

GENERAL TERMS AND CONDITIONS OF PURCHASE

AIRCOM PNEUMATIC GMBH

Siemensstraße 18, 40885 Ratingen
(as of July 13th, 2021)

§ 1 SCOPE OF APPLICATION

1. These General Terms and Conditions of Purchase shall apply to all business relations with our business partners and suppliers („seller“). The General Terms and Conditions of Purchase shall only apply if the seller is an entrepreneur (Section 14 German Civil Code - BGB), a legal entity under public law or a special fund under public law.

2. All deliveries, services and offers of our suppliers shall be made exclusively on the basis of these General Terms and Conditions of Purchase. They shall form an integral part of all contracts concluded by us with our suppliers for the deliveries or services offered by them. They shall also apply to all future deliveries, services or offers to the Customer, even if they are not separately agreed again.

3. Terms and conditions of our suppliers or third parties shall not apply, even if we do not separately object to their application in individual cases. Even if we refer to a letter that contains or refers to the terms and conditions of the supplier or a third party, this shall not constitute an agreement to the validity of those terms and conditions.

4. Individual agreements made with the seller on a case-by-case basis (including collateral agreements, supplements and amendments) shall in any case take precedence over these General Terms and Conditions of Purchase. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

5. Legally relevant declarations and notifications of the seller with regard to the contract (e.g., setting of deadlines, reminders, withdrawal) shall be made in writing, i.e., in written or text form (e.g., by letter, e-mail, fax). Legal formal requirements and further proof, in particular in case of doubts about the legitimacy of the declarant, shall remain unaffected.

6. References to the applicability of statutory provisions shall only be of a clarifying nature. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms and Conditions of Purchase.

§ 2 ORDERS AND PURCHASE ORDERS

1. Our order shall be deemed binding at the earliest upon written submission or confirmation. The seller shall point out obvious errors (e.g., spelling and calculation errors) and incompleteness of the order including the order documents to us for the purpose of correction or completion prior to acceptance; otherwise, the contract shall be deemed not concluded.

2. Insofar as our offers do not expressly contain a commitment period, we shall be bound by them for one week after the date of the offer. The receipt of the declaration of acceptance by us shall be decisive for timely acceptance. A delayed acceptance shall be deemed to be a new offer and shall require acceptance by us.

3. We shall be entitled to change the time and place of delivery as well as the type of packaging at any time by written notification with a notice period of at least 7 calendar days prior to the agreed or actual date of dispatch of the supplier. If the agreed and actual dispatch dates are different, the later date shall in each case apply for the calculation of the deadline. The same shall apply to changes in product specifications at our request, insofar as these can be implemented within the framework of the supplier's normal production process without significant additional expense, whereby in these cases the notification period on our part is at least 14 calendar days. The supplier shall notify us in writing of any additional costs or delays in delivery to be expected by him on careful assessment in good time before the date of dispatch, but at least within 7 working days of receipt of our notification pursuant to sentence 3. We shall in each case reimburse the supplier for any proven and reasonable additional costs incurred as a result of the change. If such changes result in delivery delays that cannot be avoided in the supplier's normal production and business operations with reasonable efforts, the originally agreed delivery date shall be postponed accordingly.

4. We shall be entitled to withdraw from the contract at any time by written declaration stating the reason, if we are no longer able to use the ordered products in our business operations or are only able to use them at considerable expense due to circumstances for which the supplier is responsible and which occurred after the conclusion of the contract (such as failure to comply with legal requirements), or if the financial circumstances of the supplier deteriorate after contract conclusion to such an extent that delivery in accordance with the contract cannot be expected.

§ 3 PRICES, TERMS OF PAYMENT, INVOICE DETAILS

1. The price stated in the order shall be binding. All prices shall be inclusive of statutory value-added tax (if and where applicable) if this is not shown separately.

2. Unless otherwise agreed in writing, the price shall include delivery and transport to the shipping address stated in the contract, including packaging, as well as all services and ancillary services of the seller (e.g., assembly) and all ancillary costs (e.g., transport costs including any liability insurance).

3. If, according to the agreement reached, the price does not include packaging and the remuneration for the packaging – which is not only provided on loan – is not expressly specified, this shall be charged at the proven cost price. Upon our request, the supplier shall take back the packaging at his own expense.

4. Unless otherwise agreed, we shall pay the purchase price within 14 days of delivery of the goods and receipt of the invoice with a 3 % discount or within 30 days net. The receipt of our transfer order at our bank shall be sufficient for the timeliness of the payments owed by us.



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5. All order confirmations, delivery documents and invoices shall state our order number, the article number, delivery quantity and delivery address. If one or more of these details are missing and this causes a delay in processing by us in the ordinary course of business, the payment periods specified in paragraph 4 shall be extended by the period of the delay.

6. In the event of default in payment, we shall owe default interest at a rate of five percentage points above the base interest rate pursuant to Section 247 German Civil Code - BGB).

7. We are entitled to offset claims of the supplier regarding defective or incompletely delivered goods by means of a credit note or debit note. The supplier shall immediately confirm and acknowledge justified debit notes by way of a credit note.

§ 4 DELIVERY TIME AND DELIVERY, PASSING OF RISK

1. The delivery time (delivery date or delivery period) specified by us in the order or otherwise decisive according to these General Terms and Conditions of Purchase shall be binding. Early deliveries are permissible but must be announced in advance with a reasonable period of notice.

2. The supplier is obliged to inform us immediately in writing if circumstances occur or become apparent, according to which the delivery time cannot be met.

3. If the date on which the delivery must be made at the latest can be determined on the basis of the contract, the supplier shall be in default upon expiry of this date without any reminder being required on our part.

4. In the event of a delay in delivery, we shall be entitled to the statutory claims without limitation, whereby we shall only be entitled to exercise a right of rescission or assert claims for damages in lieu of performance after the fruitless expiry of a reasonable grace period.

5. In the event of delays in delivery we shall be entitled, after prior written warning to the supplier, to demand a contractual penalty of 1%, up to a maximum of 5%, of the respective order value for each commenced week of delay in delivery. We reserve the right to prove any higher damage. The contractual penalty shall be offset against the damage caused by delay to be compensated by the supplier. The seller reserves the right to prove that no damage or only a significantly lower damage has been incurred.

6. The supplier shall not be entitled to make partial deliveries without our prior written consent.

7. The seller shall not be entitled to have the performance owed by him rendered by third parties (e.g., subcontractors) without our prior written consent. The seller shall bear the procurement risk for his services unless otherwise agreed in individual cases (e.g., limitation to stock).

8. Delivery shall be made in accordance with the DAP clause (Incoterms 2020) to the place specified in the order. If the place of destination is not specified and nothing else has

been agreed, the delivery shall be made to our registered office in Ratingen. The respective place of destination shall also be the place of performance for the delivery and any subsequent performance (obligation to be performed at creditor's domicile).

9. The delivery shall be accompanied by a delivery bill stating the date (issue and dispatch), the contents of the delivery (item number and quantity) and our order identification (date and number). If the delivery bill is missing or incomplete, we shall not be responsible for any delays in processing and payment resulting therefrom. A corresponding dispatch bill with the same content shall be sent to us separately from the delivery bill.

10. The risk of accidental loss and accidental deterioration of the item shall pass to us upon handover at the place of performance. If acceptance has been agreed, this shall be decisive for the passing of risk.

11. The statutory provisions shall apply to the occurrence of our default in acceptance. However, the seller must also expressly offer us his performance if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g., provision of material). If we are in default of acceptance, the seller may demand compensation for his additional expenses in accordance with the statutory provisions (Section 304 German Civil Code - BGB). If the contract relates to an irreplaceable item to be manufactured by the seller (individual production), the seller shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to cooperate.

§ 5 OWNERSHIP PROTECTION

1. We reserve title or copyright to orders placed by us, purchase orders and drawings, illustrations, calculations, descriptions and other documents made available to the supplier. The supplier may not make them available to third parties or use or reproduce them himself or through third parties without our express consent. He shall return these documents to us in full at our request if they are no longer required by him in the ordinary course of business, or if negotiations do not lead to the conclusion of a contract. In this case, any copies made by the supplier shall be destroyed; the only exceptions to this are preservation within the scope of statutory retention obligations and the storage of data for backup purposes within the scope of normal data backup.

2. The transfer of ownership of the goods to us shall be unconditional and without regard to payment of the price. If, however, we accept an offer of the seller for transfer of ownership conditional on payment of the purchase price in individual cases, the seller's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We remain authorized to resell the goods in the ordinary course of business even prior to payment of the purchase price with advance assignment of the claim arising therefrom (alternatively validity of the simple retention of title extended to resale). This excludes, by all means, all other forms of retention of title, in particular the enhanced retention of title, the passed-on retention of title and the retention of title extended to further processing.

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§ 6 WARRANTY CLAIMS

1. In the event of material defects and defects of title of the goods (including wrong and short delivery as well as improper assembly, defective assembly, deficient operating or instruction manual) and in the event of other breaches of duty by the seller, we shall be entitled to the statutory claims without limitation.

2. In accordance with the statutory provisions, the seller shall be liable in particular for ensuring that the goods have the agreed quality at the time when the risk passes to us. In any case, those product descriptions which – in particular by designation or reference in our order – are the subject matter of the respective contract or were included in the contract in the same way as these General Terms and Conditions of Purchase, shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, from the seller or from the manufacturer.

3. We shall not be obliged to inspect the goods or to make special inquiries about any defects upon conclusion of the contract. Partially deviating from Section 442 subsection 1 sentence 2 German Civil Code (BGB), we shall therefore also be entitled to claims for defects without limitation if the defect remained unknown to us at the time of contract conclusion due to gross negligence.

4. The statutory provisions (Sections 377, 381 German Commercial Code - HGB) shall apply to the commercial duty to inspect and give notice of defects with the following proviso: Our duty to inspect shall be limited to defects which become apparent during our incoming goods control under external examination including the delivery documents (e.g., transport damage, wrong delivery and short delivery) or which are recognizable during our quality control in the random sampling procedure. If acceptance has been agreed, there shall be no duty to inspect. Otherwise, it shall depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our duty to give notice of defects discovered later shall remain unaffected. Without prejudice to our duty to inspect, our notice of defects shall at all events be deemed to have been given immediately and in good time if it is sent within 10 working days of discovery or, in case of obvious defects, as of delivery.

5. Our statutory claim for reimbursement of corresponding expenses shall remain unaffected. The seller shall bear the expenses necessary for the purpose of inspection and subsequent performance even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, we shall only be liable if we recognized or were grossly negligent in not recognizing that there was no defect.

6. Without prejudice to our statutory rights and the provisions in paragraph 5, the following shall apply: If the seller fails to meet his obligation to render subsequent performance – at our option by remedying the defect (subsequent improvement) or by delivering an item free of defects (replacement delivery) – within a reasonable period set by us,

we may remedy the defect ourselves and demand reimbursement from the seller of the expenses required for this purpose or a corresponding advance payment. If subsequent performance by the seller has failed or is unreasonable for us (e.g., due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline needs to be set; we shall inform the seller of such circumstances without delay, if possible, in advance.

7. Otherwise, in the event of a material defect or defect of title, we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, we shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

8. We do not waive warranty claims by acceptance or by approval of samples or specimens submitted.

§ 7 PRODUCT LIABILITY AND MANUFACTURER'S LIABILITY

1. The supplier shall be responsible for all claims asserted by third parties for personal injury or property damage attributable to a defective product supplied by him and shall be obliged to indemnify us against any liability resulting therefrom. If we are obliged to carry out a recall action against third parties due to a defect in a product delivered by the supplier, the supplier shall bear all costs associated with the recall action.

2. The supplier shall be obliged to maintain product liability insurance at his own expense with an amount of coverage of at least EUR 3 million, which, unless otherwise agreed in individual cases, need not cover the recall risk or punitive or similar damages. The supplier shall send us a copy of the liability policy at any time upon request.

3. The supplier shall be liable in the same way for design defects, manufacturing defects (excluding outliers for which the supplier is not responsible), instruction errors, failure to meet the product monitoring obligation.

§ 8 INDUSTRIAL PROPERTY RIGHTS

1. The supplier shall be responsible in accordance with paragraph 2 for ensuring that the products supplied by him do not infringe any industrial property rights of third parties in countries of the European Union or other countries in which he manufactures the products or has them manufactured.

2. The supplier shall be obliged to indemnify us against all claims asserted against us by third parties due to the infringement of industrial property rights referred to in paragraph 1, and to reimburse us for all necessary expenses incurred in connection with such claims. This shall not apply if the supplier proves that he is neither responsible for the infringement of industrial property rights, nor should have been aware of such infringement at the time of delivery if he had exercised due commercial care.

3. Our further statutory claims due to defects of title of the products delivered to us shall remain unaffected.

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§ 9 SPARE PARTS

1. The supplier shall be obliged to keep spare parts for the products delivered to us in stock for a period of at least 5 years after delivery.
2. If the supplier intends to discontinue the production of spare parts for the products delivered to us, he shall notify us thereof immediately after the decision on the discontinuation. Subject to paragraph 1, this decision must be made at least 6 months prior to the discontinuation of production.

§ 10 SECRECY

1. The supplier shall be obliged to keep the terms of the order as well as all information and documents made available to him for this purpose (with the exception of publicly accessible information) secret for a period of 2 years after contract conclusion, and to use them only for the execution of the order. He shall return them to us immediately upon request after completion of inquiries or after processing of orders.
2. Without our prior written consent, the supplier may not refer to the business relationship in advertising material, brochures etc., and may not exhibit delivery items manufactured for us.
3. The supplier shall oblige his subcontractors in accordance with this article 10.

§ 11 ASSIGNMENT

The supplier shall not be entitled to assign his claims arising from the contractual relationship to third parties. This shall not apply insofar as monetary claims are concerned.

§ 12 COMPLIANCE WITH LAWS

1. The supplier shall be obliged to comply with the relevant statutory provisions in connection with the contractual relationship. This shall apply in particular to anti-corruption and money laundering laws as well as antitrust, labour and environmental protection regulations.
2. The supplier shall ensure that the products delivered by him comply with all relevant requirements for putting these products into circulation in the European Union and the European Economic Area. Upon request, he shall provide us with evidence of conformity by submitting suitable documents.
3. The supplier shall use reasonable efforts to ensure compliance by his subcontractors with the obligations incumbent on the supplier under this article 12.

§ 13 LIMITATION

1. The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless otherwise provided below.
2. Notwithstanding Section 438 subsection 1 no. 3 German Civil Code (BGB), the general limitation period for claims based on defects shall be 3 years from the passing of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance.

The 3-year limitation period shall also apply mutatis mutandis to claims arising from defects of title, whereby the statutory limitation period for claims in rem of third parties for surrender of goods (Section 438 subsection 1 no. 1 BGB) shall remain unaffected; in addition, claims arising from defects of title shall in no case become statute-barred as long as the third party can still assert the right against us – in particular in the absence of a limitation period.

3. The limitation periods of the law on sales including the above extension shall apply – to the statutory extent – to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (Sections 195, 199 German Civil Code - BGB) shall apply, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

§ 14 PLACE OF PERFORMANCE, PLACE OF JURISDICTION, APPLICABLE LAW

1. The place of performance for both parties is Ratingen. If the seller is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising from the contractual relationship shall be Düsseldorf. The same shall apply if the seller is an entrepreneur within the meaning of Section 14 German Civil Code (BGB). However, we shall also be entitled in all cases to bring an action at the place of performance of the delivery obligation in accordance with these General Terms and Conditions of Purchase or a prior-ranking individual agreement, or at the general place of jurisdiction of the seller. Overriding statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.
2. The contracts concluded between us and the supplier shall be governed by the laws of the Federal Republic of Germany to the exclusion of the Convention on Contracts for the International Sale of Goods (UN Sales Convention).
3. Should any provision of these Terms and Conditions be invalid or contain a gap, this shall not affect the validity of the remaining provisions.