



Purchasing Terms & Conditions for Material Goods and Products

For use ('B2B') between

companies, legal persons under public law and special funds under public law

- hereinafter '**Seller**' -

and

Gebrüder Dorfner GmbH & Co. Kaolin- und Kristallquarzsand-Werke KG (Hirschau, Germany)

and

Dormineral Handels- und Speditions-GmbH & Co. KG (Hirschau, Germany)

and

Asmanit-Dorfner GmbH & Co. Mineralaufbereitungs-KG (Hirschau, Germany)

and

ISG Industriesteingesellschaft mbH (Hirschau, Germany)

and

Dorfner Analysezentrum und Anlagenplanungsgesellschaft (Hirschau, Germany)

- Each hereinafter '**Buyer**' -

1 Scope, General

1. These Standard Purchasing Terms & Conditions (PTC) apply to agreements for all purchases of goods, in particular, additives for refining industrial mineral products, and for tools and objects relating to property, plant and equipment, in accordance with the agreement entered into between Seller and Buyer. These Terms and Conditions shall hence also apply to all further business dealings with Seller, even where not expressly and separately stipulated. These Purchasing Terms and Conditions shall form the contractual basis for long-term business dealings with Seller and, therefore, upon conclusion of the first agreement, will be acknowledged by Seller for the entire duration of the business dealings, under inclusion of the following conditions.

2. Written confirmation by Buyer shall be required for any and all

oral agreements agreed with a representative or employee that deviate from the following conditions.

3. These PTC shall apply exclusively. Any contradictory terms & conditions are hereby expressly rejected. Seller waives its right to assert the applicability of its own standard terms and conditions, in particular its terms and conditions of sale/supply. These PTC shall also apply if Buyer, having gained knowledge of terms & conditions contradictory to our Purchasing Terms & Conditions, or terms & conditions of Seller deviating therefrom, accepts the delivery of Seller without reservation.

2 Offer, Documentation; REACH Confirmation and Biocidal Products Regulation

1. Seller is obliged to accept Buyer's Order in text or written form within a period of 2 weeks.

The purchase of goods shall only arise upon the confirmation of the Order by Seller. Late confirmation of the Order shall be deemed a new offer by Seller, which must be expressly accepted by Buyer in text or written form in order to become contractually effective.

2. Buyer shall retain ownership and copyright to figures, drawings, calculations and other documentation. They may not be made available to third parties without the express written consent of Buyer. They are to be used exclusively for the production of Buyer's Order. After completion of the Order, they are to be returned to Buyer without the requirement for request thereto. They are not to be disclosed to third parties; to this extent, the provisions of Condition 10 shall apply by way of supplement.

3. It is possible that the produced goods and raw materials are products that fall under the scope of EU Regulation 1907/2006 of the European Parliament and of the Council of 18 December 2006 on the Registration, Evaluation, Authorisation and Restriction of Chemicals (so-called REACH Directive) and/or the EU Regulation 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (so-called Biocidal Products Regulation). Should this be the case with regard to the goods ordered by Buyer, Seller warrants that such chemical products and biocidal products are registered pursuant to the so-called REACH Regulation or authorised and approved pursuant to the so-called Biocidal Products Regulation. At the latest upon Seller's confirmation of the Order, Buyer must also have received the text or written confirmation that such chemical products or biocidal products meet the requirements of EU Regulation 1907/2006 of 18 December 2006 and/or EU Regulation 528/2012 of 22 May 2012 and respective amendments to the regulations, and Seller must ensure that the same continue to be met.

3 Prices, Payment Terms

1. The price stated in the Purchase Order shall be binding. In the absence of any deviating written agreement, the delivery and payment term shall be agreed as 'Free to Buyer's Address' (in accordance with Incoterms 2010, equivalent to DDP, Delivered Duty Paid), i.e. carriage, packaging, insurance, customs duties will be borne by Seller and included in the price. The return of packaging shall require separate agreement.

2. The prices shall be understood as net prices. The statutory VAT

shall, however, be included in the gross price stated in the Purchase Order.

3. Buyer shall only be able to process invoices if the same – in accordance with the specifications in the Purchase Order – state the order number. Seller shall be responsible for all consequences incurred through non-compliance with this obligation, unless it can prove that the same are not attributable to it.

4. Unless otherwise agreed in writing, Buyer shall pay the purchase price within 14 days of delivery and receipt of invoice with 3% discount, or within 30 days of receipt of invoice.

5. Buyer shall be entitled to rights of retention and/or set-off to the legally permissible extent without any impediment to the assertion of its rights. The right of set-off shall, in particular, not be limited solely to uncontested and legally enforced claims of Buyer.

4 Delivery, Default of Delivery; Documents

1. The delivery date stated in the Purchase Order shall be binding. If Seller has not effected delivery within this period, it shall be in default of delivery. Seller shall not be in default of delivery if the delivery does not occur for reasons that are not attributable to it.

2. Seller is required to promptly notify Buyer in text or written form if circumstances arise or become recognisable which will render it impossible to hold to the delivery date stipulated in the Purchase Order. Seller shall bear the burden of proof of such notification.

3. In the event of default of delivery, Buyer shall be entitled to the statutory claims. In particular, after the

expiry of a reasonable period without result, Buyer shall be entitled to demand compensation in lieu of performance and cancellation.

4. Unless otherwise agreed in writing, the delivery shall be effected 'Free to Buyer's Address' (in accordance with Incoterms 2010, equivalent to DDP, Delivered Duty Paid).

5. Seller must ensure the accuracy and completeness of the transport documents required for the delivery, in particular in the case of hazardous goods. Seller is required to exactly state Buyer's Purchase Order number on all transport documents and delivery notes. If it omits to do so, Buyer shall not be responsible for any resulting delays in the processing of the delivery and entry in accounting records.

5 Inspection for Defects, Liability for Defects

1. Buyer is required to promptly inspect the goods for the presence of any deviations in quality and quantity and to provide notification of any evident defects. Notification shall be considered timely if it is received by Seller within a period of 7 days of receipt of the goods, or 10 days for deliveries from EU member states, or 15 days for deliveries from non-EU countries. If such defect becomes apparent at a later point (so-called hidden defects), the period of notification shall apply as of the discovery of the defect.

2. Buyer is fully entitled to its statutory warranty claims. In each case, Buyer is entitled at its option to demand from Seller the removal of the defect(s) (rectification) or delivery of a new object (replacement). If rectification work is to be carried out, the rectification shall be deemed unsuccessful after the first unsuccessful attempt. The

right to compensation, in particular to compensation in lieu of performance, shall remain expressly reserved. Buyer shall also be entitled to rescind the agreement and demand compensation of the (whole) performance in the event of insignificant deviation from the agreed quality or only minor impairment to usability.

3. The warranty period is 36 months from transfer of risk. With regard to defects warranting rectification, this limitation period shall recommence upon completion of the rectification measures. Likewise unaffected shall be longer statutory limitation periods and further conditions governing the suspension of expiry, suspension and recommencement of limitation periods.

6 Product Liability, Indemnity, Liability Insurance

1. Where Seller is responsible for damage to the product, upon first written request thereto, it is required to indemnify and hold Buyer harmless from claims for damages of third parties to the extent that the cause lies within its sphere of control and organisation and for which it is personally liable with regard to third parties. Furthermore, Seller shall indemnify and hold Buyer harmless from all claims that a customer of Buyer asserts as a result of advertising claims of Seller, of the manufacturer within the meaning of Section 4(1) and (2) of the Produkthaftungsgesetz [Product Liability Act], or of an agent of Seller or manufacturer, and which, without such advertising claims, would not have, or not to this extent, have existed. The latter shall apply irrespective of whether the advertising claim was made before or after conclusion of the Purchase Agreement between Seller and Buyer.

2. Within the scope of its liability for events of damage within the meaning of Condition 6.1, Seller is also required to reimburse any expenses pursuant to Sections 683, 670 of the BGB [German Civil Code] or Sections 830, 840, 426 of the BGB that are incurred through, or in connection with, a product recall performed by Buyer. To the extent possible and reasonable, Buyer will inform Seller of the content and scope of the product recall campaign to be performed and give it the opportunity to issue a statement. Other statutory claims shall remain unaffected.

3. Seller undertakes to maintain a product liability insurance policy with a lump sum limit of liability of €10 million for any one claim involving personal injury/damage to property.

7 Prohibition of Assignment

Seller may only assign claims arising from the Sale and Purchase Agreement or arrange for such claims to be collected by third parties upon the consent of Buyer. This shall not apply in the event of the effective agreement of extended retention of title by Seller.

8 Third Party Industrial Property Rights

1. Seller vouches that the industrial property rights of third parties will not be infringed in connection with its delivery.

2. If, however, claims are asserted against Buyer as a result of violation of the industrial property rights of the third party, upon first written demand thereto, Seller shall be obliged to indemnify and hold Buyer harmless from such claims.

3. Seller's indemnification obligation shall relate to all expenses

incurred by Buyer arising from, or in connection with, the claim by a third party, including reasonable costs incurred for legal defence. All other rights and claims for damage of Buyer shall remain unaffected.

4. The foregoing liability obligations of Seller shall not apply if and as long as the infringement is not attributable to it.

9 Retention of Title Upon Provision, Tools

1. If Buyer provides Seller with objects of any type, the same shall remain the property of Buyer. They may only be used to render the ordered deliveries and performances.

2. Seller will undertake processing or alteration on behalf of Buyer. If Buyer's retained goods are processed with other objects that are not the property of Buyer, Buyer will acquire joint title to the new object in proportion to the value at the time of processing of Buyer's object (purchase price plus VAT) and the other processed objects.

3. If the object provided by Buyer is inseparably mixed with other objects that are not the property of Buyer, Buyer will acquire joint title to the new object in proportion to the value of the retained object (purchase price plus VAT) and the other processed objects at the time of mixing. If the goods are mixed in such a manner that Seller's object is to be considered the principal object, it shall be deemed agreed that Seller shall assign pro rata joint title to Buyer; Seller shall safeguard for Buyer the sole title or joint title.

4. Buyer shall retain ownership of its tools. Seller is obliged to use the

tools exclusively for the production of the goods ordered by Buyer. Seller shall be obliged at its own expense to insure tools that belong to Buyer at the replacement value against customary risks such as fire, flood and theft, and to provide Buyer with evidence of such insurance policy, if so requested. At the same time, Seller now assigns to Buyer all claims for compensation from such insurance policy. Buyer hereby accepts this assignment. Seller is obliged to carry out promptly and at its own expense any necessary maintenance and inspection work and all servicing and repairs. It shall notify the purchaser immediately of any malfunctions. If it culpably fails to do so, claims for damages will remain unaffected.

5. If the security rights attributable to Buyer pursuant to paragraphs (1) to (3) exceed the purchase price of all of Buyer's as yet unpaid retained goods by 10 %, if so requested by Seller, Buyer shall be required to release the security rights at Buyer's option.

10 Confidentiality

Seller is obliged to maintain in strictest confidence all figures, drawings, calculations and other documentation as well as commercial and technical information that is not in the public domain and to use the same exclusively for performance of the services and works. Disclosure to third parties shall only be permitted subject to the express consent of Buyer. Carriers of the purchased goods shall be accordingly obliged to maintain confidentiality. The obligation to maintain confidentiality shall survive the end of this Agreement.

11 Jurisdiction, Place of Performance, Governing Law

1. If Seller is a merchant, Amberg Local Court, Germany, shall have

exclusive jurisdiction. However, Buyer shall also be entitled to pursue legal action against Seller at its principal place of business.

2. Unless otherwise stated in the Purchase Order (e.g., delivery address), the principal place of business of Buyer shall be the place of performance for the deliveries and services of Seller.

3. German law shall have exclusive application. The United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

(Date: 21.10.2015)