



**GENERAL TERMS AND  
CONDITIONS OF PURCHASE  
FROM COMPANIES FOR  
GOLDSCHMIDT HOLDING  
GMBH**

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## **1. General/Scope**

Our General Terms and Conditions of Purchase shall apply exclusively. We do not acknowledge any contrary or differing terms and conditions of the contracting partner (hereinafter referred to as the "supplier") unless we expressly consented to the validity of such terms and conditions in writing. Our General Terms and Conditions of Purchase shall apply even if we accept the supplier's delivery without reservation, despite being aware of the supplier's contrary or divergent terms and conditions.

Our General Terms and Conditions of Purchase shall apply exclusively to companies within the meaning of § 14 BGB [German Civil Code] and also to legal entities under public law and special trusts under public law.

## **2. Conclusion of the contract**

Only our orders in writing and with a signature (including telefax and email) shall be valid. The content of our order shall apply.

The supplier must confirm our order in writing within 10 working days of receiving the order, whereby the decisive date for determining adherence to said time limit shall be the date when the confirmation is received. We shall be entitled to revoke our order upon expiry of this time limit.

## **3. Prices**

Agreed prices are fixed prices and include delivery free domicile based on the agreed INCOTERMS as amended, including costs of delivery, packaging, assumption of transport insurance and sales tax at the legally valid rate unless otherwise agreed in the delivery clause.

If the supplier reduces its prices in general, the supplier shall be obliged to also pass on this reduction to us for already concluded contracts. We shall not pay for any quotations, estimates of cost and other price calculations made by the supplier.

## **4. Payments**

We shall make payments – provided that the goods/service are/is received and approved – within 30 days of receipt of the invoice.

If we make payment within 14 days of receipt of the invoice, we reserve the right to deduct 3% cash discount from the net amount.

Where a delivery or service is incomplete or defective, we shall be entitled to withhold payment in full or in part until delivery or performance has been duly effected.

The supplier shall only be entitled to rights of retention and set off against our claims if we have

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acknowledged such claims or they have been established by declaratory judgment unless the counterclaim is based on a violation of material contractual obligations by us. Material contractual obligations are obligations that protect the legal positions of the customer which are material to the contract and which have to be granted to the customer under the contract in terms of subject matter and purpose; material contractual obligations are also obligations whose fulfilment makes the due performance of the contract possible in the first place, where the customer regularly relies on and may rely on compliance with such obligations.

We reserve the right to select a reasonable mode of payment. If payment is remitted by bank transfer, our payment obligation shall be deemed to have been discharged in due time when the bank transfer order was presented to our bank two days before expiry of the period for payment, whereby we are not responsible for any delays caused by banks involved in the payment process.

Should we come into default on any payment, then the Supplier may charge us interest at a rate of five percentage points above the base lending rate of Section 247 BGB (German Civil Code).

## **5. Delivery periods/Default**

Agreed delivery dates and delivery time limits are binding. Delivery dates or delivery time limits shall be deemed met when the goods are received at the specified delivery address unless otherwise agreed in writing.

The supplier shall be obliged to notify us in writing without delay - with prior verbal notice - if any circumstances arise or if the supplier becomes aware of any circumstances indicating that agreed time limits for delivery may possibly not be met. This shall also apply if the supplier on his own account is not responsible for delays in delivery. We shall be entitled to compensation from the supplier for the damage resulting therefrom if this obligation is violated.

We shall only accept partial deliveries or partial services if expressly agreed in writing. If partial delivery has been agreed, the quantity remaining after delivery shall be specified. Invoices for partial deliveries or services shall not be admissible in the absence of a different written agreement.

We shall be entitled to assert our statutory rights in cases of default in delivery. If a reasonable extension of time expires without result, we shall in particular be entitled to claim damages in lieu of performance and to rescind the contract, even if only for the outstanding part. If we claim damages, the supplier shall be entitled to prove that it is not responsible for the breach of duty.

We shall not be obliged to set the above-mentioned extension of time if a fixed date has been agreed with the supplier.

In cases of default in delivery, we shall be entitled to charge a contractual penalty of 0.5% of the net delivery value per day of default, but not more than a total of 5% of the net delivery value. We reserve the right to assert further statutory rights, in particular to claim damages, setting off the contractual penalty. The contractual penalty shall only be deemed not to apply if the supplier can prove that no damage was incurred or that the actual damage was considerably lower. In the latter case, we can request

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compensation for the damage actually incurred.

## **6. Acceptance**

Any contractually specified proof of performance and acceptance shall be effected free of charge for us and documented by both parties in writing.

Fictitious acceptance shall be excluded.

Formal acceptance within the meaning of 6.1. above shall also be required for the remuneration agreed to become due under contracts for work and materials.

## **7. Delivery quantities**

The supplier may only supply the delivery quantities. Any excess deliveries can be returned by us at the supplier's expense and risk without prior notice, and we shall reduce the invoice accordingly.

Unless proven otherwise, the quantities, weights, dimensions and delivery quantities established by us during our incoming goods inspection shall prevail.

## **8. Delivery specifications**

A structured and detailed delivery note (single copy), stating our order data, must be sent to Goldschmidt Holding GmbH, Hugo-Licht-Strasse 3, 04109 Leipzig, on the date of shipment. As order data, the supplier must indicate at least the order number and purchase order number, contact partner and date of the order. Delivery papers stating the same information must be enclosed with the goods. The place of delivery indicated on the front according to the terms of delivery must be complied with and all packages marked as directed.

Where deliveries are made directly to third parties, copies of the consignment note receipted by the consignee must be delivered to us with the invoice. Furthermore, the goods and packaging for these deliveries must not have any marks of origin whatsoever.

The supplier must comply with normal business hours for the receipt of goods (Monday – Friday from 7:00 – 15:00).

## **9. Packaging**

If packaging materials are returned to the supplier, we shall notify the supplier in due time before their dispatch. Packaging materials are included in the purchase price and the supplier must notify us in due time of the respective value of the packaging materials.

## **10. Invoicing**

An invoice (in duplicate) for every delivery or service must be sent under separate cover from the consignment to our Auditing Department, Goldschmidt Holding GmbH, Hugo-Licht-Strasse 3, 04109 Leipzig. The wording of invoices must conform with our order codes and indicate our order number. Any invoices that do not include this information or do not comply with statutory provisions, shall be deemed not issued and returned with a statement of objections.

Deliveries to different works may not be invoiced together; single invoices must be issued.

## **11. Health and safety / Environmental protection / REACH / IMDS**

The supplier must perform services, installation work, repairs and other services in relation to machines, systems, facilities in compliance with the laws, directives and legal provisions respectively valid in the territory of the Federal Republic of Germany. The supplier/contractor must in particular comply with the following laws and regulations with respect to occupational health and safety and environmental protection: the Gerätesicherheitsgesetz [Equipment Safety Act] and its applicable statutory instruments - especially CE marking required by statutory instruments, declarations of conformity and operating instructions, regulations for the prevention of accidents, health and safety regulations and generally accepted occupational health and safety regulations, the Chemikaliengesetz [Toxic Substances Control Act] and its applicable statutory instruments - especially the Gefahrstoffverordnung [Dangerous Chemicals Ordinance], the Bundesimmissionsschutzgesetz [Federal Law Concerning the Protection against Harmful Effects on the Environment through Air Pollution, Noise, Vibrations and Similar Factors] and its statutory instruments, the Altfahrzeugverordnung [Old Vehicles Ordinance], laws and valid regulations on water protection, waste disposal and dangerous goods.

The supplier warrants that its deliveries comply with the provisions of Regulation (EC) 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH Regulation). The substances contained in the supplier's products, if required by the provisions of the REACH Regulation, must be pre-registered or registered after transition periods expire unless the substance is excluded from registration. The supplier shall provide material safety data sheets in compliance with the provisions of the REACH Regulation or the information required under Art. 32 of the REACH Regulation. On request, the supplier shall also submit to us the information required by Art. 33 of the REACH Regulation.

Where series production parts are supplied, the supplier undertakes to enter the required data in the International Material Data System (IMDS).

## **12. Defects/Notice of defects**

Statutory rights with respect to defects and other breaches of duty shall apply to claims against the supplier unless otherwise stipulated in these general terms and conditions or in addition hereto. We shall be particularly entitled to request the supplier to remedy defects or supply a new product. We expressly

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reserve the right to damages, especially damages in lieu of performance.

The supplier is obliged to carry out a reasonable degree of quality control during the production process and to perform a reasonable outgoing goods inspection and must accordingly carry out a quality check on the parts to be supplied before they are shipped.

In respect of our obligation of inspection and notification of defects, section § 377 HGB [German Commercial Code] shall apply providing that we are entitled to conduct an examination within at least five days after delivery.

The supplier shall provide a statutory warranty for defects that occur within 36 months of delivery of the goods after the passing of the risk unless a different warranty period was agreed in individual contracts. This shall not affect any further liability of the supplier.

Upon receipt by the supplier of our written defect notification, the limitation of claims is inhibited until such time as the supplier finally rejects the claims or declares the defect to have been eliminated, or himself refuses to continue the negotiations. In case of replacement deliveries or other remedy of defects the warranty period for replaced or repaired parts commences again unless, based on the behaviour of the supplier, we have to assume that the supplier did not see the measure as a necessity, but instead conducted such solely for reasons of maintaining goodwill.

Materials to be processed by us shall only be accepted with binding force if in the course of processing within a reasonable period of time after the passing of the risk they comply with the terms and conditions.

Where goods deviate from agreements in the contract e.g. with respect to dimension, strength and durability, the values determined by us shall apply in case of dispute or, if the supplier expressly requires, the values determined by a neutral expert appointed by mutual agreement at the supplier's expense.

The supplier shall indemnify us against any claims by third parties if the supplier itself is held liable in relation to third parties.

We shall be entitled – without this in principle removing the obligation of the supplier or without limiting our other rights – by way of exception to have any defects remedied ourselves at the expense of the supplier in the case of exigent circumstances, where time is of the essence, or

when the defect is minor and the cost of its remedy does not exceed 5 % of the net delivery price of the defective goods, or the immediate threat of damage in relation to the delivery price is particularly high. In such a case we will immediately notify the supplier.

This shall not affect any claims by us for damages or reimbursement of futile expenses. All costs required for supplementary performance, replacement or repair (personnel / cost of materials / transport / necessary recall etc.) shall be borne by the supplier.

If we incur costs in connection with subsequent fulfilment after the delivery of defective goods, especially with regard to costs for transport, travel, labour and/or material, or costs for a necessary incoming goods inspection exceeding the normal scope, such costs shall be reimbursed to us by the supplier.



### **13. Product liability/Indemnity/Liability insurance cover**

If the supplier as well as ourselves is responsible for product damage in relation to a third party, the supplier shall be obliged to indemnify us in this respect at first request against any damage claims by third parties, if the cause was within its sphere of control and organisation. The supplier's liability for damages shall also include, apart from payment of compensation for damage to third parties, the costs of appropriate legal defence, recall costs, testing costs and replacement costs.

Within the scope of the supplier's liability for claims within the meaning of 12.1, the supplier is also obliged to reimburse any expenses incurred as a result of or in connection with a recall action conducted by us. This shall apply in particular to any recall action within the framework of the Produktsicherheitsgesetz [Equipment and Product Safety Act]. We shall notify the supplier of the content and scope of the recall measures to be conducted - as far as possible and reasonable - and give the supplier the opportunity to comment. This shall not affect any other statutory rights.

The supplier must maintain product liability insurance to the extent which is customary in the trade with a minimum coverage of EUR 4 million per occurrence of damage for the term of the contractual relationship including warranty and limitation period. The supplier must provide us on request with proof; any lower coverage must be agreed with us in individual cases.

### **14. Force majeure**

Cases of force majeure such as strikes, lock-outs, riots, action of public authorities and other events for which we are not responsible, and unforeseen, inevitable and serious events shall entitle us to postpone our obligation of acceptance for the duration of the impediment and for a reasonable preparation time. If a party as a result cannot be expected to perform the contract, this party can rescind the contract. The supplier cannot derive any claims for damages from such a postponement of our obligation of acceptance or in this respect our rescission of the contract.

### **15. Manufacturing equipment**

The supplier shall not sell, pledge or otherwise pass on to third parties or otherwise use on behalf of third parties any models, drawings, samples, dies, tools, gauges, and/or other technical aids and documents provided to the supplier or manufactured by the supplier according to our specifications without our written consent. This shall also apply to items produced by using this manufacturing equipment. They may only be delivered to us unless we have agreed to any other use in writing. Drawings and models shall remain our material and intellectual property, and the supplier must return them after completion without being asked to do so. The supplier shall be liable for any contravention.



## **16. Confidentiality/Protection of know-how**

All business or technical information and data of any kind which we have made available, including characteristics contained in items, documents or data provided and other know-how or expertise - hereinafter collectively referred to as "information" - shall be treated confidentially by the supplier in relations with third parties - for as long as and to the extent that the information is not proven to be in the public domain - and may only be made available to those persons in the supplier's own company who have to use such information for the purpose of effecting delivery to us and who have likewise given a written undertaking to maintain confidentiality. The information shall remain our exclusive property.

Without our prior written consent, such information may not be duplicated or used for commercial purposes other than for deliveries or services for us.

We reserve all rights to such information and data (including copyrights and the right to use industrial property rights, such as patents, industrial designs, protection of proprietary rights, etc.). If these were made available to us by third parties, this reservation of rights shall also apply in favour of such third parties.

Products produced according to documents prepared by us, or according to our confidential specifications, shall not be used by the supplier itself, nor offered or delivered to third parties, unless the information which we have provided has lawfully entered the public domain or is state of the art.

## **17. Compliance**

We have a zero tolerance policy with regard to corruption and other violations of the law.

The supplier guarantees and undertakes within the course of fulfilling his contractual duties

- to comply with all the applicable statutory legislation and regulations and in particular regulations in relation to corruption, money laundering, anti-trust activities and unfair competition. The same applies to his employees and agents;
- not to make any monetary payments or other payments to public officials which represent an economic advantage to the recipient; and
- to observe our code of conduct for our business partners. The supplier hereby confirms his knowledge of the content of the code of conduct and that he is familiar with said code of conduct.

The supplier undertakes to carefully select third parties commissioned by him and to instruct them to observe the statutory legislation and regulations applicable to them and in particular with regard to corruption, money laundering, anti-trust activities and unfair competition.

Irrespective of any separately agreed cancellation rights, each contract party may terminate the contract for an important reason with immediate effect. An important reason is given if

- one of the contract parties breaches a material obligation, without removing this violation within a reasonable period of time after receipt of a formal request; or

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- there are reasonable grounds for suspicion (e.g. due to reports in the press) that corrupt actions or criminal offences have been committed (termination on grounds of suspicion).

Notice of termination must be given in writing.

## **18. Third-party industrial property rights**

The supplier shall be responsible for ensuring that the products he supplies do not violate the industrial property rights of third parties in the countries of the European Union or other countries where he manufactures the products or has the products manufactured.

If an action is brought against us by a third party for violation of industrial property rights, the supplier shall be obliged to indemnify us against such claims at first written request. We shall not be entitled to enter into any agreements with the third party - in particular to conclude a settlement - without the supplier's consent.

The supplier's duty to indemnify shall apply to all expenses which we necessarily incur through or in connection with the claims asserted by a third party, especially the costs of legal defence and all costs incurred in obtaining the necessary replacement.

If the sale of delivery items or work to us and/or their use by us is prohibited, the supplier shall at our option either obtain the right of use for us and at its expense, or shall modify the delivery items or work performed at its expense and in consultation with us in such a way that the violated property right is not affected.

The limitation period for claims pursuant to 16.1 - 16.4 above is 10 years as of conclusion of the contract.

## **19. Retention of title by the supplier**

The retention of title by the supplier is only applicable as far as the retention of title relates to our payment obligations for the respective products upon which the supplier has property rights. In particular, extended or lengthened reservation of property rights are not permitted.

## **20. Place of performance/Legal venue**

Place of performance for both parties with respect to any rights and obligations arising hereunder is Leipzig.

The legal venue for any disputes is Leipzig unless we notify the supplier in writing that we intend to bring an action at its legal venue.

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## **21. Applicable law**

The substantive law of the Federal Republic of Germany shall exclusively apply. The provisions of the UN Sales Convention (United Nations Convention of 11.04.1980 on Contracts for the International Sale of Goods) is excluded.