

**1. Scope of the contract**

Our terms and conditions of purchase shall apply exclusively; we do not acknowledge any conflicting or deviating terms and conditions of the supplier unless we have expressly agreed in writing to their application. Our terms and conditions of purchase shall also apply even if we accept the delivery of the supplier without reservation in the knowledge of terms and conditions of the supplier that conflict or deviate from our own terms and conditions.

**2. Foreign trade legislation and supplier specifications**

- a. The supplier shall include the following information in offers and confirmations of order: Information on whether the subject of delivery requires export approval, and the relevant index number under German export law; information on a possible classification of his product under the US-CCL and the appropriate list number; information on whether the ordered goods are subject to export approval under the valid EC Dual Use Regulations and the relevant index number; statistical product number; country of origin of the goods.
- b. In the event that we are not issued the required export license, we expressly reserve the right to rescind the contract.
- c. The supplier shall abide by existing material proscriptions arising out of statutory provisions.
- d. The supplier is obliged to declare the material contained in his products (including indication of the corresponding CAS Registry Numbers and weight proportions in the homogeneous basic material), provided that these materials are mentioned in one of the following statutory provisions:
  - Prohibited Chemicals Directive (implementation of EEC-Guideline 76/769/ECC and related modifications)
  - End-of-life-vehicles Directive (Implementation of Guideline 200/53/EC)
  - Electric and Electronic Appliance Law (Implementation of Guideline 2002/95/EC and Guideline 2002/96/EC)
  - Directive concerning CFC-Halon-Proscription (Implementation of Guideline (EC) 2037/2000)
  - Ceramic Fibre Directive (February 2005: pending)
- e. The supplier is obliged to confirm the origin (provenance in the legal sense of the preferential rules) of the goods inter alia by supplier's declarations or by declaration of origin or by EUR1- certification. The supplier/manufacturer is obliged to indicate in the supplier's declaration the characteristic of origin of his goods according to the regulations concerning origin that are valid in the country of destination that we will communicate to him.

**3. Orders, responsible department and increase in the scope of the order**

- a. The supplier is obliged to accept our order within a period of 8 days after its receipt.
- b. All correspondence shall be conducted with the Purchasing Department placing the order. Arrangements with other departments shall require the express formal confirmation of the Purchasing Department placing the order to become binding.
- c. In the event that additional work, that is not covered by the contractually agreed scope of the order, becomes necessary for the proper performance of the task, the supplier must notify the Purchasing Department placing the order of such in writing, prior to commencing with the additional work. Our construction site coordinator is not responsible in such cases.

**4. Prices, scope of delivery or performance, technical documentation**

- a. Prices are quoted exclusive of VAT.

- b. Unless otherwise agreed, deliveries are made DDP (Incoterms 2010). The supplier is liable for any additional costs in the event of non-compliance.
- c. Return of packaging requires a special agreement.
- d. The supplier is obliged to indicate our order number and project number exactly on all his shipping documents and delivery notes; we cannot be held responsible for delays in processing in the event of non-compliance with the afore-mentioned.
- e. All performance necessary for proper manufacturing and installation procedures are included in the supplier's scope of performance, even if these are not expressly listed in the contract.
- f. If we deliver or provide the material required by the supplier for the performance of his work in the case of installation and assembly work, the scope of the supplier's performance also includes unloading of the lorry and transport from the storage area of the system components to the place of installation.
- g. Unless otherwise agreed, the delivery of the technical documentation is an integral part of the main delivery. Unless otherwise agreed, the technical documentation, operating instructions and all required records must be written in the German language. Unless otherwise agreed, technical documentation is supplied in a paper version and as a CD. The delivery of the technical documentation shall be effected in accordance with the EC Machinery Directive and correspond to the acknowledged rules of technology. The operating instructions must be compiled in accordance with DIN ISO 62079.

**5. Software agreements**

Unless expressly agreed to the contrary, the following shall be applicable for software agreements:

- a. Software shall be provided to us on data media customary in the industry in machine-readable code plus user documentation and in the agreed language.
- b. Software specially developed for us shall also be provided to us in the source code with program developer documentation. Copies of the source code and the program developer documentation shall be provided to us at the latest upon acceptance and must comply with the software status at the completion of the test phase.
- c. Measures carried out on the software under the liability for defects shall be included by the supplier in the source code and manufacturer documentation without undue delay; a copy of each updated version shall be made available to us without undue delay.
- d. We shall acquire an irrevocably, exclusive, perpetual, territorially unrestricted right of use for all software developed for us or parts thereof, including all other performance results, in particular the right to reprocess, reproduce, change, enhance it and grant simple rights of use to third parties, provided that a restriction does not result from the following paragraphs.
- e. If the acquisition of a right of use pursuant to the foregoing paragraph is prevented by third-party rights to third-party programs or other third-party performance results included in the services, the scope of our right of use shall be agreed separately.
- f. The supplier remains authorized to continue to use related standard programs, program modules, tools and know-how contributed by him in producing the performance results, even for third-party contracts. The supplier is not permitted to reproduce, to process or otherwise use the performance results and

solutions produced for us, neither in whole nor parts thereof.

- g. The supplier shall only be entitled to publish performance results of any kind produced for us – even partially – upon our written consent.

**6. Invoices, discount**

- a. The invoice must include all details required for an input tax deduction, in particular the tax number or VAT identification number, invoice number and any other obligatory details of the supplier's invoice in accordance with the relevant legal requirements of applicable legislation. We shall not be liable for payment of the indicated VAT in the event that the invoice does not include the aforementioned details. The supplier shall be obliged to reimburse any VAT paid by us in the event that we are denied the right to an input tax reduction due to an incorrectly formulated invoice.
- b. A single copy of the invoice must be sent to us on dispatch. On no account may it be included in the delivery. All order details must be indicated in the invoice. Invoices for partial delivery shall only be permitted if this has been agreed or if such partial deliveries have been ordered expressly.
- c. Unless otherwise agreed, the supplier shall grant us a discount of 3% on the net amount of all invoices and all permissible set-offs and payment of the invoice within 14 days after it falls due and receipt of a correctly formulated invoice. The discount period shall not apply as long as we are entitled to a right of retention. In the case of bank transfers, payment is deemed to have been made on time if our transfer order is received by our bank before the expiry of the payment deadline; we are not responsible for delays caused by the banks involved in the payment process.

**7. Delivery / delivery times**

- a. Unless otherwise agreed, the delivery times in our order are contractual agreements and thus binding.
- b. Unless otherwise agreed, delivery to the address indicated by us shall be decisive for the timeliness of the delivery.
- c. Early or partial deliveries may only be made with our prior written consent.
- d. The supplier is obliged to notify in writing us without undue delay if circumstances occur or become evident to him from which it follows that the stipulated delivery time cannot be met or not met in its agreed scope or free of material defects. The supplier is obliged to reimburse us for any damages resulting from a breach of this duty to give notice, even if he himself is not responsible for the delay in performance. The agreed delivery time shall not be extended automatically as a result of such notification. If the supplier is granted an extension of the delivery time, he shall still be in default as a result of non-compliance with the originally agreed delivery time, unless otherwise agreed in writing.
- e. In the event that, besides the cases regulated in point 7, there is justified doubt as to the ability and/or willingness of the supplier to fulfil his performance in due time, in particular because the supplier declares that he is not in a position or not willing to fulfil performance in due time, we shall be entitled to set a time limit for the supplier to declare and if necessary prove his ability and/or willingness to fulfil his performance in due time, such time limit to be set before or after the due date. After unsuccessful lapse of the time limit, we shall be entitled to rescind the contract in accordance with § 323 BGB (German Civil Code) and/or to demand compensation or compensation instead of the performance in accordance with §§ 280, 281 BGB (German Civil Code). This shall in no way affect any more extensive claims.

### 8. Jeopardised performance

Should the supplier's economic situation deteriorate during the term of the order in such manner that the performance of the contract is seriously jeopardised, if he stops payment (even if temporarily) or there is an application for insolvency or a court or out-of-court settlement, we shall be entitled to rescind the non-performed portion of the contract. We are entitled to a total rescission, provided the partial performance is of no interest for us.

### 9. Contractual penalty

Should the supplier fall behind with the agreed delivery times for reasons for which he himself is responsible, a contractual penalty to the amount of 0.3% a day of the net amount of the invoice shall be imposed, however not more than 5% of the net amount of the invoice. With regard to subsequent deadlines, the penalty shall not be imposed provided these are simply continuations of a previous instance of default. The penalty need not be subject to acceptance. It can be claimed until such time as the agreed remuneration has been paid in full.

We are at liberty to claim more extensive damages in addition to the penalty.

### 10. Accident prevention regulations

During installation and assembly work the supplier is responsible for ensuring observance of all accident prevention regulations of the German federation of the statutory accident insurance institutions for the industrial sector as well as any other of our end customer's on-site plant regulations of which he has been informed.

### 11. Warranty

Also in the case of contracts for work and services, we shall be entitled to demand as supplementary performance, at our option, that the defect be remedied or an item free of defects be delivered, whereby the exceptions of § 439 paragraph 4 BGB (German Civil Code) shall be applicable for the supplier.

Also in the case of purchase contracts we shall be entitled to remedy the defect ourselves and claim compensation for our expenses. § 637 paragraph 1-3 BGB (German Civil Code) shall apply in this respect accordingly.

Unless otherwise agreed, claims for defects shall be subject to a period of limitation of three years, also in the cases of § 438 paragraph 1 item 3 BGB and § 634 a paragraph 1 item 1 BGB.

The period of limitation shall be suspended by our written notification of defect in accordance with § 203 sentence 1 BGB (German Civil Code), until such time as the supplier shall reject warranty claims in writing or one of the parties shall decline negotiations in this matter or the continuation thereof in writing. In accordance with § 203 sentence 2 BGB the period of limitation shall start at the earliest three months after the end of the suspension.

### 12. Warranty and security retentions

a. We are entitled to retain 5 % of the gross amount of the invoice as of the start of the warranty period as security for the contractual fulfilment of material defect claims for the whole duration of the warranty period as well as any extensions that occur as a result of suspensions or new starts.

b. The supplier may redeem this retention against submission of a demand guarantee. An acceptable demand guarantee in this sense must be without time limit and directly enforceable. It must be provided by a German bank, savings bank or a German credit insurer that waives its right of objection of voidability and setoff, whereby the waiving of the objection of voidability shall not apply provided the supplier's claim to setoff is uncontested or legally established. Moreover, the demand guarantees must not include an escrow clause. They must also be valid for

claims against the supplier that may arise as a result of the enlistment of experts or legal representatives as well as claims for compensation for the costs of legal proceedings.

### 13. Product liability and third party insurance cover

a. The supplier shall indemnify us against any product liability, provided he must bear responsibility for the error instigating the liability.

b. The supplier is obliged to maintain a comprehensive general liability policy with an amount of € 5 million per bodily injury/property damage – combined single limit – for the duration of this contract, i.e. until such time as the respective period of limitation for defects has expired.

### 14. Assignment of claims: subcontractor provision

a. Claims arising from deliveries and performance may only be assigned to third parties with our written approval. However, the supplier's entitlement to grant his suppliers rights to extended retention of title shall remain unaffected hereby.

b. On principle the supplier shall be obliged to fulfil his obligations arising from contracts with us through his own company. Unless expressly agreed by us in writing, use of subcontractors is not permitted.

### 15. Property rights

a. The supplier warrants that no rights of third parties will be infringed in the context of his deliveries.

b. If rights of third parties are infringed in the context of the delivery and claims are raised against us by a third party for this reason, the supplier shall be obliged to indemnify us upon first demand against such claims; we shall not be entitled to enter into any agreements whatsoever with the third party – without the supplier's consent – in particular a settlement.

c. The supplier's indemnification obligation shall apply for all necessary expenses we incur under or in connection with the claim by a third party.

d. The period of limitation shall be ten years, calculated from the date of the conclusion of contract.

### 16. Retention of title and risk concerning provisions, tools, models

a. Materials and parts provided by us remain our property. These may only be used in compliance with their intended use. The materials are processed and parts assembled for us. It is agreed that to the proportion of the value of the parts provided by us to the value of the entire product we become a co-owner of the products manufactured with our materials and parts, which will be kept in safekeeping for us by the supplier.

b. In the event that the supplier is paid to produce tools and/or models for the manufacture of the goods ordered by us, we shall become the owner of these tools and/or models after payment is made, such tools and/or models to be kept in safekeeping for us by the supplier for the duration of the business relationship.

c. The supplier is obliged to use the tools and/or models belonging to us exclusively for manufacturing the products we have ordered.

d. The supplier is obliged to handle the provisions supplied by us and the tools/models belonging to us with care and correctly and to maintain them at his own expense. The supplier bears responsibility for all risks in connection with the provisions for as long as they are in his safekeeping or under his supervision. The supplier is obliged to take out insurance coverage for the provisions and tools/models to the amount of the replacement value at his own expense, such insur-

ance to cover all possible risks (all-risk insurance).

e. The supplier is only entitled to any rights of retention for the provisions and tools/models in the case of counterclaims that are uncontested or legally established.

### 17. Confidentiality

a. All illustrations, drawings, calculations and other documents supplied by us to the supplier must be used for manufacture exclusively in connection with our order and must be returned to us immediately on settlement of the order without the supplier being bidden to do so or on receipt of our first request.

b. The supplier is obliged to maintain strict confidentiality concerning all illustrations, drawings, calculations and other documents and information he receives. These may only be disclosed to third parties upon our express authorisation.

c. This obligation of confidentiality shall apply even after the settlement of this contract. The obligation of confidentiality also encompasses all employees and agents of the supplier, regardless of the type or legal form of the cooperation. The supplier undertakes to commit this circle of people to respective obligations of confidentiality; in as far as this has not already been done.

d. The obligations of confidentiality are not applicable if and in as far as the illustrations, drawings, calculations and other documents and information concerned are verifiably a matter of general knowledge, become generally known through no fault of the supplier, were or become legitimately acquired by third parties or were already available to the supplier.

e. It is pointed out to the supplier that

- breach of trade and company secrets is liable to prosecution in accordance with §§ 17, 18 UWG (Act Against Unfair Practices) and can be punished with up to five years imprisonment;
- in accordance with § 19 UWG (Act Against Unfair Practices), the person in breach of trade and company secrets is also obliged to pay compensation for the damage arising from such breach;
- unlawful modification of data and computer sabotage are liable to prosecution in accordance with §§ 303a, 303b StGB (Criminal Code) and can be punished with up to 2 or 5 years imprisonment.

### 18. Data Protection

Personal data are to be processed by the supplier in compliance with the EU-General Data Protection Regulation regulations GDPR.

Personal data shall be stored by us in compliance with the EU-General Data Protection Regulation regulations GDPR.

Details can be found under [www.fee.de/datenschutz](http://www.fee.de/datenschutz).

### 19. Place of jurisdiction - Place of Performance – Applicable law

a. Place of jurisdiction for all direct and indirect disputes arising from this contractual relationship shall be the location of our registered office Neunburg vorm Wald. However, we are entitled to enter claims at the court having statutory jurisdiction over the supplier.

b. Unless stated otherwise in the order, the place of performance shall be the place of delivery stated in the order and, alternatively, the location of our registered office.

c. The laws of the Federal Republic of Germany shall apply with the exception of German private international law and the agreements of the UN Convention for the International Sale of Goods (CISG).

### 20. Environmental and climate protection

The supplier undertakes to perform his services in accordance with the relevant environmental protection regulations and standards as well as

the state of the art. The supplier continues to pay attention (where appropriate: within the scope of the economically justifiable) to an environmentally friendly service provision. This includes the selection of sustainable, socially responsible services, environmentally friendly and recyclable feedstocks, low-emission (air, water) low-emission, dismantling and dismantling-friendly constructions as well as energy and resource-saving solutions.

#### **21. Miscellaneous**

Should individual provisions of these Terms and Conditions or of the contract concluded between us and the supplier be or become fully or partially invalid, this shall in no way affect the validity of the remaining provisions. The invalid provisions shall be replaced by provisions that come as legally close as possible to the intended commercial purpose of the invalid provisions.