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## GENERAL TERMS AND CONDITIONS OF PURCHASE (GTCP)

### 1. Applicability

These general terms and conditions of purchase shall apply exclusively to all deliveries, services and offers from our Suppliers. They shall form part of all contracts that we conclude with our Suppliers for deliveries or services offered by them. They shall apply to the same extent to the procurement of production materials, especially raw materials, materials, components, etc., as well as to the procurement of spare parts, tools or machines, as well as other products of any kind and to the provision of services of any kind. They shall also apply to all future deliveries, services and offers to us, even if they have not been specifically agreed again.

General Business Terms or any other deviating conditions of the Supplier shall not apply, even if we do not refute their validity separately in an individual case, unless they have been expressly acknowledged by us in writing. All references or notes of the Supplier regarding the applicability of its own general terms and conditions of trade are hereby expressly rejected.

### 2. Orders and contracts

Enquiries from GEDA to the Supplier about its products and/or terms and conditions, their delivery or invitations to tender are non-binding and do not bind GEDA in any way at all. Orders from GEDA shall only be valid and binding if they are made in writing. Here the written form is maintained if it is transmitted by fax, email or by another electronic data transfer system.

Cost estimates of the Supplier shall be binding and shall not be subject to a charge, unless it has been expressly agreed otherwise. A valid and binding contract between GEDA and the Supplier, with the inclusion of these general terms and conditions of purchase, shall be concluded by

- a) the written order from GEDA sent in writing to the Supplier and
- b) its express written acceptance (order confirmation) by the Supplier, which must be received by GEDA within five working days after the date of the order or
- c) the commencement of the delivery of the ordered products by the Supplier and their acceptance by GEDA.

Every order confirmation of the Supplier which deviates from the order placed by GEDA represents a new purchase offer and must be accepted in writing by GEDA.

GEDA may require changes to the products by the Supplier at any time, in particular relating to their design and performance, even after the confirmation of the order by the Supplier. In such a case the Supplier shall immediately provide information about the impact of this change request, in particular with regard to cost increases/decreases as well as a potentially differing delivery date, and the parties shall agree a reasonable adjustment to the contract, to the extent that this is necessary.

If call-off deliveries have been agreed then this shall become binding within two days after sending this to the Supplier, unless the Supplier immediately opposed this in writing.

GEDA shall be entitled to cancel a contract at all times by means of a written declaration; until receipt of such a cancellation, partial services delivered shall be compensated for accordingly.

The Supplier shall guarantee that with the delivery of production materials it can also supply GEDA for a period of 10 (ten) years after termination of the delivery relationship at reasonable terms and conditions with the delivery items or parts thereof as spare parts.

The Supplier shall only be permitted with the prior express written consent of GEDA to award the tasks incumbent on it above to sub-contractors.

### 3. Prices, Most Favoured Clause, Payment Conditions

The prices agreed are fixed prices.

In the absence of any deviating written agreement, the price shall include delivery and transport to the shipping address stated in the contract, and this shall also include packaging.

If during the term of a contract for the delivery of products, the Supplier delivers the contractual or similar products in comparable quantities to third-parties at more favourable conditions, in particular relating to price, discounts, technology, quality or other conditions, then the Supplier will notify GEDA of this immediately and grant GEDA these more favourable conditions. In this regard the parties shall agree that these new conditions will apply retroactively from the point at which automatically the Supplier had granted these favourable conditions to a third party.

The Supplier shall undertake to send the invoice to GEDA immediately after delivery in a separate posting envelope. Unless otherwise agreed, payment shall be made within 14 (fourteen) days with 3 (three) percent discount or within 30 (thirty) days without discount. With the acceptance of early deliveries, this period shall start at the earliest with the agreed delivery date.

The Supplier is not entitled to assign receivables to which it is entitled from GEDA nor to have them collected by third parties; § 354 a HGB remains unaffected by this. The Supplier shall only then be entitled to offset claims from GEDA or to assert of a right of retention to the extent that its claim is undisputed or its counter-claim is legally established. The acceptance of the delivered goods and/or their payment does not represent a waiver of the right to assert claims for defects, damages, or other claims against the Supplier.

#### 4. Delivery time and delivery, transfer of risk

The delivery time stated in the purchase order (delivery date or delivery period) is binding. Early deliveries are not allowed, unless they have been confirmed in writing.

The Supplier shall be under the obligation to immediately notify GEDA in writing, if circumstances occur or become apparent, which will result in the delivery time not being adhered to.

If the Supplier should default on its delivery this shall incur a contractual penalty for each week of part thereof of the default delivery of an amount of 1% (one percent) of the purchase price of the delayed products, however this will be set at a maximum amount of 10% (ten percent) of the total purchase price. The right to assert compensation claims shall remain unaffected. In particular the Supplier shall be obliged to reimburse GEDA with the following costs (not an exhaustive list):

- Special travel expenses
- Additional production setup costs
- Additional costs due to special shifts
- Loss of production costs
- Replacement costs, etc.

A contractual penalty due for payment is to be charged in addition to any claims for compensation being made. The Supplier shall not be entitled to make partial deliveries to GEDA without its prior written consent. Risk shall only be transferred to GEDA, even when a shipment has been agreed, when the goods have been delivered to GEDA at the agreed destination or to a previously named third party. For every incidence of culpable deviation from the agreed delivery dates and/or an over/under delivery, GEDA shall be entitled to assert a flat-fee compensation of €100 (one hundred Euro) for any additional costs incurred in this regard, without prejudice to its right in an individual case to prove and assert a higher level of compensation. The Supplier shall be entitled to prove that no damage, or a lower level of damage occurred than this flat-fee amount.

#### 5. Acts of God

Disruptions to the delivery relationship due to unforeseeable and/or unavoidable events which are outside of the sphere of influence of the Supplier such as natural disasters, unrest, official actions, etc. shall exempt the Supplier from its delivery/service obligations for the duration of the disruption and in the scope of its effect. The Supplier must immediately provide GEDA of comprehensive information of this situation and within reasonable bounds it must undertake everything to limit the impacts of such events. Furthermore, the Supplier shall inform GEDA immediately of the end of the disruption.

If the end of such a disruption is not foreseeable or if the disruption persists for more than two months, then each Party shall be entitled to terminate the Contract without notice. Any partial services delivered until this point shall be compensated for accordingly.

#### 6. Title safeguard/tools

GEDA shall retain title and/or copyright of all orders and contracts issued to the Supplier as well as all drawings, figures, calculations, descriptions and other documentation made available to it. Without express written consent from GEDA, the Supplier is not permitted either to make these available or to disclose them to third parties, or to use or reproduce them itself or through third parties. The Supplier must return these documents in full to GEDA on request if they are no longer required by it as part of the ordinary course of business or if negotiations are not underway for the conclusion of a contract. Any copies that the Supplier may have made of such documentation must be destroyed, the only exceptions being a retention due to statutory regulations and the storage of data for backup purposes as part of normal data backup procedures.

Any tools, devices and models which GEDA shall make available to the Supplier or which are produced and paid for by GEDA for the purpose of the Contract shall remain the sole property of GEDA or shall be transferred to the sole property of GEDA. These shall be identified by the Supplier as the property of GEDA and are to be kept safe and protected from all types of damage and are only to be used for the purpose of fulfilling the Contract. The Supplier alone shall assume the cost of the maintenance and repair of these items. The Supplier shall inform GEDA immediately of all damage, not only inconsiderable damage and loss, regarding these items. The Supplier shall undertake to return items to GEDA on first request in their proper condition when they are no longer required by the Supplier for the fulfilment of the contracts concluded with GEDA.

Any retention of title by the Supplier shall be rejected; in particular any expanded or extended retention of title is inadmissible.

#### 7. Quality and documentation

In its deliveries the Supplier must comply with generally recognised state of the art technology and also with applicable safety regulations. To the extent that drawings, samples or other documentation are handed over to the Supplier, it must keep them in relation to the design and quality characteristics of the delivery item. Changes may only be made to the delivery item with the prior written consent of GEDA.

If in order to inspect specific requirements, authorities or customers of GEDA require insight into the production process and/or test documentation, the Supplier shall state its willingness to grant the above all such rights within its company which are required for such an inspection to be undertaken, provided that no confidentiality obligations of the Supplier in relation to third parties are infringed in the process. Furthermore, GEDA shall have permission at all times, after a reasonable notice period and during normal business hours, and at intervals at which GEDA deems necessary, to carry out inspections and quality audits of the facilities, in which the Supplier is producing the products.

If the Supplier refuses GEDA this right and/or impedes GEDA in the exercise of this right, then GEDA shall be entitled to cancel the Contract without notice.

### **8. Hazardous substances and preparations**

The Supplier shall ensure that it shall comply in full with the requirements as specified by the REACH Regulation and that neither its products nor the packaging it uses contain substances from the Candidate List in its current and applicable version.

### **9. Liability for material defects/warranty claims**

GEDA shall have unlimited entitlement to statutory claims in the event of material defects in the purpose of the contract. However, notwithstanding the above, the warranty period shall be 36 months. GEDA shall inspect the products delivered by the Supplier for production purposes on their receipt in order to check conformity between the ordered and delivered goods and for any quality deviations as well as for any externally visible damages, to the extent that and as soon as this is possible in the regular course of business. If GEDA identifies any material defects during this inspection it shall immediately inform the Supplier. Furthermore, the Supplier shall expressly waive any further goods-in inspection at GEDA. As regards other material defects that are only detected by GEDA during the processing or intended use of the delivered goods, GEDA shall inform the Supplier immediately on detection of the material defects and to that extent the Supplier shall waive any objection to a delayed defect notification.

In the event of a defective delivery GEDA will grant the Supplier the opportunity to effect a supplementary performance, in other words, on the choice of GEDA, either the elimination of the defect or a new delivery. In either of these outcomes the Supplier shall assume all costs that either it or GEDA incurs, for example, for transportation, travel, labour and material costs. The same shall apply to any upgrading and installation costs that may be incurred.

In the case of a subsequent delivery or a delivery of a new item, the Supplier shall take back the defective products at its own expense.

Should the subsequent delivery also fail or is unacceptable to GEDA or if the Supplier does not start immediately with the subsequent delivery, GEDA can withdraw from the Contract without setting a further notice period and return the products at the risk and cost of the Supplier. In these and other urgent cases, in particular to stave off acute hazards or to avoid greater damage, in particular if it is no longer possible to inform the Supplier of defects or to set it even a short deadline as assistance, GEDA can arrange to have the defect removed itself at the cost of the Supplier or have this performed by a third-party. Further claims, especially claims for damages, shall remain unaffected by this.

### **10. Protective rights**

The Supplier shall ensure that neither GEDA nor its customers infringe, through the purchase, possession, offering, usage, procession or re-sale of products, any intellectual property rights of third parties, in particular any trademark rights, company rights, naming rights, patent rights, utility patterns, registered designs, equipment or design rights or copyright rights of third parties. If the Supplier culpably infringes this obligation, then it shall exempt GEDA and its customers, on first request, from all third-party claims arising from such actual or alleged rights infringement and it shall assume all costs and expenses incurred by GEDA in this regard, in particular any legal prosecution and legal defence costs which shall result from observance of a possible duty of omission. The parties shall be obliged to inform each other immediately of any infringement risks of which they have become aware and of any alleged infringement cases.

### **11. Anti-corruption clause**

The contracting parties shall declare their determination to counter all forms of corruption. In particular the Supplier or its contracted employees must not promise or grant to GEDA, either directly or indirectly, any advantages as defined by §§ 333 and 334 of the German Criminal Code. This obligations shall also apply to sub-contractors.

If the Supplier infringes this obligation or if it has been involved in a competition-restricting agreement as defined by § 298 of the German Criminal Code in relation to GEDA, then GEDA shall be entitled to a special right of withdrawal and cancellation of all existing contracts between GEDA and the Supplier.

## 12. Non-disclosure obligation

The Supplier shall commit to handle all confidential information that it receives either directly or indirectly from GEDA confidentially. This information shall include orders and all related commercial and technical details, in particular all figures, drawings, calculations, quality guidelines, samples and/or similar documents/items. Reproduction and forwarding of confidential information is only admissible after the prior written approval by GEDA. The Supplier shall commit to ensuring all sub-contractors comply with the non-disclosure obligation to the same extent. The Supplier may only use confidential information that has been disclosed to him by GEDA for its intended purpose. The non-disclosure obligation shall remain in force beyond the termination of the delivery relationship for a period of three years. After the termination of the delivery relationship the Supplier shall return all confidential information received to GEDA.

## 13. Spare parts provision

The Supplier shall be obliged to ensure the provision of spare parts for the envisaged operating life of the end products for which the products are to be used, for a minimum period of 10 (ten) years after delivery.

## 14. Other provisions

If one of the preceding provisions is, or becomes, invalid or unenforceable, then the legal validity of the remaining provisions shall not be affected. In place of the void and/or unenforceable provision, such a provision shall be deemed as agreed which comes as close as legally possible to what the contractual parties had intended with the original meaning and purpose of the invalid or unenforceable provision. The same shall apply to any loopholes in the contract.

## 15. Export control & customs

a) The supplier must inform GEDA in writing as early as possible before the delivery date of any licensing obligations for its goods under applicable German, European (EU) and US American export, customs and foreign trade law, as well as under the export, customs and foreign trade law of the country of origin of its goods. The supplier must provide the following information and data for this purpose:

- the export list number in accordance with Annex AL to the German Foreign Trade and Payments Ordinance or comparable list items of relevant export lists;
- the Export Control Classification Number according to the U.S. Commerce Control List (ECCN), if the goods are subject to the U.S. Export Administration Regulations (EAR);
- the commodity code (HS/CN code);
- the country of origin (commercial/non-preferential origin); the key for origin markings is: D = third country / E = EU / F = EFTA;
- (long-term) supplier declarations for preferential origin (for EU suppliers) or certificates for preferences (for non-EU suppliers);
- all other information and data required by GEDA for export and import and, in the case of resale, for re-export of the goods.

The supplier must inform GEDA immediately in writing of all changes to the above information and data.

b) If the supplier breaches its obligations under paragraph 1, the supplier shall bear all the expenses and loss, as well as other disadvantages (e.g. additional claims for foreign import duties and any fines), that GEDA suffers as a result. This shall not apply if the supplier is not responsible for the breach of duty.

## 16. Place of performance / Applicable law / Jurisdiction

The sole place of performance for deliveries and services arising from the business relationship between GEDA and the Supplier shall be the head office of GEDA, Asbach-Bäumenheim, Germany. This contractual relationship is governed exclusively by German law. The Vienna UN Convention for the International Sale of Goods (CSIG) shall not apply. The place of jurisdiction for all disputes between the Supplier and GEDA arising from the business relationship shall be Augsburg, Germany.