

General Conditions of Purchase

1. General, scope

- 1.1 These General Conditions of Purchase shall apply to all of the business relations between GELITA and its suppliers.
- 1.2 The prevailing version of the General Conditions of Purchase shall also apply as a skeleton agreement to future supply contracts with the same supplier, without having to explicitly refer to them again in each individual case.
- 1.3 These General Conditions of Purchase shall apply exclusively. Any differing, conflicting or additional General Terms and Conditions of Business of the supplier shall only become part of the contract, inasmuch as GELITA has expressly consented to the validity of these in writing. This requirement for consent shall apply in every case, for example even if GELITA, knowing the supplier's General Terms and Conditions of Business, unconditionally accepts the latter's deliveries.
- 1.4 No subsidiary verbal agreements have been made.
- 1.5 Legally relevant declarations and notifications which are to be made by the supplier with respect to GELITA following the conclusion of the contract (e.g. setting of deadlines, reminders or notices of termination) must be made in writing, in order to be valid.

2. Conclusion of contract

- 2.1 Orders may be placed by GELITA in writing, by fax or by e-mail. Verbal or telephone orders shall not be binding until they have been confirmed by GELITA in one of the forms indicated in sentence 1. All orders placed by GELITA with the supplier shall be placed on the basis of these General Conditions of Purchase, even if this is not expressly stated in the respective order.
- 2.2 The supplier is obliged to confirm orders in writing following receipt by fax or by e-mail. In addition, the execution of the order shall be deemed to constitute acceptance of the order under the conditions contained in the General Conditions of Purchase and in the order. In the event that GELITA does not receive the supplier's confirmation of order or delivery within two weeks of placing the order, GELITA shall no longer be bound by the order.
- 2.3 A binding contract shall be brought about between the parties on acceptance of the order. The written order and its acceptance in writing shall solely govern the contents of the contract; verbal subsidiary agreements shall not apply in this respect.
- 2.4 GELITA shall be entitled to subsequently require amendments to the order with respect to the delivery date and specifications, unless the required amendments are not reasonable for the supplier. The parties to the contract shall, in the event of subsequent modifications, reach all the additional agreements which may be necessitated by the request for amendments.

3. Delivery, passing of risk and ownership, correspondence

- 3.1 The delivery address indicated by GELITA is to be strictly observed. The products shall be dispatched at the supplier's risk. The place of performance shall be the destination indicated by GELITA (obligation to be performed at the creditor's place of business).
- 3.2 The supplier is, in addition, to observe the transport regulations (e.g. dispatch and packaging regulations, Incoterms) indicated in the order.
- 3.3 The supplier is to send dispatch notices for each consignment on the day the goods are dispatched by post to GELITA; an invoice shall not be deemed to be a dispatch note.
- 3.4 The supplier shall be liable for costs and damages (e.g. goods demurrage, storage charges, transshipment costs and depreciation, etc.) incurred by GELITA as a result of the supplier not shipping the goods as agreed. All consignments which cannot be accepted for such reasons shall be stored at the supplier's expense and risk until such time as these can be accepted properly by GELITA.
- 3.5 The risk for, and ownership of, the goods shall pass to GELITA on the handover at the place of performance. Inasmuch as acceptance is agreed, this shall govern the passing of the risk. The ownership of the goods shall pass to GELITA prior to the handover, if GELITA has paid for the goods in advance. In this case, the ownership shall pass to GELITA at the time of the payment. The possibility of (extended or prolonged) retentions of title by the supplier is excluded. The passing of the risk and ownership shall not affect the right to reject the goods or any other rights of GELITA.
- 3.6 The relevant department of GELITA, the letter reference, date and order number are always to be indicated in all correspondence, dispatch notices and invoices, etc. These details are also to be indicated on any consignment notes or express delivery or postal address.
- 3.7 The correspondence is to relate to each order separately.

4. Delivery periods and non-compliance therewith

- 4.1 The delivery periods specified in the order are binding.
- 4.2 If the delivery deadline is not observed, GELITA shall be entitled to impose a contractual penalty of 0.5% of the net remuneration agreed for the respective order for every week of the delay started – up to a maximum of 5% of the net remuneration agreed for the respective order, unless the delay is not the fault of the supplier. This shall not affect GELITA's right to assert further claims or rights. In this respect, any contractual penalty paid shall be credited against the liability for damages. If GELITA accepts a delayed delivery, the contractual penalty must be asserted at the latest with the final payment.
- 4.3 GELITA's right to terminate the contract due to a delay in delivery shall not only extend to the particular order, but shall also include previous orders, if the respective contractual performance can no longer be sensibly used commercially due to the delayed delivery.
- 4.4 Irrespective of the liability described above, the supplier shall be obliged to inform GELITA in writing of any delay in delivery as soon as the former is aware of this, stating the reasons and the expected duration thereof, and to propose measures to avoid or reduce the delay.

5. Inspection of the goods

- 5.1 GELITA shall be entitled to inspect the goods prior to delivery itself or by means of third parties instructed by GELITA for this purpose at the supplier's premises. GELITA shall inform the supplier of this in advance. Neither this inspection nor an omission of the inspection shall be deemed to constitute acceptance of the goods.
- 5.2 The supplier is obliged to inspect the goods carefully prior to dispatch to ensure that they comply with the requirements of the respective order in every respect.

6. Prices and conditions of payment

- 6.1 The agreed prices are fixed prices plus VAT. Unless otherwise agreed in a particular case, the price shall include all services and ancillary services (such as assembly and installation) as well as all ancillary costs (e.g. correct packaging, transportation costs including any transportation and liability insurance). The supplier is to take back the packaging material at the request of GELITA.
- 6.2 The payment periods shall start, unless otherwise agreed, from the date of receipt of the respective delivery, but at the earliest from the receipt of the invoice by GELITA.
- 6.3 Invoices are to be sent – as multiple copies at GELITA's request – by post and are not to be enclosed with the delivery.
- 6.4 The payment shall be made
 - within 14 days less a 5% discount from the net amount of the invoice,
 - within 60 days net.
- 6.5 GELITA shall not be liable for maturity interest (Section 353 of the German Commercial Code [*Handelsgesetzbuch, HGB*]). This shall not affect the supplier's right to the payment of default interest. The statutory provisions shall apply in the event of default. However, in each case, a reminder from the supplier shall be required.
- 6.6 Payments shall not constitute a waiver by GELITA of its warranty claims or rights to notify defects.

7. Warranty

- 7.1 Unless otherwise determined below, the statutory provisions shall apply to GELITA's rights in the event of material defects or defects of title of the goods (including incorrect and short delivery as well as improper installation or defective installation, service or operating instructions) and in the cases of other breaches of duty by the supplier.
- 7.2 Those product descriptions, which – in particular by means of a designation or reference in GELITA's order – are the subject of the respective contract or which have been included in the contract in the same way as these General Conditions of Purchase, shall, in any case, be deemed to be the agreed quality. It does not make any difference whether the product description originates from GELITA, the supplier or any manufacturer.
- 7.3 In the case of differences in volume, weight and other services, the values determined by GELITA shall prevail.
- 7.4 The supplier warrants that the necessary registrations in pursuance of the applicable regulations for substances and chemicals supplied by it have been made or that these substances and chemicals do not need to be registered. It further warrants that chemicals and substances supplied by it comply with the statutory provisions applicable to them, the administrative provisions applicable to them and other standards and guidelines applicable to them.

7.5 If chemicals or substances to be delivered are covered by regulations on hazardous materials, the supplier shall be obliged to provide GELITA, at the latest on the conclusion of the contract, with the completed "Safety Datasheet of the German Chemical Industry Association [Verband der chemischen Industrie e.V.]", including the prevailing R and S phrases.

7.6 GELITA shall be obliged to check the goods and notify any defects at the earliest following receipt of the goods, even if ownership of the goods has already passed to GELITA beforehand. The defects shall be notified within five working days of receipt of the goods. Working days are Monday to Friday.

7.7 If the supplier does not comply with its supplementary performance obligation – either by remedying the defect (subsequent improvement) or by delivering defect-free goods (substitute delivery) at GELITA's option – within a reasonable period of time set by GELITA, GELITA may remedy the defect itself and require reimbursement of the necessary expenses or an appropriate advance payment from the supplier. If the supplementary performance by the supplier fails or is unreasonable for GELITA (e.g. due to the particular urgency thereof or danger to operational safety or the threat of incurring disproportionate damages), it shall not be necessary to set a time limit; the supplier is to be notified immediately, if possible in advance.

7.8 In other respects, GELITA shall be entitled to a reduction of the purchase price or to terminate the contract in pursuance of the statutory requirements. In addition, in pursuance of the statutory provisions, GELITA shall be entitled to claim damages and reimbursement of expenses.

7.9 The costs incurred by the supplier for the purposes of inspecting the goods and subsequently improving them shall also be borne by the latter, if it turns out that there were not, in fact, any defects. This shall not affect GELITA's liability for damages in the event of unauthorised demands to remove defects; in this respect, however, GELITA shall only be liable, if GELITA realised or did not realise through gross negligence that there were no defects.

8. Product liability/recalls

8.1 If the supplier is responsible for a product defect, it is to indemnify GELITA against third parties' claims to the extent that the cause lies within its sphere of control and organisational domain and it is liable vis-à-vis third parties.

8.2 Within the context of its obligation to indemnify GELITA, the supplier is to reimburse expenditure in pursuance of Sections 683 and 670 of the German Civil Code [*Bürgerliches Gesetzbuch, BGB*] arising from or in connection with a claim by a third party. If GELITA is obliged, due to a defect in a product supplied by the supplier, to issue warnings and/or carry out a recall, the supplier shall reimburse GELITA for these costs, unless the error is not the responsibility of the supplier. GELITA shall inform the supplier of the content and extent of the warning and/or recall measures – inasmuch as this is possible and reasonable – and give the latter an opportunity to comment. This shall not affect further legal claims.

8.3 The supplier is to take out and maintain product liability insurance with lump-sum coverage of at least EUR 2,500,000 for each personal injury/damage to property.

9. Supplier's liability for the infringement of third parties' rights

The supplier shall be responsible for ensuring that the supply, use or resale of its goods does not infringe third parties' rights, in particular intellectual property rights.

10. Insurance cover

10.1 The supplier is to take out transport insurance covering all risks for each delivery to GELITA at its expense, unless GELITA releases it in writing from its insurance obligations prior to transporting the goods.

10.2 The supplier is, in addition, obliged to hold sufficient insurance cover in total. The insurance cover must, inter alia, cover possible claims by GELITA for indemnification against third parties' claims due to warranty cases, arising from any guarantees as well as claims arising from bodily injuries or death of persons. The amount of insurance cover must be at least EUR 2,500,000 per claim.

10.3 GELITA's rights shall exist independently of the intervention and extent of the insurance cover.

11. GELITA's liability

11.1 GELITA shall be liable for damages which are demonstrably based on an intentional or grossly negligent breach of duty by GELITA or its vicarious agents in pursuance of the statutory provisions.

11.2 GELITA shall also be liable for culpably causing personal injuries (to life, limb or health) in pursuance of the statutory provisions.

11.3 GELITA shall, in addition, be liable for the culpable violation of material contractual obligations in pursuance of the statutory provisions. Material contractual obligations are obligations which are indispensable in order to attain the purpose of the contract and on strict

compliance with which the parties to the contract can therefore rely. However, the liability for breaches of material contractual obligations shall be limited to the foreseeable, typically occurring damages, provided that GELITA is not guilty of any intentional or grossly negligent breach of duty.

11.4 In all other cases which are not mentioned in the aforementioned paragraphs, GELITA's liability shall be excluded altogether. The exclusion of liability shall also apply, if GELITA has employed vicarious agents.

12. Limitation of actions

12.1 The reciprocal claims of the parties to the contract shall be statute-barred in pursuance of the statutory provisions, unless otherwise determined below.

12.2 The limitation period for GELITA's contractual claims based on defects shall be three years from the date of the passing of the risk. If acceptance is agreed, the limitation of actions shall commence, in this respect, with the acceptance. The three-year limitation period shall also apply to claims arising from defects of title, while the statutory limitation period shall not be affected for third parties' claims for restitution in rem; in addition, claims arising from defects in title shall not, under any circumstances, be statute-barred while the third party can still assert the right – in particular in the absence of the limitation of actions – against GELITA.

12.3 Inasmuch as GELITA is also entitled to non-contractual claims for compensation due to a defect, the regular statutory limitation of actions (Sections 195 and 199 of the German Civil Code) shall apply to this, if the application of the limitation periods agreed above does not result in a longer limitation period.

13. Miscellaneous provisions

13.1 The supplier undertakes to comply with the relevant environmental protection and health and safety at work regulations and to report any incidents to GELITA; these also include the company's internal regulations regarding environmental protection and health and safety at work, which GELITA has informed the supplier of.

13.2 The supplier is obliged to provide GELITA, for the duration of the business relationship, with all of the quality and other certificates which are required by law or which are usual in the industry or which are required for use in accordance with the nature of the delivery.

13.3 The parties to the contract shall not – even following the termination of the contract – disclose any information obtained from the other party to the contract to third parties, inasmuch as this information is not generally known or is not otherwise lawfully known to the party to the contract.

13.4 Inasmuch as this is required for the contractual relationship, the supplier's data shall be stored and processed by machine.

13.5 The assignment of rights and/or the transfer of obligations arising from or in connection with the contract by the supplier shall not be permitted without the written consent of GELITA.

13.6 GELITA shall be entitled to transfer the rights and obligations arising from the contract or the contract in its entirety to another Group company or to a third party. In the event of a transfer to a third party, the supplier shall be entitled to terminate the contract without notice.

13.7 The possibility of the supplier setting off claims against counterclaims is excluded, unless these are undisputed or have been legally established. The supplier may equally only assert rights of retention, inasmuch as they relate to counterclaims which have been recognised by GELITA or which have been legally established.

14. Governing law, jurisdiction

14.1 The law of the Federal Republic of Germany shall exclusively govern the legal relations between GELITA and the supplier, to the exclusion of German private international law and to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

14.2 If the supplier is a merchant as defined by the German Commercial Code, a legal entity under public law or a special fund under public law or if the supplier does not have any general jurisdiction in the Federal Republic of Germany, Heidelberg shall be the exclusive – and international – jurisdiction for all disputes arising from or in connection with this contract between the parties. GELITA shall, however, be entitled to also bring an action against the supplier at the latter's general jurisdiction.

15. Binding nature of the General Conditions of Purchase

In the event of any of the provisions of these General Conditions of Purchase being or becoming invalid or unenforceable, whether wholly or in part, or in the event of a loophole in the conditions, this shall not affect the validity of the remaining provisions. This shall not apply, if adherence to the General Conditions of Purchase would constitute an undue hardship for one of the parties.
