

## Conditions of Purchase

(As at: 01.07.2015)

### Section 1 Orders

1. Orders and their modifications shall only be valid if they are placed or confirmed by us in writing.
2. The content of the order shall be based on the order placed by us including all annexes, even if it is not confirmed by the supplier.
3. The supplier must confirm the order/modification in writing without undue delay. Should we not have received a proper confirmation within 14 days, calculated from the date of receipt of the order/ modification, we shall be entitled to cancel the order without the supplier being able to derive any claims from this.
4. Terms of sale and delivery of the supplier which conflict with our conditions of purchase shall not be acknowledged without a special objection or an explanation. Failure to respond in this case shall not be deemed to be acceptance. Exceptions shall only apply if the contractor's conditions are expressly acknowledged by us in writing.
5. We are entitled at all times to request modifications in design, deliveries and delivery time for any orders which have not been fulfilled yet, insofar as they are reasonable for the contractor.
6. With respect to the assignment of orders, which is permissible only with our express consent, the supplier shall be liable for compliance with these conditions of purchase by its sub-suppliers.

### Section 2 Delivery, Delay in Delivery

1. The deliveries must be effected by the agreed delivery date or according to our delivery schedules.
2. The agreed delivery dates are binding and shall be calculated from the date of our order.
3. Unless otherwise agreed in writing, the delivery must be made to us or to a place named by us in accordance with DDP Incoterms 2010.
4. Should the supplier find that he is unable to render delivery in good time, whether in whole or in part, he must notify this in writing without undue delay, stating the reasons and the estimated duration of the delay. Effects of force majeure on the part of the supplier shall only be acknowledged by us if we were informed of the occurrence of these events without undue delay. If there is force majeure on our part, we shall be entitled to withdraw from the contract in whole or in part.

5. Should the supplier not meet a delivery date or should he repeatedly exceed the dates stipulated in our delivery schedules, we shall be entitled, at our option, to demand subsequent deliveries and compensation due to delayed delivery or compensation due to nonfulfillment upon fruitless expiry of an adequate grace period or to withdraw from the contract. The unconditional acceptance of the delayed delivery shall not constitute a waiver on our part of the rights with respect to the late delivery.
6. Should the supplier not meet delivery dates for reasons for which he is responsible and thus be in default in delivery, the customer shall be entitled to demand a contractual penalty, which shall amount to 0.3%, but not more than 5% of the net order value in total, for every workday of the delay. Further claims shall remain unaffected by the stipulation of a contractual penalty. We shall be entitled to declare the reservation of the right to enforce the contractual penalty to be stated upon acceptance until the time for payment of the final invoice.
7. Every despatch must be notified to us without undue delay. The notification of despatch and the delivery note must specify the weight and type of packaging. We are entitled to send back deliveries which are not duly effected/notified at the supplier's expense.
8. The supplier and/or persons commissioned by him are obligated to request to be handed out the "Betriebsordnung für Fremdfirmen" (Factory Regulations for External Companies) before entering the factory premises. It is imperative that the provisions of the factory regulations are observed on our factory premises. We shall not be liable for damage to the supplier or his vicarious agents caused by a violation of the factory regulations. The supplier shall be fully liable for any damage due to violations of the factory regulations committed by the persons commissioned by him.
9. We are entitled to check the production status and request information about the processing status at all times during the supplier's normal business hours. The supplier is obligated to grant us free access accordingly in order to check the production status.

### Section 3 Quality

1. The goods to be delivered must comply with the respectively applicable domestic and foreign statutory regulations, accident prevention regulations, the relevant regulations and guidelines in the VDE Specifications Code of Safety Standards and the latest acknowledged rules of technology and also be in strict conformity with documents such as drawings, descriptions, samples, specifications, acceptance conditions, etc. taken as a basis for the order. It shall be agreed for wear parts that they shall withstand at least the normal number of operating hours without any defects.
2. Should initial and type samples be requested by us, the supplier shall not be allowed to start serial production until he has received our express written consent.
3. We expect the supplier to continuously furnish the quality of the products to be delivered to us according to the latest state of technology and to point out to us possible improvements and technical modifications. In any case, any modification of the delivered item may only be made with our express prior consent.
4. The supplier is obligated to ensure compliance with the requirements of the EU Chemicals Regulation REACH. The supplier is aware that only products which fully and duly meet REACH requirements are allowed to be used.

### Section 4 Prices and Payment

1. The prices specified in the order are binding. Any public charges such as taxes, custom duties, stamp duties etc. shall be borne by the supplier.
2. Payment shall be made after receipt of the goods as agreed in the contract and receipt of a verifiable invoice within 30 days with 3% cash discount, or after 60 days net.
3. The assignment of the supplier's accounts receivable vis-à-vis us shall be excluded without our prior written consent.
4. We are entitled to choose the means of payment.
5. In case of a defect covered by warranty, we shall be entitled to refuse to make payment at the appropriate rate between the invoice value of the goods and the estimated value of the defect until proper remedy of defects.

### Section 5 Warranty

The supplier's obligation under the warranty shall comply with the legal regulations on material de-

fects and defects of title unless otherwise agreed in the provisions below.

### Section 6 Notice of Defects

1. We are obligated to check the goods for any variations in quality or quantity within a reasonable period of time; a complaint shall be deemed timely if it arrives at the supplier within a period of five work-days, counted from the time of receipt of goods or, in case of hidden defects, from the time of their discovery. To this extent, the supplier waives the defence of delayed complaints due to defects. Payments on our part do not represent our acknowledgement of freedom from defects.
2. The supplier is not authorised to effect excess or short deliveries. If a delivery schedule is in effect, we shall only be obligated to take delivery of the quantity stipulated bindingly therein. We are entitled to return deliveries which are effected before the agreed deadline at the supplier's expense and risk or to charge storage costs.
3. Defects shall entitle us – even if inspection was limited to spot testing – at our option, to withdraw from the contract, in whole or in part without compensation, or to request a reduction of the purchase price, or to carry out remedy work ourselves at the supplier's expense, or to demand substitute delivery or compensation.
4. In the event of repaired goods or substitute deliveries, the notification period for defects shall recommence upon delivery of the repaired goods and/or replacements. In urgent cases or in the event of the supplier being late in remedying defects, we shall be entitled, without fixing a time limit, to have the defect remedied ourselves at the supplier's expense.
5. Stoppages of work (strikes, lockouts), operational disturbances and restrictions and similar cases at our company which result in a reduction of consumption shall release us from taking delivery for the duration of the disturbance and to the extent of their effect.
6. The values determined during our goods receipt inspection and quality inspection shall be decisive for dimensions, quantities and quality. If prices have been agreed per kilo, the weight determined by the railway authorities or by us shall be valid for the calculation.

## **Section 7 Product Liability/Release, Industrial Property Rights and Liability Insurance Coverage**

1. Insofar as a product liability claim is asserted against our company, the supplier shall be obligated to indemnify us from such third-party claims, if and when the damage was caused by a defect in the item delivered by the supplier. In case of liability caused by intent or negligence, however, this shall only apply if the supplier is at fault.
2. Within the above limits, the supplier is obligated to reimburse all costs and expenses incurred to us, including costs of a possible recall and prosecution.
3. The supplier undertakes to hold product liability and recall cost insurance with an adequate sum per case of damage to persons/damage to property for the goods to be delivered and to provide proof of the existence of the insurance to us on request.
4. In case of violation of third-party industrial property rights, the supplier shall be obligated to pay compensation to us for all resulting damage including legal defence costs. We are also entitled to purchase all necessary licences at the supplier's expense.

## **Section 8 Product Labelling**

The supplier shall label the delivered items in the manner prescribed by us.

## **Section 9 Reservation of Title**

Neither simple nor overall or extended reservation of title shall be granted without an express written agreement.

## **Section 10 Supplies, Tools and Manufacturing Equipment**

1. Insofar as we supply material or parts to the supplier, they shall remain our property. Processing, blending or combining by the supplier shall be performed for us as the manufacturer as defined by Section 950 of the BGB (German Civil Code). If third parties retain title to their goods when they are processed, blended or combined with our goods, we shall acquire joint ownership of the new item in proportion to the value of the supplied item compared with the other items at the time of processing, blending or combining.
2. Manufacturing equipment such as dies, gauges, matrices, models, samples, tools, drawings etc. which we have provided to the supplier must be returned to us on request. Tools, production means and other material which are provided to the suppli-

er by us or which we have paid for in whole or in part may not be used for the execution of third-party orders or for any other purposes without our consent. Such tools, production means and materials must be labelled by the supplier as our property and stored, maintained and insured appropriately. They shall remain our property and must be returned at any time. The supplier is obligated to ensure appropriate insurance coverage with regard to his obligations named above and to prove this to us on request at any time.

3. The supplier is obligated to keep ready for operation manufacturing equipment which he produces or procures from the time of the last serial production to a period of 10 years for replacement requirements.

4. Manufacturing equipment relinquished to the supplier or manufactured according to our specifications may neither be copied nor sold, assigned as a security, pledged or otherwise passed on or used for third parties in any way. The same shall apply to goods manufactured with the aid of this manufacturing equipment.

## **Section 11 Non-disclosure**

1. The supplier is obligated to regard the order and the resulting work as well as the related technical and commercial documents and facilities as business secrets and to treat them as strictly confidential. He is required to obligate his sub-suppliers accordingly.
2. The items/information named in No. 1 as well as all other information disclosed by us to the supplier in the course of ordering must be treated as strictly confidential and may be made accessible to third parties for production purposes only with our prior consent and must be returned immediately at our request. They must be maintained, safeguarded and adequately insured by the supplier. The supplier shall make accessible/disclose the items/information only to those employees/vicarious agents who must know them in order to execute the order and are sworn to corresponding secrecy.

## **Section 12 Advertising**

The use of inquiries, orders, order confirmations from us and bearing the name of our company for advertising purposes is not allowed.

## **Section 13 General Provisions**

1. Should one provision of these conditions become invalid for any reason, the validity of the remaining provisions shall not be affected.

2. Special agreements on prices, execution and payment methods which are hereby concluded shall only refer to this contract and shall not have any validity for subsequent contracts. Our purchase is subject to the above terms and conditions. Upon performance of partial delivery, the supplier shall also acknowledge them for all subsequent deliveries also if they conflict with his terms of sale. Failure to react to contradictory terms disclosed by the supplier cannot be construed as acknowledgement.

3. The place of performance is Cham. The place of jurisdiction for all lawsuits and legal disputes in question between the parties, i.e. also claims arising from possible withdrawal from the contract, is, depending on the value in dispute, Cham/Opf. County Court or the District Court in Regensburg.

4. The law in force in the Federal Republic of Germany shall apply exclusively. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

GEBHARDT Logistic Solutions GmbH  
Frühlingstr. 2 - 3  
93413 Cham  
Germany