



GENERAL TERMS & CONDITIONS OF PURCHASE

Ball Aerocan

1. Scope

1.1. These General Terms & Conditions of Purchase apply to the purchase of certain products (“**Products**”) or services (“**Services**”), by Ball Aerocan Europe S.A.S., Ball Aerocan France S.A.S., Ball Aerocan UK Limited, Ball Aerocan CZ S.R.O., and Ball Aerocan India Private Limited (each “**Purchaser**” for Purchase Orders place hereunder) from supplier (“**Supplier**”). Supplier and Purchaser are herein individually referred to as a “**Party**” and collectively the “**Parties**”.

1.2. By accepting a Purchase Order, as defined below, Supplier accepts these General Terms & Conditions. These General Terms and Conditions of Purchase can only be amended by express written agreement duly executed by both Parties. No terms and conditions of Supplier shall apply to Purchase Orders.

2. Ordering, Manufacturing, Delivery, and Payment

2.1. **Ordering:** Purchaser will place Purchase Orders for the Products or Services via e-mail to Supplier’s designated contact (“**Purchase Orders**”). Purchase Orders will become binding upon Supplier’s confirmation. If Supplier has not rejected a Purchase Order within three (3) business days, the Purchase Order will be deemed accepted and binding. Purchase Orders may only be accepted as placed by Purchaser, without modification. Any modification by Supplier will only be binding with Purchaser’s express written consent. Without prejudice to any other remedies, Purchaser may cancel a Purchase Order and receive a refund of any monies paid if Supplier delivers non-conforming Products or Services, fails to meet the delivery term, otherwise breaches its obligations, or for any other reason noted on a Purchase Order or available under applicable law.

2.2. **Manufacturing:** The Products will be manufactured by Supplier and may not be subcontracted without express written consent of Purchaser. The equivalent applies for Services.

2.3. **Delivery:** The Products are delivered in accordance with the INCOTERM identified in the Purchase Order. Title to the Products transfers upon Delivery. The Parties agree that time is of the essence with respect to the delivery of Purchase Orders. Any delay beyond the lead times identified in the Purchase Order will result in penalty payable by Supplier to Purchaser equal to 0,5% of the value of the Purchase Order for each day of delay, up to a maximum of 10%. Supplier must immediately notify Purchaser of any delay and in the event of delay impacting Purchaser’s

business, Purchaser will be entitled to cancel the Purchase Order.

2.4. **Price:** The price of the Products or Services are those agreed between the Parties prior to placing a Purchase Order and remain fixed for accepted Purchase Orders. Unless otherwise agreed, the price is exclusive of taxes and duties. Changes to the price may only affect future Purchase Orders and only after at least one (1) month prior notice given to Purchaser.

2.5. **Payment:** Payment for a Purchase Order will be per the terms agreed between the Parties.

3. Warranties and Liability

3.1. Supplier warrants that:

- The Products and Services will be delivered in accordance with the Purchase Orders and any agreed specifications.
- The Products and Services comply with all applicable laws and regulations, including without limitation those of the European Union and its member states.
- The Products are free of paint wetting impairment substances (“PWIS”) and PWIS have not been used during their production. Should assembly and installation work be carried out at the production and warehouse sites of the Purchaser, the Supplier will not use any materials containing PWIS.
- Upon delivery, Supplier holds good title to the Products and that the Products are free and clear from any security interest or other encumbrance.
- The Products conform to the agreed specifications upon delivery and are free from defects for twelve (12) months thereafter.
- The above Supplier warranties are without prejudice to all other warranties, express or implied, under applicable law.
- Supplier will comply with Purchaser’s Supplier / Service Provider Guiding Principles.

3.2. Products that do not comply with Supplier’s warranties, will be repaired or replaced, in Purchaser’s sole discretion. In the event of potential delay in repair or replacement, Supplier may also repair or replace the product on its own accord, with Supplier bearing the related costs. In any event, all costs, expenses, or charges related to a breach of warranty will be borne by Supplier. Purchaser is not liable for payment unless and until non-conforming or defective Products or Services are brought into conformity.

3.3. Supplier will be liable to Purchaser for any and all loss or damage, whether direct or indirect, related to or arising out of a breach of Supplier’s obligations under these General Terms and



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Conditions of Purchase or a related Purchase Order, or applicable law.

- 3.4. For loss or damage to a third party, Supplier will indemnify Purchaser against any claim by a third party related to or arising out of a breach of Supplier's obligations under these General Terms and Conditions of Purchase or a related Purchase Order. Such indemnification will include any and all costs, losses, liabilities, damages, settlements, or expenses incurred by Purchaser arising out of or related to such a claim by a third party.
- 3.5. Supplier will maintain insurance commensurate with its risks under these General Terms and Conditions of Purchase or a related Purchase Order and will provide Purchaser a copy of proof of such insurance if requested by Purchaser.
- 3.6. Purchaser's sole liability under these General Terms and Conditions of Purchase or a related Purchase Order is payment of the relevant Purchase Order.

4. Intellectual Property

- 4.1. Supplier confirms that it owns or has a valid license to use all intellectual property related to the Products or Services and that the Products or Services otherwise do not infringe the intellectual property rights of any third parties.
- 4.2. Supplier will indemnify Purchaser against any claim by a third party alleging infringement of its intellectual property for a product or service related to a Purchase Order. Such indemnification will include any and all costs, losses, liabilities, damages, settlements, or expenses incurred by Purchaser arising out of or related to such a claim by a third party.
- 4.3. In the event that Purchaser shares its own intellectual property with Supplier, Purchaser remains the sole owner in any such intellectual property and Purchaser will ensure its safekeeping.

5. Confidentiality

- 5.1. Each Party will keep confidential all information related to or arising out of these General Terms & Conditions of Purchase or related Purchase Orders. Any such information will be solely used for performance of Purchase Orders.
- 5.2. The obligation of confidentiality will not apply to information that a Party can prove was already known to it, became available from a third party who had a right to disclose it, or entered the public domain without the fault of that Party.

6. Force Majeure

- 6.1. Neither Party will be in default of its obligations under any Purchase Order which result from a

Force Majeure event, as defined under applicable law.

- 6.2. The Party not invoking a Force Majeure event may terminate a Purchase Order if such event lasts for more than three (3) months.

7. Applicable Law and Jurisdiction

- 7.1. The law applicable to these General Terms & Conditions of Purchase and any related Purchase Orders is the law of the country of incorporation of Purchaser.
- 7.2. All disputes arising out of or in connection with these General Terms & Conditions of Purchase or related Purchase Orders will be settled under the Rules of Arbitration of the International Chamber of Commerce ("**Rules**") by three arbitrators appointed in accordance with the said Rules. The language of the arbitration will be English and place of arbitration will be Paris, France.

8. Miscellaneous

- 8.1. Severability: In the event any provision of these General Terms & Conditions of Sale is found unenforceable, it will not affect the validity of these General Terms & Conditions of Sale and such provision will, to the extent feasible, be replaced with another provision that captures the original intent and commercial effect.
- 8.2. Waivers: No failure to exercise, delay in exercising, prior exercise or course of dealing with respect to any right or remedy of a Party will operate as a waiver of such right or remedy by that Party.
- 8.3. Entire Agreement: These General Terms & Conditions supersede all prior or contemporaneous statements, representations, or agreements in connection with related Purchase Orders.