

General Conditions of Purchase of the PELZ group

1. General information / Area of application

1.1 The contractual relations between the supplier and the firms forming part of the PELZ group of companies (hereinafter referred to as PELZ) shall exclusively be governed by these General Conditions of Purchase. For the purposes of these conditions of purchase, the group of companies is composed of Pelz Holding GmbH, W. Pelz GmbH & Co. KG, pely plastic GmbH & Co. KG, pely-tek GmbH & Co. KG and Curatex GmbH, all with registered seat at 23812 Wahlstedt.

PELZ does not recognise a supplier's conditions of purchase conflicting with or deviating from the present conditions except if PELZ has expressly accepted their applicability in writing. The present conditions of purchase shall also apply where PELZ accepted ordered goods without reservation in the awareness that a supplier's terms conflict with or deviate from the present conditions of purchase.

1.2 The written form shall be required in regard to all covenants made between PELZ and its suppliers for the performance of any contract between them. Oral collateral agreements shall not be made.

1.3 These conditions of purchase shall be applicable only vis-à-vis entrepreneurs within the meaning of Section 14 BGB.

1.4 These conditions of purchase shall also apply to all future transactions with a given supplier.

2. Offers and related records

2.1 The supplier's offer shall respond precisely to the enquiry and shall expressly make reference to any deviations.

2.2 Offers shall be gratuitous and shall not give rise to any obligations on the part of PELZ. Cost estimates shall be paid for only on the basis of a special agreement to this effect. PELZ reserves ownership and copyrights to all drawings, standards, guidelines, analytical methods, recipes and other records. These may not be made accessible to third parties without express consent. They shall exclusively be used for the purpose of making the product pursuant to the pertinent order, following which they shall be automatically returned to PELZ complete with all copies and reproductions. They shall be kept secret from third parties. On this point, the provisions of Section 15 shall apply by way of supplement. The same shall apply to the records prepared by the supplier pursuant to special particulars provided by PELZ.

3. Placing orders

3.1 Orders and pertinent changes shall require the written form. The substance of oral discussions and telephone conversations shall not be binding except if confirmed by PELZ in writing.

3.2 Every order and every pertinent change shall require written confirmation by the supplier. All writings shall provide the following particulars: the complete order number, the order date, the number of the material ordered and the name and sign of the party placing the order.

3.4 PELZ may revoke orders at no cost unless confirmed by the supplier without change within 1 week of receipt.

4. Periods of delivery and failure to adhere to delivery dates

4.1 The period of delivery indicated on the order shall be binding. All dates of delivery named by PELZ refer to the time of arrival at the place of delivery. As soon as a supplier becomes aware that it will be unable to meet its contractual obligations in whole or in part, or to do so on time, it shall promptly inform PELZ, indicating the reasons for and the expected duration of the delay. If a supplier fails to make this communication, it may not invoke the given obstruction vis-à-vis PELZ.

4.2 If a supplier fails to perform within the agreed period of delivery, it shall be liable pursuant to the statutory provisions. Where a contractual penalty has been agreed for late delivery, it shall remain unaffected by the above within the scope of Section 340 para. 2 BGB. Where a contractual penalty is in place, it may be asserted up to the due date of the final instalment.

4.3 Where a supplier fails to make delivery or to perform within an additional period granted by PELZ, the latter may refuse to take delivery even without having first threatened to do so, may rescind the contract or assert damages on account of non-performance. If PELZ asserts damages, the supplier is entitled to prove that it is not answerable for the delay. PELZ is entitled to rescind the contract even if supplier is not to blame for the delay.

5. Subcontracts, partial delivery, forwarding instructions

5.1 Suppliers may not conclude subcontracts except with our consent unless it is merely a matter of sub-supplying merchantable components.

5.2 Partial deliveries are subject to our consent. Call-offs shall be binding in terms of the type and quantity of the goods called off and the periods of delivery.

5.3 The current forwarding instructions concerning deliveries to PELZ are published on the PELZ homepage under www.pelzgroup.de.

6. Prices, terms, invoices and payments

6.1 The prices of deliveries and services are fixed prices exclusive of VAT and are applicable to "customs cleared delivery" - DDP (INCOTERMS 2000) to the place of delivery. The place of delivery is Wahlstedt unless a different place has expressly been agreed in writing. The prices quoted are full, flat-rate prices before tax. The prices compensate the supplier for all costs, expenses, charges, obligations and/or conditions imposed of any kind. They take account of all surrounding circumstances and particularities associated with the given order and, in respect of deliveries, cover in particular all costs of packaging, loading onto, and fastening by wedges or otherwise on the means of transport, carriage, unloading and handling at the place of delivery as well as insurance costs and risk coverage.

6.2 Where an order placed by PELZ does not quote a price, it shall be non-binding until a price is agreed.

6.3 Where a supplier reduces its prices and improves its conditions at any time between the placing of the order and delivery, the prices and conditions prevailing on the day of delivery shall be applicable.

6.4 Invoices shall be submitted in duplicate and must conform to Section 14, para. 4 UStG (Turnover Tax Law).

6.5 The term of payment shall begin on the day when merchandise and invoice are received by PELZ. The day of receipt by the bank of the transfer order or of dispatch of the check shall be deemed to be the time of payment.

6.6 Payments made may not be interpreted to mean that the delivery or service is recognised as conforming to the contract. If no delivery is made or service rendered or if this is done but incompletely, PELZ may, without prejudice to its other rights, retain, to an appropriate degree and without compensation, payments due on receivables within the given business relationship until proper performance is made.

6.7 The following discounts are granted: 3% for payment within 8 business days, 2% for payment within 14 business days and net for payment within 30 business days.

6.8 Each company of the Pelz Group shall be entitled to set off Supplier's claims against claims which another company of the Pelz Group has against the Supplier as well. Likewise, each company of the Pelz Group shall be entitled to set off a claim it has against a Supplier's claim which the Supplier has against another company of the Pelz Group.

7. Passing of the risk

7.1 The risk shall pass to PELZ in case of delivery excluding mounting or assemblage upon receipt at the delivery address designated by PELZ and in case of delivery including mounting or assembly upon the successful completion of formal acceptance by PELZ. Commissioning or use does not replace a declaration of formal acceptance by PELZ.

7.2 Ownership of the merchandise delivered shall pass to PELZ upon payment. Any prolonged or extended reservation of ownership is ruled out.

8. Inspection of incoming goods - notice of defects

8.1 Where joint inspections are provided for in respect of a consignment, the supplier shall bear the costs associated with the inspection proper as well as its own staff costs. The supplier shall indicate readiness for inspection with binding effect at least one week in advance and shall set a date for the inspection with the concurrence of PELZ. Unless the object of inspection is presented at that date, the staff costs incurred in respect of such inspection by PELZ shall be borne by the supplier.

8.2 If repeated or further inspections are required on account of defects discovered, the supplier shall bear all costs associated with such inspections proper and all pertinent staff costs. The same shall apply where defective consignments compel PELZ to introduce a more stringent monitoring of incoming goods. The costs associated with the verification proper of material input and the pertinent staff costs shall be borne by the supplier.

8.3 PELZ checks incoming goods for apparent defects and deviations in terms of identity and quantity. PELZ shall give notice of such apparent defects within 5 days of the check.

PELZ reserves the right to perform more thoroughgoing checks on incoming goods. Thereafter, PELZ shall give notice of defects discovered in the ordinary course of business within 5 days of discovery. In this respect the supplier waives the defence of late notification of defects.

8.4 If PELZ returns defective goods to the supplier, PELZ is entitled to charge back the invoice amount plus a flat-rate expense allowance of 5% of the price of the defective article, which allowance must not, however, exceed eur 250.- per any one consignment returned. PELZ reserves the right to prove that it has incurred a higher expense. The supplier is entitled to furnish proof of a lower expense.

9. Liability for defects

9.1 PELZ is entitled to invoke all statutory provisions on liability for material and legal defects. In each case, PELZ is free to require the supplier to either remedy the defect or replace the item. The right to damages in lieu of performance is expressly reserved. These provisions shall also apply to services such as assemblage, servicing etc.

9.2 PELZ may remedy defects on its own in case of imminent danger or special urgency.

9.3 The supplier warrants that its merchandise or service conforms to the generally recognised rules of technology, applicable official regulations, the law on the safety of technical equipment, the applicable equipment safety requirements and the regulations on industrial safety and accident prevention.

The supplier takes responsibility that ordered items do not contain any substances in a concentration exceeding 0.1 % by weight of the (then current issue of the) candidate lists according to Art. 59 (1) of Regulation (EC) No. 1907/2006 (REACH). Should any item contain a higher concentration of substances specified in this list, the supplier shall inform the consignee in writing before the delivery. In this case, the Pelz Group shall not be obliged to accept delivery of the goods, unless, in particular cases, the Pelz Group gives consent to the delivery. If the Pelz Group does not accept delivery of the goods due to a higher concentration, the Pelz Group shall be entitled to the rights pursuant to Section 9.1. The statute of limitations shall apply unless the parties have expressly agreed otherwise.

9.4 If the item delivered is replaced entirely, the period of limitation shall begin again. In case of partial renewal, the same shall apply to the part(s) replaced.

9.6 Any parts objected to under warranty shall remain at the disposal of PELZ pending replacement and shall become the supplier's property on being replaced.

9.7 The supplier's warranty obligations shall not be affected by the formal acceptance by PELZ of the items delivered and/or services rendered.

9.8 In all other respects, the supplier's liability shall be governed by the applicable statutory provisions.

10. Product liability

To the extent that the supplier is responsible for a defect of a product, it is obligated to indemnify PELZ at its first request from any pertinent third-party claims for damages provided that the cause is rooted in the supplier's sphere of control and organisation, and that the supplier is personally liable vis-à-vis third parties.

Under its liability for defects within the meaning of para. 1, the supplier is also obligated to refund any expenses PELZ may have incurred pursuant to Sections 683, 670 BGB or pursuant to Sections 830, 840, 426 BGB as a result or in the context of a recall action undertaken by PELZ. PELZ shall, to the extent possible and reasonable, notify the supplier of the subject matter and scope of such recall action, giving the supplier the opportunity to comment. Other statutory claims shall not be taken into account.

11. Third-party industrial property rights

The supplier guarantees that in the context or as a result of its delivery no third-party rights are breached. Where recourse is had to PELZ by reason of the above, the supplier is obligated to indemnify PELZ at its first written request from such claims.

The supplier's obligation to indemnify relates to all expenses including any costs of legal defence necessarily incurred by PELZ as a result or in the context of recourse to PELZ by any third party.

The period of limitations concerning these claims is ten years, beginning at the date of conclusion of the given contract.

12. Certificate of origin, import and export terms, customs

12.1 In respect of deliveries and services originating from any EU member state outside Germany, the supplier is required to indicate its EU turnover taxpayer's identification number.

12.2 The supplier shall, at its own expense, make any declarations and furnish any information, permit any investigations by customs authorities and procure any official confirmation required pursuant to the decree (EU) no. 1207/2001.

12.3 In the context of the confirmation of an order or the submission of an invoice, the supplier shall mark those items that are subject to export licensing or to US reexport regulations. Imported goods shall be delivered customs cleared.

13. Ordering materials

13.1 Any material provided by PELZ shall remain its property, shall be kept safe by the supplier free of charge and with the diligence of a prudent businessman separate from its other things and shall be labelled as property of PELZ. It may not be used for any purpose other than fulfilling orders placed by PELZ.

13.2 Where the supplier processes or reshapes any material provided, it shall do so on behalf of PELZ, with the latter becoming the direct owner of any new things emerging from this process. Where the material provided represents only part of a new item, PELZ shall become a co-owner thereof at the rate of the value attributable to the provided material therein contained.

14. Tools, designs, moulds

Moulds, designs, tools, films etc. produced by the supplier to fill an order shall on payment become the property of PELZ even if continuing in the possession of the supplier. These items shall be delivered to PELZ on request. Safekeeping shall be governed by 13.1.

15. Confidentiality

15.1 The supplier is obligated to treat confidentially and refrain from disclosing to third parties all information it receives from PELZ in the context of an order except if the supplier can prove that it already had knowledge thereof or that it was subsequently made known to it by any third party authorised to do so without imposing any obligation of secrecy, or that such information was or subsequently became generally accessible without fault on the supplier's part. The same shall apply to any enquiries made and orders placed by PELZ as well as to any pertinent works. The supplier shall be liable for any losses sustained by PELZ as a result of any breach of this obligation.

15.2 PELZ prior written consent is required in respect of any production for third parties, any display of products especially made for PELZ, in particular on the basis of PELZ plans, drawings or other special requirements, and any publications about orders placed by or other contractual relations maintained with PELZ.

16. Data protection

Pursuant to Section 28 German Data Protection Law PELZ draws attention to the fact that it is processing and storing for its own purposes any data it receives in the context of its business relationship.

17. Venue

17.1 If the supplier is a merchant, venue shall be Hamburg. PELZ shall also be free to have recourse to the court competent for the registered seat of the supplier.

17.2 These conditions shall be governed by the law of the Federal Republic of Germany. Any application of the UN Sales Convention (CISG) is ruled out.

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