

# General Terms and Conditions of Purchase

**Gericke AG, Althardstrasse 120, CH-8105 Regensdorf**

## **1. General**

- 1.1 These General Terms and Conditions of Purchase apply exclusively to all our purchases. We do not recognise any terms and conditions of the supplier that conflict with or deviate from our General Terms and Conditions of Purchase, unless we have expressly agreed to their validity in writing. Our General Terms and Conditions of Purchase shall also apply if we accept the supplier's delivery and service without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our General Terms and Conditions of Purchase. Any amendment to or deviation from these General Terms and Conditions of Purchase shall only be valid if expressly accepted by us in writing.
- 1.2 All agreements, amendments to the contract and legally relevant declarations by the parties must be in writing in order to be valid. Declarations in text form which are transmitted or recorded by electronic media shall be deemed equivalent to the written form if specifically agreed by the parties.
- 1.3 The General Terms and Conditions of Purchase shall remain binding even in the event of any ineffectiveness or invalidity of individual sections. Should any provision of these General Terms and Conditions of Purchase prove to be invalid in whole or in part, the parties shall replace such provision by a new agreement which comes as close as possible to its legal and economic success.

## **2. Offer**

- 2.1 The supplier shall adhere precisely to the request in the offer. If the supplier has a technically or economically more favourable solution compared to the inquiry, he shall additionally offer us this. The supplier shall expressly point out any changes compared to the inquiry.
- 2.2 Offers are binding, free of charge and do not create any obligations for us. Cost estimates shall only be remunerated after prior written agreement.
- 2.3 We reserve the property rights and copyrights to all our illustrations, drawings, calculations, means of production of any kind and all other documents; they may not be made accessible to third parties without express written consent. They are to be used exclusively for the preparation of the offer or the fulfilment of the order. After completion or cancellation of the order, they must be returned to us, including any copies, at our request. They must be kept secret from third parties. In all other respects, Clause 15 shall apply.

## **3. Form of order and confirmation**

- 3.1 Our orders are only binding if they have been placed or confirmed by us in writing. The same shall apply to supplements or amendments. Sketches, drawings, comments, specifications, etc. shall form part of our orders, provided that they are mentioned as such therein.
- 3.2 The supplier shall immediately check the order for recognisable errors, ambiguities, incompleteness as well as unsuitability of the specifications selected by the purchaser for the intended use and inform us of any necessary changes or clarifications to the order.
- 3.3 The order shall be confirmed in writing by the supplier within a period of 5 working days after the order date. If this does not happen, we are entitled to revoke our order without the supplier being able to derive any claims from this.

## **4. Amendments and execution**

- 4.1 Specifications of the supplier which deviate from our order are only valid if they are accepted by us in writing. Within reasonable limits, we are entitled to demand changes to the agreed delivery item with regard to design and execution even after receipt of the order confirmation. If additional costs are incurred as a result, this must be notified to us immediately. In order for these to be asserted, they must have been confirmed by us in writing. We shall be reimbursed for any reduced costs.
- 4.2 All deliveries shall be made in compliance with all relevant regulations (such as specifications designated by us, DIN/ISO standards, environmental protection and similar regulations) and in compliance with the state of the art in science and technology. Any costs/damages arising from deviations from this shall be borne by the supplier.
- 4.3 Hazardous substances and/or dangerous goods are to be labelled by the supplier, corresponding safety data sheets are to be supplied.
- 4.4 We are entitled to cancel or suspend the order in whole or in part at any time. In such a case, the supplier shall be entitled to compensation for the costs demonstrably incurred by him.

## **5. Subcontracting**

- 5.1 If the supplier intends to have goods ordered from him manufactured by third parties, our written consent must be obtained in good time, stating the subcontractors. The supplier shall be liable without limitation for the parts procured from subcontractors. The supplier undertakes to transfer the confidentiality obligations imposed by us to his subcontractors.

## **6. Provision of materials**

- 6.1 Material supplied by us for the execution of an order shall remain our property even after handling or processing. It shall be labelled and stored separately until handling or processing. Unused material and the like shall be returned to us upon request. The materials

provided shall be adequately insured against fire, water and theft at the supplier's expense.

## **7. Prices and payment**

- 7.1 Unless otherwise agreed in the order, all prices are fixed prices, EXW (INCOTERMS 2020), including packaging. Price adjustments are only possible on the basis of written agreements.
- 7.2 Subject to proper delivery of the goods, the documents to be supplied, in particular the documentation and the invoice, payments shall be made within 30 days of the invoice date, unless otherwise stipulated in the contract. The period shall in no case commence before the agreed delivery date.
- 7.3 In the event of a defect, we shall be entitled to suspend payment for the defective part of the delivery until proper subsequent fulfilment.
- 7.4 We are entitled to terminate the contract without notice if the opening of insolvency proceedings against the assets of the supplier is applied for.

## **8. Delivery date and delay in delivery**

- 8.1 Compliance with the delivery date is an essential requirement of the contract. Agreed delivery dates and delivery periods are binding. The receipt of the contractual goods at the place of destination is decisive for compliance with the contract.
- 8.2 If the delivery item is not delivered on time, the supplier shall be in default upon expiry of the deadline. The purchaser shall be released from the obligation to send a reminder.
- 8.3 The supplier undertakes to make all reasonable efforts to avoid or remedy delays in delivery or to procure replacements from third parties. If the supplier can foresee that the goods cannot be delivered within the delivery period, he must inform us immediately and in writing, give the reasons for this and state the expected delivery date. Our claims due to default on the part of the supplier shall remain unaffected thereby.
- 8.4 The supplier may only invoke the absence of necessary documents or supplementary objects or individual parts to be supplied by us if he has requested or reminded us of these in good time.
- 8.5 If the supplier does not fulfil within the agreed delivery time, the supplier shall pay a contractual penalty of 0.5 % of the total order value per week or part thereof, but not more than 5 %. In addition, the supplier shall be liable in accordance with the statutory provisions.
- 8.6 Early and partial deliveries will only be accepted with prior consent.

## **9. Packing, shipping, shipping notification and documents**

- 9.1 Deliveries shall be made as agreed EXW or DAP Regensburg in accordance with INCOTERMS 2020.
- 9.2 The packaging must be designed in such a way that the goods are effectively protected against damage and corrosion during transport and any subsequent storage. The supplier shall be liable for damage resulting from improper packaging. Wooden packaging (boxes, pallets, etc.) must be made according to "ISPM-15 standard".
- 9.3 The supplier is obliged to mark the goods in the manner prescribed by us. The supplier shall be liable for all costs and disadvantages resulting from non-compliance with our instructions for packaging, transport, customs clearance etc.
- 9.4 We are entitled to specify the mode of shipping and the carrier. Otherwise, the supplier is obliged to choose the most favourable shipping method for us
- 9.5 Each consignment must be accompanied by a detailed delivery note (dispatch note) containing our references. The invoice must be sent to us separately by e-mail (preferred) or post.
- 9.6 All correspondence (order confirmations, delivery notes, invoices, etc.) must contain the following elements: Purchase order number, order date, quantities. Additionally on delivery note and invoice: Gross/net weight, commodity code (customs tariff number), country of origin. Invoices must be issued in accordance with the formal requirements of the respective VAT legislation.
- 9.7 Proofs of origin requested by us shall be provided by the supplier with all necessary details and duly and promptly made available.
- 9.8 The supplier shall inform us immediately if a delivery is subject in whole or in part to export restrictions under Swiss or any other law.

## **10. Deliveries of plants, assemblies and machines**

- 10.1 The scope of delivery includes assembly, operating and operating instructions as well as certificates, spare parts lists, spare parts offer or other documentation necessary for proper use or as required by law.
- 10.2 We are entitled to carry out inspections of the progress of work and acceptance tests at the supplier's manufacturing plant. If an acceptance test is agreed to determine the performance, this shall be carried out in accordance with the usual rules of technology.
- 10.3 In the event of work in our facilities or on construction or assembly sites, our safety instructions and regulations for external companies shall apply in addition to these Terms and Conditions of Purchase.
- 10.4 The supplier guarantees the delivery of all spare parts for a period of 10 years.

## **11. Transfer of ownership and risk**

- 11.1 Ownership and risk shall pass to us when the delivery has been properly handed over at the specified destination and has been accepted by us.

## 12. Liability for defects

- 12.1 The supplier warrants that all delivered parts are brand new, that the delivery item does not have any defects impairing its value or suitability, that it has the agreed or guaranteed quality, that it is suitable for the use assumed under the contract, that it complies with the generally recognised rules of technology, the latest regulations of the authorities, the Equipment Safety Act, the respectively applicable safety regulations, the industrial safety and accident prevention regulations.
- 12.2 We shall notify the supplier of any defects in the delivery as soon as they are discovered in the ordinary course of business, possibly only after installation at the place of use. In this respect, the supplier waives the objection of delayed notification of defects.
- 12.3 Reported defects must be remedied without delay. The place of performance for claims for defects shall in any case be the place of use. All costs for the rectification of defects shall be borne by the supplier. If the supplier is late in remedying defects or if there is an urgent case, we are entitled to remedy the defects ourselves at the supplier's expense and risk or to withdraw from the contract in accordance with the statutory provisions.
- 12.4 In case of differences regarding the quality values, the result of external expert opinions or examinations is decisive. The costs shall be borne by the party who is at fault.

## 13. Liability

- 13.1 The supplier shall be liable exclusively in accordance with the statutory provisions.

## 14. Warranty

- 14.1 For all deliveries, unless otherwise agreed in the contract, the warranty period is 24 months. This period shall commence from the acceptance by us, or from the economic commissioning of the parts or materials delivered under the order, whichever is later.  
If defects occur during the warranty period, the supplier shall be obliged, at our discretion, to remedy the defects or have them remedied on site without delay at his own expense or to supply us with a replacement free of defects. Within the framework of proportionality, the supplier shall bear all additional costs arising from the repair or replacement delivery, namely costs for the removal and return transport of the defective goods or replacement delivery and installation of the replacement goods.
- 14.2 A warranty shall be provided for replacement deliveries and repairs to the same extent as for the delivery item itself, whereby the warranty period for repaired or replaced parts shall start anew from the new delivery or commissioning. The statutory warranty claims remain reserved.

## 15. Technical documentation, intellectual property and confidentiality

- 15.1 Each party reserves all rights to plans and technical documents which it has handed over to the other. The receiving party recognises these rights and will not make the documents available to third parties, in whole or in part, or use them outside the purpose for which they were handed over to it without the prior written authorisation of the other party. The confidentiality obligation does not apply to the extent that the documents concerned are already public knowledge or were already in the possession of the receiving Party at the time of handover by the other party or were made available to the receiving party by a third party which has no confidentiality obligation towards the other party.
- 15.2 The supplier undertakes to keep secret from third parties all information which he receives from us consciously or by chance within the framework of the business relationship, e.g. technical information, trade secrets and details of our orders, such as quantities, technical design, conditions, etc., as well as knowledge which he gains from our information.
- 15.3 The inclusion of our company in a reference list, the reference to our business connection or the use of our order for advertising purposes is only permitted after obtaining our written consent.
- 15.4 Documents as well as other objects of any kind, such as samples, drawings, tools, models, etc., which we make available to the supplier shall be returned to us free of charge as soon as they are no longer required for the execution of the order. Such items may neither be used by the supplier for his own purposes nor made accessible to third parties.

## 16. Insurance

- 16.1 The supplier shall take out appropriate insurance cover on terms customary in the industry and maintain it until the end of the warranty period. Proof of existence must be provided at our request. The scope of contractual and statutory liability is not limited hereby

## 17. Force majeure

- 17.1 Force majeure shall be deemed to exist if external events caused by elementary forces of nature or by the actions of third parties, which are unforeseeable according to human insight and experience, cannot be prevented or rendered harmless by economically justifiable means, even by the utmost care reasonably to be expected in the circumstances. Delays on the part of suppliers and subcontractors shall not be considered force majeure.
- 17.2 If delivery under the contract is affected by a force majeure event, the supplier shall promptly notify the purchaser in writing and provide reasonable evidence of the force majeure event. In the event of a delay in performance due to such an event of force majeure, the delivery date or the period for performance of the services shall be extended by the time lost due to such delay.
- 17.3 If the reasons for the force majeure last for more than three (3) months, both the supplier and the purchaser may terminate the contract by giving fourteen (14) days' written notice to the other party.

## 18. Compliance with laws and regulations

- 18.1 The parties expressly warrant to each other that they and their employees, officers, agents, representatives and/or other intermediaries will comply with all laws applicable to activities contemplated by this contract entered into by the parties, including but not limited to laws and regulations relating to taxation, exchange control and customs, as well as any anti-corruption, anti-bribery, anti-trust, anti-money laundering, sanctions, embargoes or other applicable (criminal) laws, rules and regulations.
- 18.2 The supplier expressly assures the us that the goods to be delivered under the present contract a) are not dual-use goods pursuant to Dual-Use Regulation (EC) 1334/2000.
- 18.3 The parties shall comply with their obligations under all applicable data protection laws with respect to this contract. The parties undertake with respect to all personal data provided by the other contracting party: (a) to exercise care in the processing of personal data provided by the other party under this contract and to take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data; and (b) to comply with any reasonable request from the other party to ensure the measures referred to in this paragraph.

## 19. Ethical principles

- 19.1 Gericke has a membership with SEDEX (Supplier Ethical Data Exchange) and we behave according to the Global Code of Ethics. We expect our suppliers to follow the same principles. <http://www.sedexglobal.com>.

This includes in particular, but is not limited to, the following rights of employees:

No forced or child labour, freedom of association and the right to collective bargaining, a safe and hygienic workplace, payment of living wages, no excessively long working hours, no discrimination and no harsh or inhumane treatment.

## 20. Environmental protection

- 20.1 The supplier must comply with all applicable legal requirements and all existing industry standards, agreements and guidelines relating to the environment and sustainability.
- 20.2 The supplier shall use raw materials and natural resources responsibly and shall make every effort to reduce the consumption of energy, water and fuel.
- 20.3 All chemical or other substances that pose a potential hazard if released into the environment shall be clearly labelled as such and used sparingly and appropriately.
- 20.4 The supplier shall maintain a systematic process of planning, training, implementing, monitoring and evaluating the environmental aspects of the business with the aim of continuously reducing the environmental impact of his operations. The supplier shall also endeavour to use new advanced environmental technologies that lead to improvements in environmental impact.

## 21. Jurisdiction and applicable law

- 21.1 In the event of a dispute, the parties shall use their best efforts to reach an amicable settlement. If this is not possible, the courts at the location of Gericke AG shall have exclusive jurisdiction. However, we reserve the right to take legal action against the supplier also at the supplier's place of business.
- 21.2 The legal relationship shall be governed by Swiss substantive law, without application of the provisions of the UN Sales Convention (CISG).