



## Annex of Purchase Order

### General Terms and Conditions of Purchase and Procurement

#### 1. General

Our purchase orders and contracts shall be subject to these General Terms and Conditions of Purchase and Procurement. Supplier's general terms and conditions shall not apply to the extent they deviate from these Terms and Conditions even if we do not expressly object to any particular provision or provisions contained therein. Supplier's provision relating to retention of title and intra-group offsetting of receivables and payables shall be accepted in conformance with Section 11. Any future orders and purchase contracts shall likewise be subject to these General Terms and Conditions of Purchase and Procurement even if not expressly referred to in a particular case.

#### 2. Purchase Orders

Purchase orders and other declarations shall only be binding if made or confirmed by us in writing or by telex.

#### 3. Deliveries

Provided no further-reaching requirements are specified in the purchase order, goods shall be delivered in regular, commercial quality and as far as standard specifications such as DIN, VDE, VDI, DVGW exist, in conformity with such or equivalent standards. Goods shall be manufactured and completed to ensure that on any day of delivery they meet the operating and service conditions as described by us and comply with statutory requirements as applicable at the place of ultimate use.

#### 4. Prices

Prices shall be fixed prices plus statutory value added tax and shall not be subject to adjustment. Unless otherwise agreed, they shall be for delivery free at point of destination. In the case of less-than careload lots free at railway station. Packaging shall be payable only if separate remuneration for this has been expressly agreed in writing.

#### 5. Delivery date

Agreed delivery dates and periods shall be binding. The date of receipt of the goods and of the shipping documents at the destination specified by us shall determine whether the delivery date or period has been complied with. In the event of default on the part of supplier due to delay in performance, statutory provisions shall apply. Moreover, supplier shall notify us without delay, stating the reasons for the delay and its anticipated duration. Failure to do so shall render supplier unable to claim that the delay was beyond his control. In the event of delivery being delayed due to force majeure or labour disputes beyond supplier's control, we shall have the right to either demand fulfilment of the purchase order at a later date without this resulting in any rights accruing to supplier, or to wholly or partially rescind the contract after a reasonable period of time has elapsed to no avail.

#### 6. Packing, Shipment, Acceptance

- 6.1 Supplier shall be responsible for suitable packaging. If separate remuneration for packaging has been expressly agreed, we shall be entitled to return the packaging material used for the shipment to supplier's address, charging supplier two thirds of its value.
- 6.2 Shipment shall be effected carriage-paid to the point of destination specified by us. Mode of transportation shall be as specified by us. If we bear the cost of shipment and do not specify the mode of transportation, the consignment shall be shipped by the least expensive mode of taking the urgency of the particular case into account.
- 6.3 Shipping notes shall be submitted in triplicate and separately for each point of designation immediately after dispatch of each and every consignment. Each consignment shall be accompanied by a neutral packing slip. Our order numbers shall be shown in the shipping documents. If we are not in receipt of proper shipping documents when goods are received or if our order numbers are not correctly shown in the shipping documents, any extra expenses thus incurred shall be for the account of supplier. In such cases we shall also be entitled, at supplier's expense, to refuse to take delivery of the consignment.
- 6.4 If as a result of force majeure or other circumstances beyond our control including labour disputes it is impossible for us to take delivery or if we cannot reasonably be expected to do so, we shall be entitled to specify to supplier a different point of destination.

#### 7. Transport risk

Any and every risk of transport shall pass to us only after delivery and acceptance of the goods at our premises or at the agreed place of delivery. Up to the time supplier shall bear such risk.

#### 8. In-process inspection/final inspection/weight

- 8.1 We reserve the right to perform inspections at supplier's or sub-supplier's works during manufacture and prior to shipment for quality of the materials used, accuracy of dimensions and quantities and other properties of the items manufactured and for compliance with all other requirements specified in the purchase order.
- 8.2 If we reserve the right to perform a final inspection of the finished goods on the premises of the supplier and/or to have such final inspections performed by a duly authorized third party, we or the duly authorized third party shall be notified of readiness for final inspection not later than fortnight in advance.
- 8.3 The costs of in-process inspection and final inspection shall be for supplier's account except for the cost of personnel delegated by us.
- 8.4 If we specify that final inspection of the finished goods is to be performed by a third party, supplier shall arrange for such final inspection by the third party free of charge to us and submit the results of such inspection to us without delay, at the latest together with the shipping documents.
- 8.5 In-process inspection and final inspection shall not release supplier from his obligations in relation to performance and warranty under section 9 hereof.
- 8.6 The weight of incoming goods determined by our weightbridges shall apply in determining the weight of deliveries made. If weighing cannot be performed on our premises, the weight given in the railroad bill of lading or, in the case of delivery by road haulage, that registered on a public weightbridge shall be taken to be the actual weight. If weighing of the goods is not possible, supplier shall be obliged to furnish evidence of the as-delivered weight.

#### 9. Warranty, notice of defects, warranty period

- 9.1 Supplier shall warrant that in the event of the goods delivered showing defects he will take remedial action without delay at his expense. If such remedy is not possible, not regular practice or cannot be reasonably expected, we shall be entitled instead to demand immediate delivery of goods that are free of defects at no cost to us.
- 9.2 In the event that repair or rework proves unsuccessful or supplier fails, within a period specified by us, to remedy defects or replace the defective goods without undue delay, or refuses to fulfil these obligations or is unable to replace the defective goods, we shall be entitled to assert our statutory warranty rights without granting any further period of grace. In urgent cases we shall be entitled to repair defective goods or procure substitutes from a third party at supplier's expense.
- 9.3 Notice of defects shall be deemed to have been given in time if externally recognizable defects are notified within two weeks after receipt of goods, other defects within two weeks after being detected by us or notified by our customers. Defects which cannot be detected by taking random samples shall be deemed to be hidden or latent defects.
- 9.4 Unless otherwise agreed, the warranty period shall be twelve months, beginning on the date the goods are delivered to us or to the third party designated by us at the point of destination specified by us. For repaired, reworked or replaced goods the warranty period shall commence anew.

#### 10. Invoicing and payment

Invoices shall not accompany the consignment but shall be submitted, separately for each purchase order, in triplicate immediately after delivery, showing value-added tax, complete order number, the call-for-delivery number and the bank and account to which payment is to be made.

Unless otherwise agreed, payment shall be effected by instruments of our choice within fourteen days after receipt of goods and invoice with 3% discount or within thirty days without discount. Delivery of goods prior to the agreed date shall have no bearing on the period of payment tied to said date. In the event of payment being made by our acceptance or our customer's acceptance we shall bear the discount under the terms attainable on the day the bill is delivered as well as stamp duty.

#### 11. Assignment and offsetting

Supplier cannot assign his contractual rights to third parties either wholly or in part without our prior approval in writing. We hereby give our consent to advance without assignments under retention of title agreements existing between supplier and his suppliers with the proviso that our counterclaims, even if acquired by us after notification of assignment, can be set off against such assigned claims for payment.

#### 12. Provision of documents, advertising

- 12.1 Any data and information furnished to supplier or prepared by him in accordance with information furnished by us shall remain our property and may only be used for drawing up the offer and making delivery as ordered. Such drawings, scale, models, specimens, samples and other data and information must not be made accessible to third parties without our prior approval in writing and shall, in response to our request be returned to us without delay after our inquiry has been dealt with or returned unsolicited after delivery has been made as ordered.
- 12.2 Drawings, descriptions etc. forming part of the purchase order shall be binding on supplier, who shall nevertheless examine such documents for any discrepancies and notify us in writing without delay of any errors he discovers or presumes to exist. If supplier fails to do so, he cannot cite such discrepancies/errors at a later date. Supplier shall retain sole responsibility for any drawings, plans and calculations made by him even if these received our approval.
- 12.3 Neither inquiries and purchase orders received from us nor the exchange of letters etc. associated therewith may be used for sales promotion purposes.

#### 13. Industrial property rights of third parties

Supplier shall guarantee that the right of third parties, in particular industrial property rights such as patents, trade marks or utility models, will not be infringed by the delivery or use of the goods purchased. Supplier shall undertake to hold us harmless from any claims made by third parties and deriving from any alleged infringement or rights to reimburse any expenses incurred.

#### 14. Place of delivery and venue

Place of delivery shall be the point of destination specified by us. Place of payment shall be Duisburg. Exclusive venue shall be Duisburg. We shall, however, be entitled to institute legal proceedings against supplier at his general local venue. Substantive law of the Federal Republic of Germany shall apply exclusively. The "Uniform Laws on the International Purchase of Goods" shall not be applied.

#### 15. FCPA-Clause

- 15.1 The Seller specifically represents and warrants that it has not and will not, in connection with this Agreement and its performance hereunder, directly or indirectly, offer, pay, promise to pay, or authorize the giving of, any money or thing of value to any Government Official or to any Person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a Government Official, for the purpose of influencing any act or decision of such official, including any act or decision to fail to perform his lawful duty, or for the purpose of inducing such Government Official to use his influence with any government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality to obtain or retain business for any Person.
- 15.2 The Seller acknowledges that no employee of the Company (or any of its affiliates) has the authority to give any direction, written or oral, in connection with the making of any such payment or commitment by the [Seller] to any third party in contravention of the foregoing.
- 15.3 The Seller will keep accurate books and records of its business relating to this Agreement. The purpose of this clause is to ensure compliance with U.S. Law including but not limited to the Foreign Corrupt Practices Act (FCPA). A copy of the FCPA is available upon request.

Pursuant to Art. 25 of the German data protection law (Bundesdatenschutzgesetz BDSG) it is pointed out that we enter and retain data relating to the supplier in storage within the constraints imposed by said law.