

General Purchasing Conditions HOFFMANN MINERAL GmbH

1.0 Closing of Contract

- 1.1 Our orders are effected exclusively on the basis of these General Purchasing Conditions. We do not recognize any contrary conditions, even if they have not explicitly contradicted them. Even if we accept deliveries/services without expressing reservations, in no case can assumptions be made that we have accepted these conditions of delivery. These General Purchasing Conditions shall be valid for all future contractual relations.
- 1.2 If our order has not been accepted, in writing, within 5 (five) working days of receipt, we are entitled to cancel. If the Supplier accepts our order with deviating conditions, he is obliged to clearly notify us of this deviation.
- 1.3 Only orders submitted in writing are legally binding. Orders made verbally or by telephone, on-call deliveries, as well as any alterations and supplements thereof can be effected through data transmission, or through machine readable data carrier. Emails which have been enciphered in accordance with the Digital Signature Act correspond to the written form.
- 1.4 Restrictions to the legal powers of attorney of authorized agents, agents with power to conclude a contract and soliciting authority who represent the Supplier, and/or the limitation of liability for risks from the implied and ostensible authority of persons representing the Supplier, in their conditions of sale and/or conditions of delivery shall not become terms of the contract.
- 1.5 Remuneration for attendance or for working out tenders, projects, designs or trial deliveries will not be granted. Offers submitted shall be binding and free of charge. They should comply with our enquiries. Alternatives would, however, be expedient. Any deviations from our enquiries shall be clearly distinguished.
- 1.6 The Supplier is obliged to hold our enquiries, any offer resulting thereof, as well as agreements entered into, in the strictest confidence. He may only reveal a business connection with us in any publication, e. g. in advertising material and reference lists, after first obtaining our written consent.
- 1.7 The contracting partners undertake to treat as trade secrets all commercial or technical details disclosed to them through their business relationship, which are not in the public domain. Subcontractors have to be put under the same obligation to secrecy. Should the contracting partners detect that confidential information has gone missing, he is to inform the other contracting partner immediately. The obligation to secrecy also remains in force after completion of this contract. It only expires when, and in so far as, the manufacturing know-how contained in the entrusted data becomes general knowledge in the public domain.
- 1.8 We can request changes to the delivery items even after the closing of contract, as long as this is acceptable to the Supplier. With these contract changes, the repercussions for both parties with regard to increase or reduction of the costs as well as the delivery dates are to be appropriately taken into account.
- 1.9 Commercial clauses and conditions to be continued in accordance with the Incoterms valid at the closing of contract. On request, the Supplier will make available to us, without delay, certificates of origin complete with all requisite data and duly signed. In accepting this order, the Supplier engages to permit the examination of the certificates of origin and supplier's declarations by the customs administration, and, furthermore, to supply any requisite data, and to produce any required official confirmation (information sheets). Furthermore, the Supplier engages to compensate us for any damage arising from the non-recognition of the declared nationality by the relevant authority. The Supplier will inform us, without delay, if a delivery becomes partly or wholly subject to export restrictions under German or any other law.
- 1.10 The subject-matter of the contract is a service which the Supplier provides through a subcontractor and if in this context our goods are transferred to Supplier's subcontractor, Supplier has to name the subcontractor immediately for the purpose of insuring our goods or to insure said goods at his own expense. In the latter case the Supplier has to inform us without delay and to produce evidence of the insurance concluded.

2. Notes on ordering, models, designs, instructions

- 2.1 The order number, the date of order and our identification number of the delivery items are to be repeated on all communications, consignment notes, invoices etc. related to the order.
- 2.2 We reserve rights of ownership and copyright in relation to models, designs, samples and other data pertaining to the orders, which have been temporarily entrusted to the Supplier. The Supplier is obliged to surrender to us these data immediately on demand, as soon as his contractual obligations to us have been fulfilled. The Supplier is not allowed to make these data accessible to any third party.
- 2.3 Goods, models, samples, designs or other data pertaining to our orders that have been produced according to our specifications may not be utilized for other companies. We reserve ownership and proprietary rights to them. The Supplier may not make them accessible to any third party without our expressly declared consent. At any time, after completion of the order, he is obliged to return them immediately on demand.
- 2.4 The Supplier is obliged to make available to us, free of charge, all instructions and data necessary for the usage of the contract goods in the quantity named in the order.

3.0 Prices, Forwarding, Packing

- 3.1 The agreed prices are fixed prices precluding additional demands of any kind. The statutory value added tax is not included. Costs for packing and transportation to the delivery address named by us, as well as for customs formalities and duty are included in the price. The agreement on the place of performance shall not be affected by the terms of quotation. We will only take delivery of the quantities or numbers of units ordered. Surplus or deficit deliveries will only be permitted after a previous agreement has been negotiated with us.
- 3.2 The forwarding will occur at the risk of the Supplier. The risk of any deterioration, including accidental loss, remains with the Supplier until delivery to our requested delivery address. In cases where we are to defray the costs of the transportation, transport insurance or packing, the Supplier is obliged to choose in each case the lowest priced transportation, transport insurance, or type of packing.
- 3.3 The Supplier is not entitled to provision insurance cover for the delivery goods. We are exempted from the mandatory freight forwarder's insurance (SPV-Verzichenskunde).
- 3.4 The Supplier is to take back all packaging, especially transport packaging, as defined in § 4 VerpackV (German Packaging Ordinance) at his own expense and to dispose of it properly. If the Supplier does not comply with these obligations, we are entitled to carry out the disposal at Supplier's expense without prior notice.
- 3.5 The goods are to be packed so that damage during transportation is avoided. Packaging material may only be used to the extent necessary to achieve this purpose. Only environmentally friendly packaging material may be used which allows reuse or favourably priced disposal.

4. Submitting Invoices and Payment

- 4.1 Invoices are to be duly submitted to the accounts department with all appropriate documents and data, under separate cover, either by email or by fax, after delivery has been effected. Invoices not sent in due form shall only be deemed as validly received at the time of rectification.
- 4.2 Payment shall be made in accordance with usage, that is either within 14 (fourteen) calendar days with 3% trade discount or after 30 (thirty) calendar days net, calculated according to delivery/performance and receipt of invoice.
- 4.3 In so far as there is an agreement that certificates relating to material controls are to be submitted, these form an integral part of the delivery and are to be sent either with the delivery, or separately within 2 (two) working days upon dispatch of the goods. The term of payment for invoices will only commence with the arrival of the agreed certificates.
- 4.4 On faulty or incomplete deliveries we are entitled to withhold the payment proportionately until the delivery has been duly completed. If payment for a faulty or incomplete delivery has already been effected, we are entitled to withhold other due payments amounting to the value of the effected payment, sub-par. 10.4 notwithstanding. Payment of an invoice shall not be deemed a waiver of complaint with respect to defects.

5.0 Delivery dates, default on delivery, Force Majeure

- 5.1 The delivery date stated in the order is binding. The acceptance of the belated delivery without reservation does not constitute a waiver to claims for damages.
- 5.2 If the Supplier becomes aware of any factors which indicate that an agreed delivery date cannot be met, he is to inform us immediately, and of his own accord, giving us the reasons and the prospective duration of the delay. Notification of delay does not exempt the Supplier from his liability for default.
- 5.3 In the event of delay to the deliveries we shall be entitled to statutory claims.
- 5.4 In the event of delay on delivery, especially after expiry of an extended grace period granted by us, we shall be entitled, at our discretion, to compensation due to non-delivery instead of performance or to procure replacements from a third party or to withdraw from the contract. If we claim compensation, Supplier has the right to prove that he is not responsible for the default. The right to delivery/performance shall become void as soon as we claim damages or withdraw from the contract in writing. Additional expenses, especially in the event of cover purchases, are to be paid by the Supplier.
- 5.5 The Supplier shall only be entitled to plead the lack of necessary documents to be furnished by us, if he requested the documents in writing and did not receive them within a fair and reasonable time limit.
- 5.6 Force Majeure and industrial disputes release the contracting partners from their contractual obligations for the duration of the disturbance and to the extent of their impact. The contracting partners are obliged to make any reasonable effort to immediately provide the required information and to duly adjust their obligations to the modified conditions.
- 5.7 We shall be fully or partially exempt from any obligation to accept the ordered delivery/service and insofar be entitled to withdraw from the contract if – considering the economic aspects – the delivery/service is no longer utilizable for us owing to the delay caused by Force Majeure and/or the industrial dispute.
- 5.8 In the event the goods arrive earlier than agreed, we reserve the right to refuse acceptance or to return them at Supplier's expense. If, after a delivery ahead of schedule, the goods are not returned, they shall be stored by us at the expense and risk of the Supplier until the agreed date of delivery. In the event of an early delivery we reserve the right to fulfill payment not earlier than on the day of payment agreed.
- 5.9 We will only accept partial deliveries after explicit agreement. If we previously agreed on partial deliveries, the remaining quantities shall be itemized.

6.0 Warranty , safety data sheets, time limit for claims, remedy of defects, withdrawal , reduction, claims for damages, defective batch, own right to remedy defects, erroneous counselling, cause analysis, quality production, product liability

- 6.1 All deliveries/services provided to us shall be free from quality defects and defects in title. They shall comply with the agreed upon quality (e.g. a sample provided) and the latest technological standards. They must also comply with all relevant European and German legal provisions, as well as the rules and guidelines laid down by authorities, trade associations and technical organisations. Above all, the deliveries/services provided must fulfil industrial safety regulations, the requirements of equipment and product safety laws, the accident and fire prevention regulations and the environmental safety regulations.
- 6.2 If the Supplier has any objections regarding our operational procedures, he shall inform us, in writing, immediately. In case and insofar as there exists neither a product specification nor a specific quality agreement with regard to a contractual product, the Supplier expressly guarantees as a minimum standard that the goods comply with the statutory requirements applicable in Germany and in Europe in every respect, notably with regard to composition, additives, labelling and get-up, thus being marketable without restrictions throughout Germany and Europe.
- 6.3 The Supplier is obliged to ensure that all registration requirements resulting from the EU Regulation Nr. 1907/2006 (REACH) are fulfilled completely, correctly and on time. If requested, he shall provide us with the respective documentation as proof thereof.
- 6.4 The Supplier is obliged to use environmentally-friendly products and processes in his deliveries/services, as well as in supplies and additional services from a third party within the scope of his economic and technical possibilities. The Supplier shall be liable for the environmental compatibility of the delivery goods and packaging material, and for all consequential damage resulting from his failure to comply with statutory provisions on disposal. Up to date safety data sheets for the delivery items shall be provided to us, at the latest, with the delivery. The Supplier shall indemnify us against all claims for damages resulting from the fact that the safety data sheets are delivered to us either late or not at all. The same also applies for all later alterations. Should the Supplier culpably provide us with a delivery/service which is not free from third party's rights in Germany, or insofar as the Supplier is acquainted thereof in the country of destination, he shall be obliged to compensate us for any resulting pecuniary disadvantages.
- 6.5 We shall notify the Supplier immediately of any apparent defects in the delivery/service, as soon as this is customary within the proper course of business, at the latest, however, within 10 (ten) working days after receipt of the delivery. Should apparent defects be ascertained in a product which the Supplier has sent directly to our cus-

tomer at a destination named by us, the period of limitation for claims only begins with the delivery of the goods to this destination. The same applies when the goods have a sea-proof packing.

- 6.6 We reserve the right to spot checks on bulk supplies. Should they reveal that an amount of the goods does not meet the contractual or legal requirements, thus making the delivery no longer economically viable, we shall be exempted from making any further inspections, and, on the basis of the complete spot check results, we are entitled to place the entire delivery at the disposal of the Supplier.
- In case of a multiple-delivery contract, we are at liberty to choose whether to continue with the contractual relationship, or to decline acceptance of further deliveries due to the defects in the partial delivery.
- 6.7 The Supplier undertakes to remove or remedy all defects of the delivery/service reported during the warranty period, including the failure to attain guaranteed specifications and the absence of guaranteed properties. On demand, the Supplier shall remedy these defects without delay and free of charge, including all incidental costs, at our discretion either through replacement delivery or by rectifying the defects. The Supplier shall bear all expenses incurred in connection with the detection and the remedy of the defects, including expenses defrayed by us, and in particular – without limitation- costs of investigation, disassembly and reassembly, transportation, travel, labour and material. If necessary, the Supplier undertakes to work multiple shifts, and pay overtime or holiday pay rates to remedy defects or effect a replacement delivery, should this be required by us due to compelling operational grounds and within reason. Following the fruitless expiry of a time limit set by us for remedying of defects or replacement delivery, we shall also have recourse to the statutory rights to withdrawal, reduction and damages.
- 6.8 If the Supplier fails to comply with his obligations under the liability for defects, within a reasonable time limit set by us, we are entitled to make the necessary arrangements ourselves, or through a third party, at the expense and risk of the Supplier, his obligations under the liability for defects notwithstanding. In urgent cases and in agreement with the Supplier, we may perform the remedy by rework ourselves, or through a third party. We are permitted to remove minor defects without previous agreement – complying with our obligation to damage limitation – at the expense of the Supplier and without hereby restricting his warranty obligations. The same applies when unusually high damages are impending.
- 6.9 The duration of the warranty period shall be 3 (three) years, unless expressly agreed otherwise or unless the mandatory statutory provisions of §§ 478, 479 BGB (German Civil Code) apply. It commences with the delivery of the items to be supplied to us, or to a designated third party at a delivery address provided by us. The warranty period for appliances, machines and plants commences on the date of acceptance specified in our written declaration of acceptance. Should the acceptance be delayed without any fault attributable to the Supplier, the warranty period shall be 2 (two) years after the delivery item was made available for acceptance. The warranty period for spare parts shall be 2 (two) years after installation/putting into operation and shall end 4 (four) years after delivery at the latest.
- 6.10 The warranty period for buildings shall be subject to the statutory provisions.
- 6.11 While the legitimacy of our complaint is being negotiated or subsequent performance is being attempted, the running of the warranty period for the delivery/service affected shall be suspended until the conclusion of negotiations or until the completion of the repair work; in case of plants or parts thereof the suspension begins with the notification of the interruption of operations. When the Supplier, within the scope of fulfilling his obligations, delivers a replacement or a repaired part, the limitation period for the delivered part shall commence to run anew from installation/acceptance of said part. This provision is not applicable if a minor defect in a delivered part can be removed by replacement delivery or remedy of defect without a significant expenditure in time and costs or if we were entitled to presume, on the grounds of Supplier's behaviour, that Supplier acted in the awareness of not being obliged to take this measure, but made the replacement delivery or the rectification of the defect solely as a gesture of goodwill or for similar reasons.
- 6.12 We are held liable under German law or the law of another country for violating mandatory safety regulations or product liability regulations or provisions due to a defectiveness of our product, we are entitled to claim indemnification from the Supplier with regard to these liabilities insofar as the damage is resulting from a defective delivery item. Within the scope of his liability the Supplier shall bear all costs and expenses including legal costs and expenses. In the event that a safety-relevant defect makes it necessary to recall our products or if a product recall is ordered by the authorities, the Supplier shall also bear the costs and expenses incurred through the product recall campaign. The subject-matter and the extent of such product recall shall be coordinated with the Supplier as far as possible and reasonable.
- 6.13 Our recourse claims against the Supplier under the statutory provisions concerning product liability shall not become time-barred any sooner than our own obligations with regard to third parties.
- 6.14 Insofar as it is technically possible and economically viable, the Supplier shall mark the delivery items in such a way that they are permanently recognizable as his products. The Supplier shall implement a quality assurance system adequate in type and scope that complies with state-of-the-art technology and on request shall provide us with proof thereof. Should we deem it necessary, the Supplier shall enter into a suitable quality assurance agreement with us.
- 6.15 In addition, the Supplier shall take out a product liability insurance, covering all product liability risks, including the risk of a product recall, at a reasonable amount and present the insurance policy for our inspection on demand. If we are entitled to more extensive damage claims, these shall remain unaffected.

7.0 Obligation to disclose

On entering into a long term supplier contract, the Supplier shall be obliged to disclose concerning all particulars that could be relevant to us. Of particular relevance would be information about quality problems, especially in the event that they could not be fully solved, foreseeable delivery difficulties, as well as all alterations to product features which may have repercussions for us, even if they do not make the delivery items defective.

8.0 Property rights, title

- 8.1 The Supplier shall guarantee that all deliveries/services do not infringe any intellectual property rights of a third party, and especially, that third party patent rights, licensing rights or other intellectual property rights are not violated through the delivery and usage of the delivery items. Supplier is entitled to prove that he is not liable for the infringement.
- 8.2 If the Supplier is liable for the infringement, he shall indemnify us and our customers against any third party claims resulting from violation of intellectual property rights and shall reimburse any expenses necessarily arising from or in connection with the third party claim including legal costs and expenses and costs of a product recall.
- 8.3 Should the Supplier already hold industrial property rights to the delivery items ordered by us or to processes for their production, he shall grant us, free of charge, an unlimited non-exclusive right of use to these rights.
- 8.4 The Supplier shall not be entitled to make use of our trade names, logos or trademarks either for his own benefit or for any third party's. He may not use them, either individually or in conjunction with his own trade names, trademarks or logos, without previously obtaining our written consent. He may not offer, sell, deliver or otherwise place on the market to a third party, products from his standard range where our trade name, trademark or logo remains identifiable on the product.
- 8.5 A retention of title will only be accepted by us if it has been expressly agreed upon by the parties in a document separate from these General Purchasing Conditions.

Import and Export Regulations, Customs

- 9.1 In case of deliveries/services being supplied from a country of the European Union outside Germany, Supplier shall indicate his EU-tax ID number. Imported goods shall be delivered duty paid.
- 9.2 The Supplier shall be obliged to provide any declarations and information within the scope of EU Regulation Nr. 1207/2001 (supplier's declaration) at his own expense if requested, to permit the examination of said documents by the customs administration and to provide official statements. We have the status „AEO-P“ - Authorized Economic Operator. The Supplier shall be obliged to ensure that
- goods that are produced, stored, forwarded by our order, delivered to us or collected by us are produced, stored, processed and loaded in secure business premises and secure loading and shipping areas and are protected against unauthorized interference during production, storage, processing, loading and transportation;
 - reliable staff are employed for the production, storage, processing, loading and transportation of said goods;
 - business partners acting on his behalf are informed that they also need to ensure supply chain security as mentioned above.
- The same shall apply to the rendering of services.

10.0 Concluding provisions

- 10.1 Partial Invalidation Should individual sections of these General Purchasing Conditions be invalid, the validity of the remaining provisions shall not be affected.
- 10.2 Non-Assignment of Contracts The Supplier is not entitled to assign the contract, or any material sections of the contract, to a third party without our prior written permission. Should permission be granted, the Supplier remains liable to us as joint and several debtor.
- 10.3 Non-Assignment of Claims The assignment of any claims against us, excluding for financing purposes, is not permitted.
- 10.4 Set Off Rights, Right of Retention The Supplier's rights to set off and retention are restricted to counter-claims which are unchallenged or have become final by a court decision or accepted by us or are in close synallagmatic relation to our claim.
- 10.5 Place of Performance Unless expressly agreed otherwise, the place of performance for delivery obligations shall be the address for shipment and/or place of use requested by us; for all other obligations of the parties it shall be Neuburg/Donau.
- 10.6 Insolvency If a significant deterioration in the Supplier's financial status occurs after the conclusion of the contract and before delivery has been effected that might endanger the proper fulfillment of the contractual obligations, or if such a significant deterioration becomes known to us after the conclusion of the contract, in particular – but not limited to – if the Supplier ceases to pay, a provisional insolvency administrator is appointed or insolvency proceedings concerning his assets are initiated, we are entitled to withdraw from the contract fully or partially without prior notice. The Supplier shall not be entitled to any compensation claims resulting from or in connection with such withdrawal.
- 10.7 Modification or Stop of Production Should the Supplier intend to modify or stop his production, he is obliged to notify us immediately in writing. In the event of a stop of production, the Supplier shall ensure that the items hitherto delivered to us remain available for delivery for at least 3 (three) months after his notification.
- 10.8 Social Standards The Supplier shall guarantee that the products he supplies to us have been manufactured without the use of exploitative working conditions such as child labour, forced labour, physical punishment or duress.
- 10.9 Data Protection We are entitled to store and to process any and all data required from the Supplier for the establishment, execution and if the termination of the contractual relationship as far as permitted by law. The same shall apply where personal data are concerned.
- 10.10 Governing Law The law of the Federal Republic of Germany shall apply exclusively with the exception of the UN Convention of Contracts for the International Sale of Goods (CISG). These General Conditions of Purchase and the law of the Federal Republic of Germany with the exception of the UN Convention (CISG) shall also apply exclusively to contractual relationships with sellers whose place of business is located in Germany.
- 10.11 Place of Jurisdiction For all claims arising out of business connections with merchants the exclusive place of jurisdiction shall be Neuburg an der Donau. However, we reserve the right to assert our claims at any other valid place of jurisdiction.
- 10.12 English version The German version of these General Purchasing Conditions, as set forth hereunder, is expressly agreed upon as solely authoritative. The English version is for working purposes only and not legally binding. It is not part of the contract.

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