

## General Terms and Conditions of Purchase for companies belonging to the TORWEGGE Group

### 1. Contracts

1.1 We only order on the basis of these General Terms and Conditions of Purchase. No other conditions will form part of the contract even if we do not explicitly reject them. If we accept goods / services without any explicit objection, it can never be inferred from this that we have accepted your terms and conditions of delivery.

1.2 If you do not accept our order in writing within 14 days of receiving it, we are entitled to withdraw it. If you accept our order with alterations, you must point out these alterations to us clearly. A contract is only concluded when we have agreed in writing to these alterations. Delivery call-offs become binding at the latest if you do not reject them in writing within 3 working days of receiving them.

1.3 Only orders that are issued in writing are legally binding. Orders that are given verbally or on the telephone must subsequently be confirmed in writing by us in order to be legally valid. The same applies to verbal subsidiary agreements and any subsequent changes to the contract. The requirement for written form can only be dispensed with by means of a written declaration.

Orders, delivery call-offs as well as changes or additions to them can also be sent electronically, via data transmission lines or machine-readable data carriers.

Emails that are encoded in accordance with the law on signatures correspond to written form.

1.4 No remuneration will be paid for calls or for working out quotations, projects, etc.

1.5 You must treat the contract confidentially and you may only draw attention to your business relationship with us in any publications, e.g. advertising material or reference lists, after we have given our approval in writing.

1.6 The contractual partners agree to treat all non-obvious commercial and technical details, which become known to them through the business relationship, as business secrets. Sub-contractors must agree to do likewise. If one of the contractual parties recognizes that a piece of information, which should be treated confidentially, has been obtained by an authorized third party, or a confidential document has been lost, he or she shall inform the other contractual party immediately. The obligation of confidentiality expires if and to the extent that the information concerned has become generally known.

1.7 We can still ask for changes to the product on order after the contract has been concluded to the extent that you can reasonably be expected to accept such changes. The effect of any such change to the contract must be given appropriate consideration from both sides, in particular with regard to higher or lower costs and lead times.

1.8 Trade terms shall be governed by the latest version of the Incoterms valid at the time the contract is concluded.

### 2. Prices, price review, dispatch, packaging

2.1 The prices agreed are fixed prices and supplementary demands of any kind are not permitted.

The costs for packaging and transport to the delivery address or point of use specified by us, as well as for customs formalities and import duty are included in the prices. If no prices are specified in the order, your current list prices shall apply with the customary discounts. Agreement on the place of fulfillment is not affected by the type of pricing option chosen.

2.2 To the extent that orders relate to supplies to the authorities, which are subject to a public price review, you agree to meet your duty to provide unqualified information on your pricing to those authorities entitled to conduct the review, and you recognize that the prices permitted are binding on you.

2.3 You shall quote our order number and part numbers in the order confirmations, delivery notes, dispatch documents, invoices and in all correspondence. You shall be responsible for all consequences resulting from any culpable failure to meet this obligation.

2.4 We shall only accept the volumes or quantities that we have ordered. Over or under-deliveries are only permitted if agreement has been reached with us beforehand.

2.5 Delivery is made at your risk. The risk of any impairment, including accidental loss, shall remain with you until delivery is made to the agreed delivery address or point of use. You must insure the delivery against loss of the shipment, as well as breakages, transportation damage and fire damage.

2.6 Your obligation to take back the packaging is governed by statutory provisions. The goods must be packaged in such a way that transportation damage is avoided. The amount of packaging material used must only be sufficient to meet this purpose. Only environmental friendly materials must be used.

### 3. Invoicing, payment, certificates, early delivery, part deliveries

3.1 Invoices must be sent to us separately and in a proper format in duplicate together with all associated documentation and data after delivery has been made. Invoices that are not properly submitted shall only be deemed to have been received by us when they have been corrected.

3.2 Payment will be made by normal means, either within 14 calendar days with a 3% discount or net after 30 calendar days, calculated from delivery / performance and receipt of invoice. Any payments made by us do not mean that we recognize the invoice.

3.3 If certificates on material tests have been agreed, they form an essential part of the delivery and must be sent to us together with the delivery. However, we must receive them at the latest 10 calendar days after receipt of the invoice. The payment deadline for the invoice begins when the agreed certification has been received.

3.4 In the event of a delivery being faulty or incomplete, we are entitled to withhold payment in proportion to the value until the order has been properly fulfilled, without losing any discounts or similar payment concessions. To the extent that payments have already been made for faulty deliveries, we are entitled to withhold other due payments up to the amount of the payments made.

3.5 If delivery is made earlier than agreed, we reserve the right to return the goods at your expense. If the goods are not returned in the event of early delivery, they shall be stored at your expense and risk until the delivery date. In the event of early delivery, we reserve the right not to make payment until the due date agreed.

3.6 We only accept part deliveries with our express agreement. They must be marked as such in the dispatch documents. The quantity remaining must also be recorded in these documents.

### 4. Delivery dates, delivery delays, force majeure, provision of documentation, cessation of manufacture

4.1 The delivery dates agreed are binding. Receipt of the goods at the point of reception or use specified by us, or successful approval of the goods carried out on time, are the determining factors in establishing whether the delivery date or deadline has been met. If you have designated or confirmed the delivery deadline as "probable", "roughly", "subject to the usual provisos" or using similar terminology, there may be no more than 8 calendar days between the date specified and actual delivery. Acceptance of a late delivery without reservation does not constitute any waiving of compensation claims.

4.2 If you recognize that an agreed date cannot be met for some reason, you must inform us of this in writing immediately, specifying the reasons and the probable length of the delay. In such cases you shall still take all the necessary steps to enable the agreed delivery date to be met or to ensure that only a short delay occurs, and you shall inform us in writing of what you have done specifically to this effect and are still intending to do so. The agreed delivery date never changes as a result of a probable delivery delay being announced. You shall give us the right, if necessary, to approach your suppliers. All costs arising as a result of a culpable failure to provide such information or of doing so late, shall be for your account.

4.3 If you are late in delivering, we are entitled to statutory compensation. Even if a suitable deadline set by us passes without result, we are still entitled to demand delivery / performance, to withdraw

from the contract with or without compensation or to procure replacement goods from a third party and/or to assert compensation claims instead of performance, according to our choice. Our right to delivery / performance only lapses when we withdraw from the contract in writing or demand compensation instead of performance. Any additional costs, in particular in the event of necessary cover purchases, shall be for your account.

4.4 You can only claim that required documentation to be supplied by us is missing if you have sent a written reminder asking for the documents and have not received them by an appropriate deadline.

4.5 Force majeure free the contractual parties of their performance obligations for the duration of the problem and to the extent of their effect. The contractual parties are obliged to give the necessary information without delay within the limits of what can be reasonably expected, and to adapt their obligations to the changed circumstances in good faith. We are wholly or partially freed from the obligation to inspect the goods / services ordered and to this extent entitled to withdraw from the contract if the goods / services are no longer usable to us due to the delay caused by force majeure - taking into account financial considerations. If these obstructions last more than three months, either contractual party is entitled to withdraw from the contract without further obligations.

4.6 If you are more than 30 calendar days late in delivering parts for which no replacement parts can be procured - for whatever legal reason - you are obliged, upon the first written request to do so, to provide the entire technical documentation required for us to copy the parts or have them copied by a third party commissioned by us. If these parts are protected by property rights, you will immediately sign a licensing contract with us for this purpose on normal terms.

4.7 If you change or convert your production, you must inform us of this immediately. If you cease production, you must ensure that the raw materials and supplies ordered by us are available for at least 1 year following the cessation of production.

### 5. Quality assurance, Incoming inspection, Work and Health Protection, Environmental Protection

5.1 All goods / services must be supplied to us free of defects and legal deficiencies. They must match the agreed quality and meet state-of-the-art technology, relevant legal provisions, and the regulations and guidelines of authorities and trade associations. All goods must meet the latest safety regulations, in particular concerning technical safety, work and health protection, environmental and fire protection, and must be approved on delivery by the responsible inspection bodies and certified for use for their intended purpose. You are obliged to provide the safety data sheets applicable to your delivery with the delivery. You shall indemnify us against all recourse claims from third parties in the event that you do not supply the safety data sheets, do so late or incorrectly. The same applies to all later changes. If alterations to these rules are needed in individual cases, you must obtain our written agreement for this. Your liability for defects is not limited by such agreement. If you have doubts about the type of design requested by us, you must inform us of them immediately in writing.

5.2 The latest version of the TORWEGGE "Quality Guideline for Suppliers" as well as the "Environmental Policy" of TORWEGGE form part of these terms and conditions. In the event you provide services to us or you act on behalf of us or you act in our factory premises you undertake to follow such Guideline and Policy.

5.3 You are obliged to respect bans and restrictions on materials in accordance with valid statutory provisions, in particular EG Guideline 76/769/EWG, § 17 ChemG, the ChemVerbV (Chemical Prohibition Regulation) and Annex IV of the GefStoffV (Hazardous Materials Regulation).

5.4 You agree to use environmentally friendly products and procedures in your goods / services as well as in bought-in products and ancillary services from third parties, within the limits of what is financially and technically possible. You are liable for the environmental compatibility of the products supplied and for all consequential damage resulting from any breach of your statutory obligations of disposal.

5.5 You must keep the quality of the products to be supplied to us constantly in line with state-of-the-art technology. You shall draw our attention to opportunities for improvements and technical changes in good time before delivery.

5.6 We will check immediately on receipt of the delivery whether it matches the quantity and type ordered, and whether there is any externally visible transport damage or any externally visible faults. If we discover any damage or faults during the above-mentioned inspections, we will inform you of them without delay. If we discover damage or a fault later, we will also inform you of this without delay. We shall not be obliged to further inspections or concerns towards you other than those specified above.

5.7 You must carry out quality assurance that is appropriate in nature and scope and which represents state-of-the-art technology, and provide evidence of it to us upon request. You will sign a quality assurance agreement with us if we consider this to be necessary.

### 6. Warranty, warranty period, suspension of prescriptive period, recommencement, recourse

6.1 You must correct defects in the goods / services during the warranty period which are the subject of a written complaint made in good time, including the failure to match guaranteed performance data and the absence of guaranteed product characteristics, immediately and free of charge, including all peripheral costs, upon being requested to do so, by repairing, replacing or resupplying the faulty parts according to our choice. In particular, you shall bear all costs incurred in connection with establishing and correcting the fault, even if they are incurred by us, especially inspection costs, deinstallation and installation costs, labor and material costs as well as the transport costs and other costs of returning faulty and receiving good parts. This also applies if the costs increase as a result of the goods having been moved to a different location to the place of fulfillment. Any repair shall be deemed to have failed if the second attempt is unsuccessful. You must affect repairs or new deliveries if necessary in multi-shift operation, by working overtime or using free days, if this is required for urgent operational reasons pertaining to our business and you can reasonably be expected to work such hours. If an appropriate deadline set by us for repairs or re-supply passes without result, we shall be entitled to our statutory rights of withdrawal and price reduction. We reserve the right to assert claims for compensation in all cases. If faults occur in more than 5% of the parts supplied (serial faults), we are entitled to reject the whole existing delivery as faulty and to assert our statutory claims for compensation.

6.2 If you are culpable in not fulfilling your obligations arising from your liability for defects within an appropriate period set by us, we can take the necessary steps ourselves or have them taken by third parties at your expense and risk. In urgent cases we can carry out the repairs ourselves or have them carried out by a third party with your agreement. We can correct small defects ourselves without prior agreement - in fulfillment of our duty to minimize damage - without thereby limiting your obligations arising from your liability for defects. We can then charge you for the expenses that proved necessary. The same applies if there is a threat of unusually high damages.

6.3 The warranty period is two years unless expressly agreed otherwise. This also applies in the case of multi-shift operation. It begins when the object of the delivery is delivered to us or the third party specified by us at the point of reception or use specified by us. In the case of devices, machines and systems, the warranty period begins with the inspection date specified in our written inspection statement. If the inspection is delayed through no fault of yours, the warranty period shall be two years from the time when the object of delivery is provided for inspection. The warranty period for constructions and construction materials is governed by statutory provisions; for spare parts it is two years from their installation / commissioning and ends four years after their delivery at the latest. It is assumed that a defect was already present at the time when risk was transferred if no more than six months have passed since the transfer of risk.

6.4 As long as the justification of our complaint is the subject of negotiation, the warranty period for the claims affected is suspended from the time when the fault is reported until the negotiations have been completed. The warranty period for parts or services which have been repaired or supplied by way of replacement begins again from the end of the negotiations or, if inspection has been agreed, from the time of the inspection. If necessary, inspections must be applied for to us in writing. However, the period cannot end before the limitation periods for compensation claims for defects agreed for the original delivery or service have expired.

6.5 If claims are made against us due to a fault in our product, which has been caused by your product, §§ 478, 479 BGB (German Civil Code) shall apply to our right of recourse to you.

6.6 In the case of a culpable breach which goes beyond the delivery of faulty goods, e.g. in the case of a duty to provide explanation, advice, investigation or other protection, we can also demand compensation for the consequential damages resulting from such breach. Consequential damages are damages to other goods other than the product itself that we or third parties suffer as a result of the delivery of faulty goods or through a breach of other duties.

6.7 Claims arising from liability for defects do not occur if the fault is due to the grossly negligent breach of operational, maintenance or installation instructions, inappropriate or improper use, faulty or grossly careless handling or natural wear and tear as well as work carried out on the product by us or by third parties which is not permitted.

#### **7. Product liability**

7.1 If claims are made against us due to a breach of official safety regulations or due to domestic or foreign product liability regulations or laws because of a fault in our product which has been caused by your product, we are then entitled to demand compensation for these damages from you to the extent that they have been caused by the products supplied by you. These damages also include the cost of any precautionary recall action. We will inform you of the content and scope of the recall measures to be carried out, as far as is possible and can be reasonably expected of us, and give you the opportunity to respond.

7.2 The contractual parties will inform each other without delay if a relevant incidence of damages occurs or threatens to occur.

7.3 Unless otherwise agreed, you will mark the objects of delivery in such a way that they are permanently recognizable as your products.

7.4 You will also insure yourself to an appropriate level against all risks arising from product liability including the risk of recall, and show us the insurance policy for our perusal if so requested.

#### **8. Industrial property rights, rights of use**

8.1 You shall warrant that all deliveries are free of third party property rights and in particular that no patents, licenses or other protective rights belonging to third parties are infringed by the supply and use of the objects of delivery.

8.2 You shall indemnify us and our customers from the justified claims of third parties arising from any infringements of property rights, upon the first written request to do so, and you shall bear all the costs that are incurred in this connection. Claims shall be deemed to be justified if they are recognized by you or have been determined in a court of law. Your obligation of indemnification relates to all expenses that we necessarily incur in connection with a claim made by third parties.

8.3 We are entitled to secure approval at your expense from the rightful owner to use the relevant objects of delivery and services.

8.4 Together with the delivery of copyright protected work, we shall receive from you a single, unlimited right of use for all types of usage.

8.5 The limitation period is 10 years from conclusion of the contract.

#### **9. Provision of materials, processing, blending, tools, drawings**

9.1 All materials and other items which we or third parties acting on our behalf make available to you, remain our property. They may not be used for purposes other than the contractual purposes. These items must be marked as our property, stored separately, kept in good condition and insured for the entire duration of the loan.

9.2 You are obliged to inform us immediately if third parties seize these items thus provided or such a step threatens to occur.

9.3 All materials provided must be returned to us on the first request to do so.

9.4 Changes to the materials provided are only permitted with our prior agreement in writing and only to the extent allowed.

9.5 If our conditional goods are processed with other goods not belonging to us, we shall acquire joint ownership of the new product in proportion to the value of our product to the other processed goods at the time when the processing takes place.

9.6 If the product provided by us is inseparably blended with other goods not belonging to us, we shall acquire joint ownership of the new product in proportion to the value of our conditional product to the other blended products at the time when the blending takes place. If the blending is conducted in such a way that our product is to be viewed as your main product, it shall be deemed to be agreed that you transfer proportional joint ownership to us. You shall maintain sole ownership or joint ownership on our behalf.

9.7 Tools, devices or other means of production, which we provide to you, remain our property. If tools, devices, etc. are manufactured by you or on your account, we agree that you shall transfer title to them to us immediately when we have paid for such tools, devices, etc. in full or when they have been fully amortized by us. You shall maintain sole ownership or joint ownership on our behalf.

9.8 You may neither scrap the above-mentioned items nor make them available to third parties without our prior agreement. They must be carefully stored by you for us at your expense. The care, maintenance and partial renewal of the above-mentioned items shall be governed by the agreements made in each case between you and us.

9.9 We reserve all rights to drawings or products made in accordance with our specifications and to procedures developed by us. Drawings and other documentation, which are given to you, remain our property.

#### **10. Documentation**

10.1 You will fill in the certificates of origin requested by us including all the necessary information at your own expense and make them available to us without delay and properly signed, and you will also provide information, permit customs inspections and provide the necessary official confirmations.

10.2 You will inform us immediately if a delivery is subject in whole or in part to export restrictions in accordance with German law or any other law.

#### **11. Liability**

You shall have no claim for compensation against us, for whatever legal reason, in the case of slight negligence. This exclusion of liability does not apply to compensation claims that are based on a breach of important contractual obligations by us. It also does not apply to cases where there is injury to life and limb. In cases of a slightly negligent breach of important contractual obligations and gross negligence on the part of simple agents, compensation shall be limited to compensation for typical damages foreseeable at the conclusion of the contract. To the extent that our liability is excluded or limited, this also applies to the personal liability of our employees, representatives and agents.

#### **12. Sub-contracting only with approval**

You are not entitled to sub-contract your obligations arising from the order or important parts of the order to third parties without our prior agreement in writing.

#### **13. Prohibition of assignment**

You are not entitled to assign your receivables from us or to have them collected by a third party without our prior agreement in writing. In the case of an extended reservation of ownership, this agreement is deemed to have been given. If you assign a receivable from us to a third party without our agreement, the assignment is still effective. We can then choose to pay you or the third party with discharging effect.

#### **14. Partial invalidity**

If individual parts of these General Terms and Conditions of Purchase should prove to be legally invalid, this shall not affect the validity of the remaining provisions.

#### **15. Cessation of payment, insolvency**

15.1 If you cease to make your payments, a provisional administrator will be ordered and bankruptcy proceedings opened on your assets, or if bills of exchange or checks issued by you are the subject of complaints, we are entitled to terminate the contract in part or in whole without notice and without such action giving rise to claims against us.

15.2 If the contract is terminated by us, the parts of it already fulfilled by such time will only be settled at the prices stipulated in the contract if they can be used by us for their intended purpose. The loss incurred by us will be taken into consideration in the invoice.

#### **16. Data protection**

We will treat your personal data in accordance with the Federal Data Protection Act.

#### **17. Contractual language, correspondence**

The contractual language is German. All correspondence and all other information and documents must be written in the German language. This also applies for all other documentation, e.g. for down payment and warranty guarantees. If the contractual parties also use another language, the German text shall take precedence.

#### **18. Place of fulfillment**

Unless expressly agreed otherwise, the place of fulfillment for the delivery obligation is the delivery address or point of use requested by us; for all other obligations on both sides it is Bielefeld, Germany.

#### **19. Court of arbitration, place of jurisdiction**

19.1 If the contractual parties agree to submit to arbitration in order to settle disputes, such disputes as arise in connection with the contract or its validity should be finally decided in accordance with the arbitration code of the German Institute for Arbitration (DIS) dated 1.1.1992 to the exclusion of normal legal actions. The court of arbitration can also make binding decisions on the validity of this arbitration contract.

19.2 The place of jurisdiction is Bielefeld, Germany.

#### **20. Supplementary law**

The law of the Federal Republic of Germany shall apply as supplementary law excluding the UN purchasing law agreement dated April 11, 1980.

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