

GENERAL TERMS AND CONDITIONS OF PURCHASE

for the

companies of the Willi Elbe Group

Applicable to all companies of the Willi Elbe Group (WET) for the conduct of business with companies,
legal persons under public law and public law special funds.

§ 1 General

The conditions of purchase of WET apply exclusively; conflicting or deviating terms and conditions of suppliers are only recognised by WET in so far as WET have expressly agreed to in writing. The acceptance of goods or services of the supplier (hereinafter: also subject matter of a contract) or its payment (shall not signify consent).

§ 2 Conclusion of contract and alterations of contract.

- (1) Orders, conclusions and delivery instructions as well as alterations and additions to these must be made in writing.
- (2) Oral agreements of any kind - including subsequent amendments and supplements to these conditions – are only valid if confirmed in writing by WET.
- (3) The written form is also valid through remote data transmission (RDT), the transmission of faxes and e-mails. For the transmission through RDT and mail a signature is not necessary.
- (4) Cost estimates are binding and not to be remunerated unless otherwise explicitly agreed.
- (5) If the supplier does not accept the order within one week of receipt, WET is entitled to cancel.
- (6) Delivery schedules (delivery call-offs) in the scope of an order and schedule planning become binding if the supplier does not object within five working days of receipt.

§ 3 Content of the order, delivery instructions, material and production release.

- (1) The order needs to include the following specifications:
 - the WET part number,
 - the quantity to be delivered,
 - the delivery date,
 - as well as the price including the provisions for materials surcharge (§ 9 para.1).

- (2) In case of a framework order (recurring order for a particular serial item) or a framework quantity order (recurring order for a particular quantity), the order needs to include specifications regarding material release (MR) and/or production release (PR).

- (3) In case of a framework order or a framework quantity order, the partial delivery calls (delivery call-offs) are stipulated in the context of the order or in the following agreements. Delivery instructions need to include agreements on time and quantity. Subsequent alterations of the delivery instructions shall be made in writing between the parties according to § 2 para. 1.

§ 4 Period of delivery, delivery call-offs.

- (1) Unless otherwise agreed, the material and production release is done by WET 3 months before the delivery date. Here, the above time limits shall start no sooner than on the acceptance of the order.

- (2) The delivery date for recurring orders according to § 3 para. 2 is stipulated in the delivery instructions according to §§ 3 para. 2, 2 para. 1.

- (3) The delivery dates are fixed. The deadline is then adhered to if the goods ordered are received by WET (arrival clause pursuant to § 7 para. 1).

- (4) If the supplier foresees difficulties in relation to production, acquiring raw materials, meeting the delivery date or similar circumstances that could prevent him from making timely delivery or delivery in the agreed quality, the supplier must immediately inform the ordering department at WET. Section 5 remains applicable.
- (5) In the event of non-compliance with the delivery deadline (delivery delay) WET has the right to legal claims. In particular, WET is entitled to claim damages after the expiry of a reasonable period instead of performance and to withdraw from the contract. Included in the legal claims WET is entitled for each completed week of delay to a lump sum compensation to the amount of 3% of the contract value, to a maximum of 10% of the contract value.
- (6) The unconditional acceptance of a delayed delivery or service does not constitute any waiver for any claims for damages for the delayed delivery or service to which WET is entitled; this applies until the complete payment of amounts owed by WET pay for the corresponding delivery or service.
- (7) The supplier has to ensure that only flawless products are delivered (the supplier's inspections of outgoing goods). WET carries out only visual inspection using the skip-lot rule (inspection waiver) or audit controls and limits itself, moreover, to identification checks and inspections of the subject matters of a contract to ensure they are intact.
- (8) With respect to quantities, weights and measures, subject to alternative evidence, the values are determined by WET.

§ 5 Force majeure.

- (1) Force majeure, non-culpable disruptions of operations, riots, official measures and other unavoidable events release WET for the duration of their existence from the requirement of timely acceptance. During such events and within two weeks after the end of which WET is entitled - without prejudice to the other rights - to fully or partially withdraw from the contract, provided that such events are of considerable duration and greatly reduce the needs of WET account of the alternative procurement necessary on this account.

- (2) The provisions in § 5 para. 1 will also apply in case of industrial action.

§ 6 Subject matter of the contract, quality management.

- (1) The subject matters of the contract to be delivered must meet the technical requirements of WET and correspond to the latest state of the art.
- (2) The supplier is obliged to adhere to the requirements of the quality assurance catalogue and the currently valid technical delivery conditions of WET.
- (3) The supplier has to enclose the supplier declaration required by WET with each delivery.

§ 7 Transportation, packaging, transfer of risk, customs clearance.

- (1) Transportation, packaging, transfer of risk and customs clearance are agreed by each of the parties to be the INCOTERMS clauses - especially the so-called INCOTERM arrival clauses. The supplier is obliged to take back the packaging.
- (2) (3) If there is no separate agreement, WET delivers according to FCA Incoterm 2010 or a corresponding clause of this clause in the future.
- (3) The supplier is obliged to inform WET of any license obligations (re-export its products under German, European, US export and customs regulations and export and customs regulations of the country of origin of its goods in its business documents.

- (4) Unless otherwise agreed, the supplier is obliged to quote the WET part number on the VDA label or to another label that will be used in the future.

§ 8 Invoice, freight insurance.

- (1) The invoice has to be sent in duplicate to the imprinted address specifying the invoice number and other characteristics; it must not be enclosed with the shipment.
- (2) Invoices can be processed by WET only if - in accordance with the specifications in the order - the order number and part number are specified; for all consequences arising from failure to comply with this obligation, the supplier is responsible.
- (3) In addition to § 6, the supplier is obliged to conclude a transportation insurance.

§ 9 Pricing, offsetting and retention.

- (1) The price stated in the order is binding.
- (2) The material price variances between the price of the order and the price at the time of delivery are irrelevant if they are not covered by a separate agreement on material surcharges at the time of conclusion of the contract. The agreement shall contain the reference value (market value or other published thresholds) and the record date for the determination of the reference.
- (3) Prices include the statutory VAT.

- (4) WET pays, unless otherwise agreed in writing, the purchase price within 14 days from delivery and receipt of invoice with 3% discount or within 30 days net on receipt of invoice.
- (5) Offsetting and retention by WET are allowed to the extent permitted by law.

§ 10 Claims for defects and recourse, claims for compensation.

- (1) The acceptance by WET is made subject to an inspection for lack of defects, in particular, for correctness and completeness, as and when this is possible in the ordinary course of business. Any defects are reported by WET immediately after they have been identified. In that regard, the supplier waives the objection of late complaint.
- (2) The statutory provisions on factual and legal deficiencies as well as the existing statutory claims for damages shall apply, unless otherwise provided herein.
- (3) WET can choose the type of supplementary performance. The supplier can refuse the chosen type of supplementary performance in the case where it can only be carried out incurring unreasonable costs.
- (4) If the supplier fails immediately upon request by WET to remedy the defect with the elimination of the defect, WET, in urgent cases, especially to avoid any danger or major damage, has the right to carry it out at the supplier's expense or by third parties. This applies, for example, where the consent of the supplier to minimise damage during production cannot be obtained (e.g. sorting to detect the defective products).
- (5) In the case of legal defects, the supplier releases WET from any existing claims of third parties, unless it is not responsible for the defect.
- (6) The warranty period shall - except in cases of fraud – expire in 2 years. The limitation period begins with the transfer of risk.

- (7) If the supplier fulfils his obligations for subsequent performance, the limitation period restarts after their delivery of the equivalent replacement goods, unless the supplier has expressly and correctly reserved the right to undertake performance replacement delivery out of goodwill, to avoid disputes or in the interests of the continuity of the supply relationship.
- (8) If WET as a result of defective delivery of the subject matters of the contract incurs internal or external costs or expenses: in particular its own or downtime costs of third parties, transport, delivery, sorting, labour, installation, removal, material costs or costs for checking incoming goods exceeding the normal scope, the supplier has to bear these costs. Costs are considered external costs when not incurred by WET, especially the cost of the customer or the consulted contractual partner.

§ 11 Product liability, indemnification, liability insurance cover.

- (1) If the supplier is responsible for product damage, he is obliged to release WET upon the first request of third party claims as the cause lies within his control and organisation and he is liable in the external relationship. In the cases of strict liability, this applies only if the supplier is at fault. If the damage is the responsibility of the supplier, he must prove that he is not at fault.
- (2) The supplier shall in the cases of paragraph 1, bear all costs and expenses, including the costs of any litigation.
- (3) Within this framework, the supplier is also obligated to reimburse any expenses arising out of or in connection with a recall made by WET if the claim is not based on §§ 830, 840 BGB in conjunction with §§ 426, 254 BGB. The content and scope of the recall measures will be notified by WET to suppliers – if possible and reasonable – and giving them an opportunity to comment.

- (4) The supplier undertakes to maintain product liability insurance with coverage to a sufficient extent, but at least to the amount of EUR 5 million per case for personal injury/property damage - overall - if WET is entitled to make further claims for damages, these shall remain unaffected.

§ 12 Property rights.

- (1) The supplier guarantees that in connection with his delivery, no rights of third parties are violated, unless he can prove that he was not responsible for the breach of duty.
- (2) If claims are made against WET by a third party, the supplier is obliged to indemnify WET upon first written demand from these claims; WET is not entitled - without the supplier's approval - to make any agreements, in particular to conclude a settlement.
- (3) The indemnification obligation of the supplier refers to all expenses WET incurs from or in connection by necessity with the claim by a third party, if the supplier fails to prove that he was not at fault.

§ 13 Retention of ownership, tools, provision.

- (1) If WET provides components to suppliers, the right of ownership is reserved. Processing or restructuring by the supplier is carried out for WET. If the WET goods retained by processing other items not belonging to WET, WET acquires ownership of the new object in proportion to the value of this object to the other processed goods at the time of processing.
- (2) WET retains ownership of the property; the supplier is obliged to use the tools exclusively for the manufacture of goods ordered by WET. The supplier is obliged to insure the tools belonging to WET for the value when new at his own expense against damage by fire, water and for theft. He is obliged to perform any necessary repair and

inspection work at his own expense in due time. Any breakdowns to be reported by the supplier to WET immediately; if he culpably fails to do so, all claims for compensation shall remain unaffected.

- (3) Materials, parts, containers and special packaging provided by WET remain the property of WET. These may only be used according to their intended purpose. The processing of materials and the assembly of parts are carried out for WET.

§ 14 Rights of withdrawal and termination.

- (1) WET shall be entitled beyond the legal rights of withdrawal also to withdraw from or terminate the contract with immediate effect if
 - the supplier has stopped supplying them, or
 - a significant deterioration in the financial condition of the supplier occurs or threatens to cause, and thereby endangers the fulfilment of a delivery commitment to WET or
 - the supplier becomes insolvent or attains a state of indebtedness or
- (2) WET shall be entitled also to rescind or terminate the contract if the supplier applies for the opening of insolvency proceedings on his assets or any analogous proceeding for settlement of debts.
- (3) If the supplier has made partial performance, WET is entitled to withdraw from the entire contract if the partial deliveries are of no interest.
- (4) If WET has resigned due to the above contractual withdrawal or termination rights or terminated the contract, the supplier has to replace the damage thereby incurred, unless he is not responsible for the emergence of withdrawal or cancellation rights.
- (5) Any statutory rights and claims are not limited by the provisions contained in § 14.

§ 15 Documents and Confidentiality.

- (1) All commercial or technical information made accessible by WET (including features which might be derived from submitted objects, documents or software and any other knowledge or experience), if and when they are not evidenced to be publicly known are to be kept secret from third parties and may be made available in the supplier's business only to such persons, the use thereof for the purpose of delivery to WET is necessary and they are also obligated to maintain confidentiality; they remain the exclusive property of WET. Without the prior written consent of WET this information must not – except for deliveries to WET – be reproduced or used commercially. At the request of WET, all information coming from WET (eventually including any copies or records) and loaned items are to be returned promptly and fully to WET or destroyed.

WET reserves all rights to such information (including copyrights and the right to file for industrial property rights such as patents, utility models, semiconductor protection, etc.). As far as WET was given access to this by third parties, this title also applies to these third parties.

- (2) Products which were made using documents drafted by WET such as drawings models and the like, or according to confidential information or with tools from or corresponding tools, may neither be used by the supplier or be offered or delivered to third parties. This shall also apply mutatis mutandis to print orders from WET.

§ 16 Compliance.

- (1) The supplier is obliged to comply with the relevant legal regulations in handling staff, protection of the environment and safety at work; he also undertakes independent of existing legal regulations to maintain a certain quality standard and to comply with specific behaviour when dealing with employees; these include the prohibition of child and forced labour, the order of the limitation of working hours, the prohibition of physical or mental punishment, compliance with minimum standards in the field of health and safety at work, to permit the formation

of trade unions, to prohibit discrimination as well as to make efforts to reduce activities which have any adverse effects on human health and the environment.

- (2) In the event that the supplier repeatedly and/or in spite of notification behaves illegally and cannot prove that the violation of the law was remedied to the extent possible and appropriate measures have been taken to prevent future violations of the law, WET reserves the right to withdraw from or terminate without notice existing contracts.
- (3) WET complies with the above requirements and is certified according to ISO 14001.

§ 17 Place of jurisdiction, place of performance.

- (1) If the supplier is a businessman, the place of business of the company ordering from a WET company is the place of jurisdiction; however, WET is entitled to sue the supplier at the court of his registered place of business.
- (2) Provided that the order or the order confirmation states nothing to the contrary, the place of business of the WET company supplying the subject matter of the contract is the place of performance.

§ 18 General provisions.

- (1) If any provision of these conditions and any further agreements will be or become invalid, the validity of the remaining provisions shall not be affected. The contracting parties are obligated to replace the invalid provision by another which is as close as possible for attaining the same economic effect .
- (2) The contractual relationship is governed by German law, excluding conflict of laws and the UN Sales Convention (CISG).