone shall be legally binding only if confirmed in writing.
- 3.2 Unless otherwise expressly agreed upon, the supplier shall confirm orders by returning without any delay either a fax copy or a confirmation of the order.
- 3.3 The price indicated in our order shall be binding subject to the written acceptance of a deviating offer.
- 3.4 Unless otherwise agreed upon, the price shall include all transport charges, insurance rates and other extra costs, in particular the costs of packaging, up to delivery at the place of receipt stated in the contract.

### 4. Time of Delivery

- 4.1 The date of delivery indicated in the order shall be binding. Proper delivery shall be deemed to have been made if the goods are received on schedule at the agreed place of destination. Upon expiration of the agreed date of delivery, the supplier will be at default without a reminder having to be sent by us.
- 4.2 When the supplier recognises that the agreed date of delivery cannot be complied with, he shall inform us forthwith about the cause of the delay and its estimated duration.
- 4.3 In case of default, we shall - without any restriction - be entitled to all claims provided for by law. In particular, we shall be entitled - upon expiration of a reasonable respite - to withdraw from the contract and to claim damages instead of performance and withdrawal.
- 4.4 In case of default, we shall - in addition to the claims provided by law - be entitled to charge to the supplier or to deduct from the amount of invoice a contractual penalty of 0.5% for each day the delivery period is exceeded, but not more than 5% of the amount of the order; we reserve the right to claim further damages.
- 4.5 Partial deliveries and deliveries ahead of schedule shall be permissible only after our previous written consent and shall not oblige us to make partial or early payment.
- 4.6 We shall be entitled to refuse acceptance of goods supplied ahead of the delivery date indicated in the order or exceeding the quantity ordered and to return them or warehouse them with third parties for the supplier's account and risk.

### 5. Transfer of Risk

Even if shipment has been agreed upon, the risk of accidental destruction or accidental deterioration shall not pass to us until the goods have been surrendered to us at the agreed place of destination.

### 6. Documents

The supplier shall indicate on each parcel our material number, order number, material designation, the contents quantity and the production date of the packaging material. The shipping documents and delivery notes shall indicate the order and item numbers, the material number, the quantity supplied and the designation. The pallets shall be marked and numbered accordingly.

### 7. Quality Requirements

The goods supplied shall meet the quality requirements agreed upon. If the supplier improves or alters the object to be supplied during a current order, he shall let us have relevant information without any delay and shall leave it to us to choose the improved or altered product instead of the one ordered.

### 8. Claims for Defects / Notice of Defect / Disturbances

- 8.1 In case of defect, we shall - without any restriction - be entitled to all claims provided for by law. Claims arising from defects shall be statute-barred three years after delivery of the goods.
- 8.2 If, when supplied to us, the goods are defective, we shall be entitled, at our discretion, to first claim removal of the defect or delivery of a replacement. The supplier shall bear all necessary costs incurred in connection with the removal of the defect or delivery of the replacement. In urgent cases, we shall be entitled to remove the defect ourselves or to have it removed by a third party or to cover our requirements with a third party.
- 8.3 If and when a subsequent attempt of performance has failed or a reasonable respite has elapsed without avail, we shall be entitled, at our discretion, either to lower the purchase price or to withdraw from the contract. In addition, we expressly reserve the right to claim damages or reimbursement of expenses. Irrespective thereof, we will charge a lump-sum handling fee of €300 for each justified complaint. The supplier shall be at liberty to furnish proof showing that we incurred either no or substantially lower costs for the handling of the justified complaint.

- 8.4 Complaints shall in any event be deemed to have been made on time, if they are advised to the supplier within a period of two (2) weeks after receipt of the goods. Complaints covering hidden defects shall be deemed to have been made on time, if such complaints are lodged within two (2) weeks after such defects have been discovered. Our rights shall be deemed to have been properly claimed, if the notice of defect is sent on time.
- 8.5 Acceptance or approval of samples or specimens submitted to us shall not mean that we waive any warranty claims.
- 8.6 When the supplier receives our written notice of defect, the limitation of action for warranty claims shall be interrupted. In case of a replacement or of removal of the defect, the warranty period for replaced or repaired parts shall begin again.
- 8.7 In case of events beyond our control (e.g., legitimate strikes and lockouts, unforeseeable interruption of operations, cases of force majeure) we shall be exempt from our obligation to take delivery of goods during the time and to the extent of such events, unless we could have averted such disturbance by using reasonable means.

#### **9. Product Liability, Indemnification, Third-Party Liability Insurance**

- 9.1 To the extent that a supplier is responsible for a product damage that is attributable to a defective product supplied by him, he agrees to indemnify us on first demand against any claim for damages made by third parties.
- 9.2 Within the framework of his liability according to 9.1, the supplier shall also reimburse us for any expenses incurred by us pursuant to §§ 683, 670 of the German civil code as well as pursuant to §§ 830, 840, 426 of the German civil code resulting from or in connection with a recall campaign conducted by us. Inasmuch as possible and reasonable, we will inform the supplier about the contents and scope of the recall campaign. Other legal rights remain unaffected.
- 9.3 The supplier agrees to cover product liability insurance with a sum insured of not less than €5m per personal injury/property damage. Should our claim for damages exceed the sum insured, such claim shall remain unaffected by the foregoing provision.

#### **10. Invoices**

- 10.1 After delivery has been made, invoices shall be sent to our postal address in one copy, indicating all relevant data, in particular the SAP order number.
- 10.2 The times allowed for payment shall be in accordance with the terms and conditions specified in the order. The period allowed for payment shall begin on the first day after receipt of an auditable invoice, however not before the order has been duly carried out. The date on which we enter the remittance order shall be decisive for proper compliance with the deadline for payment.
- 10.3 Without a reminder received from our supplier we shall not be in default of payment. We reserve the right to furnish proof showing that a financial loss was smaller than the rate of default interest provided for by law. Beyond that, the legal provisions shall apply.
- 10.4 If the orderer makes payment of the invoice amount without any reservation, this shall not be tantamount to recognition of the contractor's performance as being in compliance with the contract. We shall be entitled to exercise the rights of offsetting and retention to the extent provided for by law.

#### **11. Infringement of Third-Party Rights**

The supplier warrants that the delivery or the use of the object supplied does not infringe industrial property rights or other rights of third parties. If any claims should be filed against us due to the infringement of a right as a consequence of the use, resale or processing of the material or the objects supplied, the supplier shall release us from any claims and shall reimburse us for any necessary expenses incurred by us in connection with the claim filed against us. This claim shall exist independent of a fault on the part of the supplier.

#### **12. Assignment / Reservation of Ownership**

- 12.1 The supplier shall not be entitled to assign to third parties the claims arising from the contractual relationship. This shall not apply inasmuch as monetary claims are concerned.
- 12.2 The supplier's reservation of ownership shall be excluded, unless we give our express consent.

#### **13. Code of Conduct**

The supplier undertakes to comply with our Supplier Code of Conduct which is visible on the website <http://www.m-w.de/download/CodeofConductEnglisch.pdf>.

#### **14. Place of Performance – Legal Venue – Applicable Law**

The place of performance shall be the delivery address indicated in the respective order. The legal venue shall be Aachen. German law, exclusive of the CISG, shall be applicable.

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