

General Terms and Conditions of Purchase of the Grenzebach Group in the business-to-business sector



1. Application

1.1 The following conditions of purchase apply exclusively to all orders placed and agreements concluded – also in the future – by the Grenzebach Maschinenbau GmbH and the companies associated to it as per the terms of § 15 ff AktG (hereafter "buyer" or "we"/"us") for the supply of goods, especially machines and components, and the provision of services, especially assembly and supervisory services in connection with the initial operation (hereinafter collectively "supplies and services"). Deviating or additional conditions of our supplier or another contractual partner (hereinafter "Contractor") shall not be binding on us even if we do not expressly object thereto in the individual case or accept its supplies and services whilst being aware of contradictory conditions of the Contractor.

1.2 If one or more provisions of the contract or these purchase conditions should be or become invalid or impracticable in whole or in part, this shall not affect the validity of the other provisions. In such an event the contractual parties are obliged, to the extent reasonable, to replace the invalid or impracticable provision in good faith with a valid provision which, as far as legally possible, reflects the economic intent of the invalid or impracticable provision. The underlying principle of the § 139 BGB will, also in terms of the burden of proof, not be applied.

2. Order and conclusion of contract; documents, drawings, etc.

2.1 Orders, Contracts, Calls, Modifications and Completions shall only be binding on us if they have been made in writing, have been properly signed and have been given an order number as well as the date. Contracts concluded by telephone or orally shall only be binding on us if they are immediately confirmed in writing. Any amendments, additions, collateral agreements or similar shall be in writing and require the written approval from Grenzebach Purchasing to be valid. The written form requirement can only be waived in writing.

2.2 Quotations, designs, samples or specimens provided by the Contractor shall be provided to us free of charge unless otherwise agreed in writing. The agreed drawings (with detailed dimensions) and documents of the Contractor shall be provided to us free of charge. In any case, all drawings and documents which are required for proper execution of installation, supervision, repair, replacement provision and maintenance, which fully describe the function of the supplied article, or which are required for obtaining permissions or similar are to be provided free of charge. We are entitled to use these drawings and documents to manufacture spare parts, make changes and such like - also through instructed third parties.

2.3 The contractor has to confirm our proposal/our purchase order within 10 calendar days in writing, otherwise we shall be entitled to cancellation. § 147 paragraph 2 BGB remains unaffected.

2.4 The documents, drawings, samples, models, etc. and the objects, materials and aids provided by us shall remain our property subject to mandatory legal regulations. Processing or installation thereof shall be carried out exclusively for ourselves. The contractor undertakes to inform us in writing without delay, if access regulations of Third Parties (e.g. attachments) to our property (including things, to which we have acquired co-title through association, mixing or processing) might occur. The risk of accidental loss and damage shall pass to the Contractor on handover of the above-mentioned documents and objects. After the contract has been fulfilled, all objects, documents, etc., any duplicates thereof and all other materials shall be returned to us without request at the cost and risk of the Contractor. We reserve all rights in the documents and objects produced in accordance with our specifications.

2.5 The objects and documents which we provide to the Contractor shall be handled in confidence and shall be kept confidential where they contain business secrets. They may not be sold, pledged or otherwise transferred or made accessible to third parties without our consent or used in any way for third parties. The same applies to objects manufactured with the assistance of these objects and documents unless we grant our consent to other use. The same applies to objects which the Contractor has developed or processed in accordance with our specifications and in not unessential conjunction with us. The knowledge obtained during the cooperation between the contractor and us may not be forwarded to Third Parties, unless the contractor is legally obliged to forward them or we agree with passing it on. It is to be kept in a safe place and to be maintained diligently. The products manufactured in accordance herewith shall be supplied to us alone. The Contractor shall subject sub-suppliers and sub-contractors accordingly. The Contractor shall be liable for negligent damage which is incurred owing to non-observance of these provisions. The Non-Disclosure Agreement persists also after termination of the contract and ends, when the information which are to be kept secret have become public without the contractor's involvement.

3. Prices and terms of payment

3.1 All prices stated in the order are fixed prices unless otherwise stated. All prices are postage paid to the postal address and include all packaging and all other costs of delivery such as, e.g. taxes, customs duties, etc. unless the transport company is chosen by us or we carry out the transport ourselves, or otherwise agreed in writing. Insofar as the contractor has to provide assembly services, the tools and auxiliary means (e.g. lifting means, containers etc.) required for execution of these services

are also included in the scope of supply.

3.2 Invoices have to be issued indicating our purchase order number and have to be sent as digital file to the indicated e-mail address of the buyer. Under no circumstances shall invoices be attached to the supplies and services.

3.3 Agreed advance payments, instalments and down-payments shall be requested in each case in writing from the Contractor and shall be marked as such. Instalments are only made against provision of a directly enforceable, irrevocable and unlimited guarantee of a German major bank or a German credit

institution under public law subject to waiver of the guarantor to the right of deposit as well as the benefit of discussion, the contestability and the offset, except for the offset against recognized or legally effective claims.

3.4 Unless otherwise agreed payment shall be made within 14 days with 3% or within 30 days net but not before receipt of the goods or, in the case of supplies and services where acceptance is required, not before written acceptance by us and, to the extent that handover of documentation and test certificates is part of the scope of service of the supplier, not before handover in accordance with the agreement. The provision in § 632a of the German Civil Code (Bürgerliches Gesetzbuch) shall remain unaffected hereby.

3.5 The Contractor is not entitled, without our prior written consent, which we shall not unreasonably refuse, to assign its claims against us or otherwise dispose thereof.

4. Delivery time and shipping terms, respect of regulations, Insurances

4.1 The deadlines and periods indicated in the purchase order or otherwise agreed and, if not otherwise agreed, are only fulfilled with complete delivery at the buyer or at a location indicated by the buyer. Non-compliance with such dates and deadlines shall put the Contractor in default without Grenzebach having to serve a reminder.

4.2 Part, advance or short deliveries and deliveries made outside of our business hours (Our business hours, please refer to our Order) require our prior written consent. This does not justify a premature payment claim. Part, advance or surplus supplies can be returned or stored at the cost and risk of the Contractor. In the event that the goods are returned, the Contractor shall supply the goods again on the agreed date. Acceptance of a delayed delivery or service does not represent a waiver of any claims for default damage.

4.3 We are entitled to prescribe the Contractor the route, means of transport to the place of receipt to reasonable discretion. The goods to be supplied shall be packed in an environmentally friendly manner and recyclable or in another manner on our request. The packaging shall protect against damage, contamination and damp during transportation. The Contractor shall be liable for damage caused by insufficient packaging even if we do not make any packaging specifications. In the shipment, the different types of articles must be packed separately and must be clearly marked with applicable parts number, order or commission number, and purchase order number.

4.4 We shall only pay the costs of packaging if remuneration therefor has been expressly agreed. The Contractor is obliged, irrespective of its statutory and official duties, to collect the transport packaging of the delivery on our request at its cost from the delivery location or to have it collected by a third party instructed by it. In the event of freight-free return of the packaging by us, the packaging costs shall be reimbursed in full by the Contractor. The Contractor shall release us from any claims by third parties which are asserted against us owing to or in connection with the ownership or use of the transport packaging.

4.5 The Contractor shall provide us with detailed delivery documents in duplicate stating the order date, the order, supply and article numbers, weight and, where appropriate, position, model number and goods description. Shipping note and docket must be enclosed in the shipment.

4.6 On dispatch and handover the Contractor shall make it clear and guarantee thereby that the goods delivered pursuant to the stipulations of the product safety law and corresponds to the current version of the generally recognized technical safety standards and industrial medical regulations and the safety at work, accident prevention and emission protection regulations and that all laws, regulations, guidelines and information sheets issued for this purpose by the legislator, the responsible supervisory authorities, trade associations, professional associations and technical control boards have been observed. The protective equipment required in accordance with the accident prevention regulations shall also be provided to us. Electrical equipment must conform to VDE regulations (Association of German Electrical Engineers).

4.7 Persons who, in performance of the contract, carry out work for the Contractor on our premises or at the site of the customer must observe the provisions of the respective works regulations. Regulations for entering and leaving plant premises must be observed. The Contractor has to ensure that the staff used to carry out the work have unrestricted social insurance and are insured by a trade association and have the necessary residence and work permits. The contractor has to ensure during contract execution to respect the legal requirements, especially the legal regulations of the minimum wage legislation and the German Posted Workers Act and to make sure that this is also respected by the sub-suppliers and sub-companies he cooperates with. The contractor is obliged to hand out all proofs about the respect of the regulations about the minimum wage legislation to the buyer if he should request him to do so. The contractor releases the buyer from any possible claim per the stipulations of the German Posted Workers Act or the Minimum Wage legislation and this also with respect of the sub-contractor and related sub-companies involved by him. The contractor is committed to conclude a public liability insurance providing the following minimum levels of cover and must provide relevant evidence on demand before work is started:

- for personal injury EUR 1,500,000.00 per person and loss event
- for damage to property EUR 1,500,000 per loss event
- for damage to property EUR 1,500,000 per loss event

The contractor who shall delivery the goods and who is the manufacturer es per §4 of the product liability law is obliged to conclude a product liability insurance of adequate coverage immediately after contract conclusion, at least to the triple of the value of the goods to be supplied and to maintain it until the termination of the warranty period.

The contractor is obliged to provide the buyer a the beginning of the calendar year unrequested with the appropriate proofs of the insurances he has to conclude. Until presentation of such proofs, the buyer is not obliged to make any instalments.

- 4.8 The Contractor shall be liable for additional costs and damage negligently incurred owing to non-observance of these delivery conditions.
- 5. Delay**
- 5.1 The Contractor shall inform us of any impending failure to meet delivery dates without undue delay as soon as it gains knowledge thereof stating the reasons and the expected length of the delay. The Contractor shall not be released from the consequences of delay by informing us of the delay. The Contractor shall take suitable measures in due time (e.g. shift work, overtime, weekend work and work on public holidays, staff increases, express deliveries etc.) in the event of an impending failure to meet the delivery dates in order to meet the delivery dates. The costs hereof shall be borne by the Contractor.
- 5.2 The Contractor shall be liable for default pursuant to the statutory provisions. Should the Contractor be in default with a part delivery, we can assert the rights to which we are entitled even with respect to parts of the delivery for which the Contractor is not yet in default.
- 5.3 Irrespective of further-reaching statutory or contractual claims, in the event that the Contractor falls into default, we are entitled to demand, in addition to performance, a contractual penalty of 0.2% of the total contract volume per working day without turnover tax, up to a maximum of 5% of the total contract volume without turnover tax, as minimum damage. If the delay is limited to a partial delivery or service, the penalty amounts to 0.2% per working day or the upper limit of 5% for the partial delivery or service portion of the complete order value without turnover tax. In any case the penalty is limited to 5% of the overall order value. We shall declare the reservation of the contractual penalty within 10 working days, beginning with receipt of the delayed delivery, in the case of partial delivery beginning with the receipt of the last partial delivery or in the case of construction work not later than final payment is made. If the contractual penalty is allocated to separate partial deliveries, the period of 10 working days shall begin with the receipt of the respective partial delivery. Further claims for compensation of the buyer remain unaffected. However, the penalty is taken into account for such claims for compensation.
- 5.4 The Contractor can only appeal to lack of documents or parts to be provided by us if it has expressly sent out a written warning in this respect and has still not received them in time. In this event the Contractor can demand a reasonable extension to the delivery deadline, up to a maximum, however, of the duration of the delay, excluding other claims.
- 5.5 Occurrences of force majeure or hindrances for which we are not responsible which make acceptance of the supply or service impossible at our business or at our customer or make it considerably more difficult, suspend our acceptance obligations for the duration thereof. At our discretion we are also entitled to rescind the contract without the Contractor being entitled to remuneration or compensation claims.
- 6. Place of delivery and place of fulfilment, acceptance and passage of risk**
- 6.1 Place of fulfilment for all mutual obligations under the contract is the location of the site stated in the order unless we expressly mention a different postal address in our order.
- 6.2 Insofar as § 377 HGB is applicable, we have been able to ascertain defects of the delivery in the due course of business within a reasonable period but not before 7 days after discovery. In the case of supplies, the purpose of which is resale, the period only begins to run after inspection and discovery of the defect by our customer and after receipt of notification of a defect from our customer. If the supply is to be installed in a system before or after processing, the inspection obligation only exists after it has been installed and is operating successfully.
- 6.3 When accepting services, especially assembly services and supervisory services in the case of the operation of systems, formal acceptance shall always take place a reasonable period after completion of the service unless we have expressly agreed otherwise with the Contractor. Each party can involve an expert in the formal acceptance at its own cost. A written acceptance record of the acceptance shall be held. Should the Contractor not attend the joint acceptance meeting despite timely invitation, the effects of acceptance begin to apply if we inform the Contractor in writing of the result of the successful acceptance. The agreed or required instruction for use, safety and conformity declarations or similar have to be added to the supply, otherwise they cannot be considered as complete.
- 6.4 The entire or partial use of the supply, especially parts of a construction, to continue work or to prepare the operation of the entire system or interim reviews do not constitute acceptance of the supply nor do any payments made.
- 6.5 Risk passes, even if we agree to pay freight costs, only on receipt of the delivery by us or by a party instructed by us to do so at the agreed place of performance or after acceptance of the delivery by us depending on which is earlier. This does not apply if the transport company is chosen by us or we carry out the transport ourselves.
- 7. Warranty**
- 7.1 The Contractor warrants that the subject of the contract does not show any signs of faults and that it has the constitution set out in our order letter without its liability in principle or in terms of amount being restricted or excluded. Otherwise the Contractor has statutory, official and other applicable regulations such as accident prevention regulations, DIN norms and the provisions of the regulations of the expert associations, such as, e.g. VDE, VDI, in their most recent versions.
- 7.2 In the case of defects, we are entitled, at our discretion, to demand free remedy of the defects in place of rescission of the contract, reduction of the purchase price or supply of defect free replacement goods by the Contractor. The Contractor shall bear all costs which are incurred in connection with the remedying of the defects, such as assembly and disassembly costs, transport and travel costs, etc.
- 7.3 The contractor shall assume the warranty for the duration of 36 months, as far as the law or the order do not provide longer periods or no other period is expressly agreed upon. The warranty period shall commence on acceptance of the goods supplied.
- 7.4 In addition to the statutory and contractual warranty claims, we are entitled to take the necessary measures to remedy the defect at the cost and risk of the Contractor if the Contractor does not observe its subsequent fulfilment duty within a reasonable period set by us. The same applies in urgent cases providing that the Contractor has been informed by us about the existence of the defect and, owing to the urgency, higher damage can be expected in relation to the warranty obligation of the Contractor.
- 7.5 The Contractor shall also remain solely responsible for drawings, plans, calculations, etc. used for the contract when these have been approved by us.
- 7.6 The Contractor shall be liable for damage caused by negligence to the materials and objects provided by us, e.g. through incorrect processing.
- 8. Spare parts**
- The Contractor undertakes to supply us at short notice with operational, functional and compatible spare parts for at least ten years on request. If the production of spare parts is to be discontinued we shall be informed at least 12 months before discontinuance of production in writing.
- 9. Rescission of the contract; indemnification; rights of third parties**
- 9.1 If the Contractor ceases to make payments or if insolvency proceedings are commenced over its assets or if court or out of court settlement proceedings are applied for, we are entitled to withdraw either wholly or partly from the part of the delivery not yet fulfilled or to demand compensation instead of performance.
- 9.2 The contractor ensures that neither he himself nor persons attributable to him, nor the subcontractors involved by him, working for the buyer on preparation, the termination or the execution of the order or persons related, have offered any advantages, promised or granted these or will do this in the future (anti-bribery provisions).
- 9.3 The Contractor ensures that its supply and its use does not infringe national or international patents, intellectual property rights or other rights of third parties or breach statutory or official provisions of whatever kind. He shall indemnify us from all and any claims from Third Parties to us; this does not apply in case an infringement is not due to a fault of the contractor.
- 9.4 The parties agree that deficiencies which are based on supplies or services by the Contractor's suppliers or sub-contractors of the Contractor shall be regarded as deficiencies in the product supplied by the Contractor.
- 9.5 The contractor shall ensure that there are no Third Party rights regarding retention of title in the goods ordered.
- 9.6 Retention rights and set-off rights of the Contractor against us are excluded unless the Contractor derives these rights from recognized claims or claims which are final and absolute.
- 9.7 Should the Contractor know or should he have to assume under the circumstances that we will ship the supply abroad or use it there, it shall inform us without request before contract conclusion whether we have to declare the export to an authority or require a permit for export, in particular pursuant to the Foreign Trade Act (Außenwirtschaftsgesetz) or the Control of War Weaponry Act (Kriegswaffenkontrollgesetz) with the associated export provisions.
- 10. General Provisions**
- 10.1 Our relationship with the Contractor shall be exclusively subject to the law of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) and German international private law.
- 10.2 Exclusive place of jurisdiction for all differences of opinion under or within the context of these general terms and conditions of purchase or about their validity shall, in the case of business transactions with businessmen, legal persons of public law and special properties or contractors which have no general place of jurisdiction in the Federal Republic of Germany be either Bad Hersfeld or Nördlingen at our discretion. However, we are entitled to file action against the Contractor at any other general or special place of jurisdiction justified by the general provisions at our discretion.