

GENERAL TERMS & CONDITIONS OF PURCHASE**1. General**

- 1.1 In these terms, the following definitions shall apply: “**Affiliated Companies**” means companies directly or indirectly controlling, controlled by or under common control with Buyer, whereby control means the right to designate the management through ownership of 50% or more of the voting rights or any other ownership interest; “**Buyer**” means the Heubach legal entity specified in Buyer’s purchase order; “**Conditions**” means these General Terms & Conditions of Purchase; “**Force Majeure**” means any act of God or government, natural disaster, destruction by insurrection, war or hostility, riots, civil commotion, or any other event outside the Parties’ control, which delays, prevents, restricts or renders commercially infeasible performance of the purchase order; “**Goods**” means the goods (including any instalment of the Goods or any parts of them including packaging) described in or required by virtue of Buyer’s purchase order; “**ILO**” means the International Labour Organisation; “**Party**” and “**Parties**” means Buyer and Supplier referred to individually or collectively respectively; “**Rules**” means the most recent version of any statutory regulations applicable to the purchase, the INCOTERMS of the International Chamber of Commerce in Paris, and/or the Uniform Customs and Practice for Commercial Documentary Credits; “**Services**” means the services (if any) described in or required by virtue of Buyer’s purchase order; “**Specifications**” means Buyer’s requirements and any associated plans, drawings, design briefs, data and other information provided by Buyer to Supplier in respect of the supply of Goods/Services; “**Supplier**” means the party which has agreed to provide Goods/Services as specified in Buyer’s purchase order.
- 1.2 Buyer shall issue a written purchase order which shall be transmitted by mail, fax or e-mail and which shall be accepted by Supplier, either by mail, fax or e-mail. Shipment or delivery of all or any part of an order constitutes Supplier’s acceptance of the purchase order and these Conditions.
- 1.3 Unless Buyer’s purchase order is confirmed in writing within 8 (eight) working days of the date of order, or delivery takes place within that time in response to the purchase order, Buyer shall cease to be bound by it.
- 1.4 All purchase orders shall be governed by these Conditions to the exclusion of any general terms and conditions of Supplier, unless otherwise expressly agreed in a signed writing. In case of any inconsistency between these Conditions and the purchase orders, latter shall prevail.
- 1.5 Any changes or supplements to these Conditions and/or purchase orders must be agreed in a signed writing in order to be effective.

2. Price

- 2.1 The price of the Goods/Services shall be as stated in the purchase order, and shall be:
- 2.1.1 exclusive of any applicable value added tax (which shall be payable by Buyer subject to receipt of a VAT invoice); and
- 2.1.2 inclusive of all charges for packaging (including pallets which may be exchanged by arrangement); packing, shipping, carriage, insurance and delivery of the Goods to the delivery address and any duties, imports or levies other than VAT.
- 2.2 No increase in the price may be made whether on account of increased costs of materials, labour or transport exchange rate fluctuations or otherwise, without the prior written and signed consent of Buyer.

3. Delivery/Performance

- 3.1 The date and place of delivery or performance stated in the purchase order shall be binding and must be adhered to. Time is of the essence with respect to delivery of Goods/Services.
- 3.2 If the Parties did not agree upon a specific date for delivery/ performance, then Supplier shall be required to make the Goods/ Services available to Buyer as soon as is reasonably possible.
- 3.3 If the Parties did not agree upon a specific place for delivery, then delivery shall be made to Buyer’s premises, and the time of delivery shall be judged accordingly.
- 3.4 Supplier shall notify Buyer immediately in writing if circumstances arise which make prompt delivery/performance unlikely or impossible. Late delivery/performance shall give Buyer the right to cancel the purchase order, in which case Buyer will not be liable for the cost of any work or Goods/Services undertaken in connection with the cancelled purchase order. This remedy shall be in addition to any other legal remedy available to Buyer.
- 3.5 Buyer shall not be required to pay for any Goods delivered in excess of the quantity ordered and shall have no responsibility in respect of such Goods.
- 3.6 A full description of the Goods (in English and the applicable statutory or regulatory language where Buyer is located) must appear clearly and legibly on the outside of every package. If the Goods are hazardous they must be clearly marked to that effect.

- 3.7 Supplier shall pack the Goods appropriately for delivery to the delivery address and shall be responsible for any damage caused by inadequate packaging.
- 3.8 Supplier shall provide to Buyer all necessary documentation for importation of the Goods and customs clearance if such activities are arranged by Buyer.
- 3.9 Supplier shall comply with article 33 (1) REACH Regulation (1907/2006/EC), and/or with the UK REACH Regulation and shall provide any documentation required by Buyer to enable Buyer to fulfil its own obligations under the respective provisions of the REACH Regulation and/or the UK REACH Regulation.
- 3.10 Supplier warrants that all substances (substances on their own or in preparations) contained in Goods delivered to Buyer are registered in accordance with Regulation (EC) No. 1907/2006 (REACH), and/or the UK REACH Regulation. In case of non-compliance or any REACH or UK REACH-relevant change Supplier shall inform the Buyer thereof by means of registered letter without delay. For non-UK manufacturers (for deliveries to the UK) and non-EU manufacturers (for deliveries to the EU) the foregoing shall not be applicable if the Buyer has made reference to its own registration in the respective order.

4. Force Majeure

- 4.1 In case of Force Majeure, the affected Party shall promptly notify the other Party and the following shall apply:
- 4.1.1 the Party affected thereby shall be relieved of its obligations under this purchase order, for the duration of, and to the extent of the Force Majeure effect;
- 4.1.2 if Supplier’s stocks are effected, then Supplier shall distribute all stocks remaining in its possession among its customers in proportion to the quantity of goods orders outstanding at the time of the Force Majeure;
- 4.1.3 if delivery or acceptance is delayed by more than two weeks due to Force Majeure, Buyer, to the exclusion of all further claims, may at its sole option withdraw from the purchase order in respect of the quantities affected by such delay and/or extend the delivery dates to permit partial or total delivery of the Goods/Services.

5. Risk Transfer and Insurance

- 5.1 The risk shall transfer to Buyer when the Goods are delivered to the agreed place of delivery. In the case of machines and technical equipment, the risk shall transfer to Buyer only after functional testing has been undertaken and given satisfactory results.
- 5.2 Supplier shall insure the Goods until risk passes to Buyer.

6. Payment and Set Off

- 6.1 Invoices shall be made out in the currency stated in the purchase order.
- 6.2 Payment shall only be due to Supplier in respect of Goods/Services which comply with the purchase order and clause 7.1 below.
- 6.3 Standard payment terms are 90 (ninety) days after delivery of conforming Goods or conforming performance of Services.
- 6.4 Buyer may exercise a right of set off in relation to any claim of Supplier, against any claim of Buyer and/or Buyer’s Affiliated Companies against Supplier.

7. Quality

- 7.1 Supplier shall ensure that the Goods/Services supplied shall be of the quantity and quality specified in the purchase order and in clauses 8.1 and 8.3 below.
- 7.2 Buyer shall be entitled to reject any Goods/Services supplied, which are not in accordance with clause 7.1 above. Inspection or payment by Buyer shall not relieve Supplier of its obligations in clause 7.1 above, nor limit Buyer’s rights to reject other nonconforming Goods/Services. Buyer shall not be deemed to have finally accepted any Goods/Services, even after payment of the relevant invoice, until Buyer has had a reasonable time, but at least 30 (thirty) working days, to inspect or evaluate them following delivery/performance, or during use in the case of latent defect(s).
- 7.3 Where the Goods/Services supplied are not in accordance with clause 7.1 above, Buyer shall, at its discretion, be entitled to seek repair or replacement or reduction of the purchase price, or pursue rescission of the purchase order including repayment of any part of the price that has been paid.

8. Warranties and Liability

- 8.1 Supplier warrants to Buyer that the Goods/Services:
- 8.1.1 will be of merchantable quality, free from all latent and patent defects and fit for any purpose held out by Supplier or made known to Supplier in writing near the time the purchase order is placed;
- 8.1.2 will be free from non-process related impurities, defects in design, material and workmanship;
- 8.1.3 will meet and conform to any relevant Specification or sample; and
- 8.1.4 will comply with all rules, statutory requirements and regulations relating to the supply of the Goods/Services;

- 8.1.5 will not infringe any intellectual property rights of any third party.
- 8.2 Supplier warrants to Buyer that it will convey good title and no third party has any legal or equitable right or lien to deprive Buyer entirely, or partially, of the Goods/Services.
- 8.3 Supplier warrants to Buyer that Services will be performed by appropriately qualified and trained personnel, with due care and diligence and to such high standard of care and quality as it is reasonable for Buyer to expect in all the circumstances.
- 8.4 Supplier shall indemnify Buyer (including its officers, directors, employees, successors and assigns, agents and customers) in full against all claims, liability, fines, loss, damages, costs and expenses (including legal expenses and attorney fees) against or incurred or paid as a result of or in connection with:
- 8.4.1 breach of any warranty given by Supplier in relation to the Goods/Services;
- 8.4.2 any claim that the Goods/Services infringe, or their importation, use or resale infringe the intellectual property rights of any other person/entity;
- 8.4.3 any act or omission, including delay, by Supplier or its employees, agents or sub-contractors in supplying, delivering, and installing the Goods or performing the Services;
- 8.4.4 all claims made against Buyer for loss, damage or expense sustained by its agents, customers or third parties to the extent that this arose from the supply of Goods/Services.

9. Confidentiality and Documentation

- 9.1 Supplier shall keep in strict confidence all technical know-how, inventions or processes and any other confidential or commercially sensitive information concerning Buyer's business, which has been disclosed to or obtained by Supplier from Buyer or its agents. Only information necessary for the purpose of fulfilling Supplier's obligations to Buyer shall be made known to Supplier's employees, who shall be bound by the same duty of confidentiality as Supplier. This undertaking shall continue in force for 10 (ten) years beyond the date of termination of the purchase order.
- 9.2 On request, Supplier shall immediately return to Buyer all confidential or commercial sensitive information, which has been provided by Buyer to Supplier.
- 9.3 Supplier shall make available upon request to Buyer such plans, detailed drawings, technical calculations etc. as relate to the Goods/Services being supplied and after their accuracy has been determined such data files or master copies as Buyer may need for regular use or repair work. Furthermore, Supplier shall, on request, supply Buyer with drawings or spare parts and sufficient information for Buyer to procure such spares. Buyer's approval of such plans, drawings, calculations etc. shall not relieve Supplier of any of its warranties or obligations under this contract.
- 9.4 Supplier shall not make any public reference to Supplier's business relationship with Buyer without Buyer's express written permission.

10. Data Protection

All personal data exchanged under these Conditions will only be collected, used, copied, passed on or otherwise processed by the Parties and their Affiliated Companies to the extent that is strictly necessary for the management of the business relationship and for rendering the Goods/Services under these Conditions, treated in strict confidence and kept safe by means of technical and organisational measures required under applicable law.

11. Intellectual Property Rights

- 11.1 Any Specifications shall be the exclusive property of Buyer.
- 11.2 Where Buyer funds in whole or in part the creation of tooling, moulds, software, printers copies, packaging, advertising materials, or, without limitation, any other creative works which are produced to Buyer's Specifications or requirements, Supplier shall assign all intellectual property rights relating to such items and their creation to Buyer. Buyer shall be free to use, sell or dispose of such items at its absolute discretion.

12. Changes to Goods/Services

If Supplier supplies Goods/Services to Buyer on a regular basis, then Supplier undertakes to provide reasonable prior written notice to Buyer if Supplier intends to make any changes to the Goods/Services, its processes and/or analytical methods, relating to the Goods/Services. Such changes shall not be made without Buyer's written approval.

13. Environmental Protection, Industrial Safety & Accident Prevention, and Fundamental Principles & Rights at Work

- 13.1 Supplier, in supplying the Goods/Services, shall comply with all relevant statutory regulations and rules relating to environmental protections, industrial and transport safety, and accident prevention.
- 13.2 Supplier warrants that it and Supplier's vendors promote and comply with the ILO's Fundamental Principles & Rights at Work, and the following ILO Conventions: Freedom of Association & Protection of the Right to Organise, 1948 (No. 87); Right to Organise and Collective Bargaining, 1949 (No. 98); Forced Labour, 1930 (No. 29); Abolition of Forced Labour,

1957 (No. 105); Minimum Age, 1973 (No. 138); Worst Forms of Child Labour, 1999 (No. 182); Equal Remuneration, 1951 (No. 100); and Discrimination (Employment and Occupation), 1958 (No. 111).

- 13.3 Safety is a key priority for Heubach and the basis for the business relationship between Supplier and Buyer. If Supplier is present or renders Services at a Heubach location, Supplier commits to comply with all safety or environmental related instructions and guidelines of Heubach at all times. Non-compliance with such rules is considered a material breach of contract that allows Buyer to terminate the respective purchase order or contract immediately at no further cost to Buyer (i.e. Buyer will pay Supplier for the Services rendered up to then only) and to have the Services not rendered so far under the so terminated purchase order or contract performed by a third party. Any additional costs resulting from such performance by a third party shall be borne by Supplier. Buyer reserves its right for further claims.
- 13.4 On request Supplier will provide Buyer with evidence of its compliance with this clause 13, and Buyer shall have the right to audit the relevant sections of Supplier's premises in order to ensure such compliance.
- 13.5 Supplier warrants that it conducts no business or other relationship with persons, and does not employ any individuals, listed on any governmental counter-terrorism lists.

14. Termination

Buyer shall be entitled to terminate any purchase agreement without any liability to Supplier by giving notice to Supplier: (a) if Seller is in breach of this agreement or outstanding purchase order; (b) at any time Supplier becomes insolvent or if any bankruptcy proceedings are instituted as to Supplier or if any receiver or administrator is appointed to Supplier's business; (c) Supplier ceases or threatens to cease to carry on business; (d) Buyer reasonably apprehends that any of these events is about to occur; or (e) Supplier has failed to remedy any breach of the purchase agreement within a reasonable period of time.

15. Non Assignment

- 15.1 All purchase orders are personal to Supplier and shall not be sub-contracted, assigned or transferred to any other person without Buyer's written consent.
- 15.2 Notwithstanding anything to the contrary in these Conditions, Buyer shall have the right to assign and transfer any rights and obligations of the purchase order to its Affiliated Companies without any further consent, provided that such Affiliated Companies assume all obligations relating thereto.

16. Miscellaneous

- 16.1 If any clause in these Conditions is or becomes inoperative, the validity of these Conditions and of the purchase order as a whole shall not thereby be affected.
- 16.2 Application of the United Nations Convention on Contracts for the International Sale of Goods is excluded.
- 16.3 No failure or delay by either Party in exercising any right under the purchase order shall operate as a waiver of such right nor shall any single or partial exercise of any right preclude the exercise of any other right. No waiver shall be valid unless such waiver is in writing signed by the waiving Party.
- 16.4 This document shall be valid with and without signature.
- 16.5 Each Party shall be deemed to be an independent contractor. If work is to be performed at Buyer's facilities, Supplier shall be responsible for the actions of its employees/agent and provide proof of applicable insurance coverages. This Agreement in no way creates a joint venture, partnership or any form of association between the Parties and in no way constitutes one party as the agent or legal representative of the other for any purpose whatsoever. No Party is granted any right or authority to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the other or to bind the other in any manner or thing whatsoever.

17. Governing Law and Jurisdiction

- 17.1 All purchase orders (and these Conditions) shall be governed by and construed in accordance with the laws governing the territory in which Buyer is located and/or registered.
- 17.2 **The place of jurisdiction shall be the place where Buyer is located and/or registered or the nearest appropriate court within that territory or country.** This shall also apply to legal proceedings relating to documents, bills of exchange and cheques.

Local Amendments:

European Union:

Art. 6.3 of these conditions applies except that the standard payment term shall be 60 (sixty) days.

Germany:

1.

Art. 151 of the German Code (BGB) does not apply.

2. Minimum wage

- 2.1 Supplier will comply at all times with the provisions of the German Minimum Wage Law (Mindestlohngesetz – MiLoG), in particular but not limited to § 13 MiLoG in connection with § 14 German Employee Assignment Law (Arbeitnehmerentsendegesetz - AEntG) and all relevant statutory regulations and rules relating to the payment of a minimum wage to the employees according to § 1 sec. 1 MiLoG. Supplier warrants to obligate any of its subcontractors accordingly.
- 2.2 On request Supplier will provide Buyer with evidence to Buyer's reasonable satisfaction of its compliance with this clause 2, and Buyer shall have the right to audit the Supplier's records in order to ensure such compliance.
- 2.3 Supplier shall indemnify Buyer (including its officers, directors, employees, successors and assigns, agents and customers) in full against all claims, liability, fines, loss, damages, costs and expenses (including legal expenses and attorney fees) against or incurred or paid as a result of or in connection with any breach of clause 2 by Supplier or any of its subcontractors.

Switzerland:

Art. 210 para. 1, Art. 201, Art. 367 para. 1 and Art. 371 of the Code of obligations do not apply.

UK and USA:

Art. 7.2 last sentence of these Conditions does not apply.

USA: COMPLIANCE WITH LAWS: Supplier represents and warrants that all items sold or services rendered pursuant to this Purchase Order will have been produced, sold, delivered or rendered to Buyer upon terms and conditions which satisfy all the requirements of and which are in compliance with all applicable laws, federal, state, municipal, or otherwise, including without limitation, U.S. Department of Labor issued under applicable requirements of Executive Order 11141 and 11246, the Rehabilitation Act of 1973 as amended, laws pertaining to employment discrimination and equal opportunity in employment; employee wages, benefits or working conditions; worker safety; protection of the environment; product labeling; product safety; importing and exporting; and product transportation.

With regard to chemical substances or mixtures supplied hereunder, Supplier has complied with every applicable provision and regulation promulgated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) and the Federal Occupational Safety and Health Act of 1970, including the Hazard Communication Rule (29 CFR 1910.1200). Supplier will promptly supply Buyer with material safety data sheets with respect to such chemical substances and mixtures, and will also promptly advise Buyer of any specification changes, including discovery of the presence of a chemical substance not previously known by Supplier to exist in the goods supplied.