

## **General Terms and Conditions of Purchase**

### **of Rheinfelden Alloys GmbH & Co KG**

(Version: 01.01.2013)

#### **1. Scope**

Unless other terms or conditions have been agreed upon in writing, solely the following terms and conditions of purchase apply to all present and future orders. Even if we do not explicitly object to the supplier's or contractor's (jointly referred to as "Supplier") terms and conditions of business, they are not part of the contract.

#### **2. Placing and Acceptance of Orders**

##### **2.1**

Only written orders and agreements are binding. Oral supplementary agreements or commitments by our employees going beyond the contents of the written contract or changing these terms and conditions of purchase are valid only after they have been confirmed in writing.

##### **2.2**

The Supplier must confirm the order in writing without delay. Should we have no confirmation of the order within 14 days of the date of the order, we may cancel the order. In such cases, the Supplier derives no claims from this cancellation.

The same conditions apply to call-off orders as appropriate.

#### **3. Period of Manufacture and Period of Delivery**

##### **3.1**

The due dates and deadlines given in the order are binding. Compliance with a delivery date or the delivery period depends on the arrival of the delivery corresponding to DDP at the agreed-upon delivery address (Incoterms® 2010). Should an acceptance procedure have been agreed upon or be statutory, compliance depends upon successful acceptance by a person authorized by us to do so.

##### **3.2**

As soon as the Supplier recognizes that punctual fulfillment of his delivery or service obligation (jointly referred to as „Delivery“) is wholly or partially impossible, he must notify us in writing and give the reasons for and the anticipated length of the delay.

##### **3.3**

Partial deliveries are allowed only when we have agreed to them in writing.

##### **3.4**

Should delivery be delayed, we may demand a contractual penalty of 0,5% of the agreed-upon total price of the Delivery for every full week of delay, up to a maximum 5% of this value. Further statutory rights are not affected. The Supplier may prove that the resulting damage is smaller than the contractual penalty. We may claim this penalty until final settlement has been made.

#### **4. Delivery / Acceptance**

##### **4.1**

Every Delivery must be accompanied by bills of delivery containing our purchase order number, our stock number, the type of packaging, the amount and weight of the Delivery, as well as the name of the person who made the order.

##### **4.2**

A separate bill for every order must be sent in duplicate to our address.

##### **4.3**

We may determine the mode of shipment. Otherwise, the supplier must choose the mode of shipment most economical for us.

##### **4.4**

The Supplier has not completely fulfilled his delivery obligations until the proper delivery and shipping papers have arrived. Until proper delivery and shipping papers have arrived, we cannot carry out acceptance tests and may instead store the goods at the Supplier's expense and risk.

## **5. Work at Our or Our Customers' Premises**

### **5.1**

Should the Supplier's employees or agents work in our company or in one of our customer's companies or at the plant or at the factory premises (jointly referred to as „our Premises“); they must observe the accident prevention regulations and all other safety rules, the applicable plant regulations, as well as the duty to take care given in Subsection 5.2. These persons may not begin work without knowledge of these regulations.

### **5.2**

When working on our Premises, the Supplier must particularly observe the following duties to take care:

a) **Danger due to Fire, Electricity, or Explosion**

Written permission from the appropriate plant manager must be obtained before beginning any work with flammable substances, or preliminary work that could be associated with the development of fire, sparks, or heat. Written permission is also required for work at places at risk from electricity and for work in rooms at risk from explosion.

b) **Excavations**

Excavations require written permission. Permission can only be given on the form intended for this purpose. In addition, the current electric cable and pipe charts for the work area in question, available in the appropriate department, must be taken heed of. The Supplier's liability shall not be affected by this.

c) **Smoking Ban**

Unless exception has been given in writing, smoking is forbidden everywhere on our Premises. The Supplier must ensure that his employees observe this ban.

d) **Ban on Alcohol**

Consumption of alcoholic beverages during working hours and during breaks is forbidden. Bringing alcoholic beverages onto our Premises is also forbidden.

e) **Ban on Asbestos**

No materials containing asbestos may be used in our Premises.

### **5.3**

Before work on our Premises begins, the Supplier must turn in a list of people working for him on site at the gate in duplicate.

### **5.4**

Entrance to our Premises is allowed only through the main gate. No other areas of our Premises other than those affected by the Supplier's work may be entered.

### **5.5**

Assembly and installation work at our or our customer's premises must be accepted. Acceptance has occurred when our representative has accepted the Supplier's services expressly and in writing as conforming to the contract. However, we may claim defects at the time of the final settlement. Should we not fulfill our duty to expressly accept the services, the Supplier must allow us a three-week grace period to do so.

### **5.6**

The hours worked at our or our customer's premises, as well as the material provided by the Supplier, must be confirmed by our representative in writing immediately after the work has been done or, at the latest, on the day upon which the work has been done.

## **6. Prices and Payment**

### **6.1**

The agreed-upon prices are fixed prices and include value-added tax and packaging. The prices are DDP at the agreed-upon delivery address (Incoterms® 2010).

### **6.2**

Unless other terms have been agreed upon, we may choose between paying within 14 days with a 3% discount or within 30 days net. Each payment period begins with the arrival of the bill at our place of business.

### **6.3**

We reserve the right to choose any established means of payment. As stipulated in Section 6.2, the payment period starts after the bill has been received, but, in any case, not before the agreed-upon delivery date, only after receipt of the documents specified in Section 4, and only after the goods have been received completely and according to the contract.

## **7. Packaging**

### **7.1**

The goods to be delivered must be packed as is customary in the trade, or, at our request, with special packaging according to our instructions.

### **7.2**

We may return the packaging carriage free to the point of departure.

## **8. Assumption of Risk**

We assume risk according to DDP at the agreed-upon delivery address (Incoterms® 2010). This condition also applies when we provide transportation for the goods.

Should an acceptance procedure be statutory or have been agreed upon, we assume risk after successful acceptance by a person authorized by us to do so.

## **9. Liability for Defects**

### **9.1**

The Supplier warrants that the goods are free of defects of title and of material defects when we assume risk and comply with and conform to the current state of the art, the applicable laws, safety and accident prevention regulations, as well as with the usual and technical quality standards (e. g., DIN, VDE, VDI, TÜV, explosion danger guidelines of the appropriate professional organization). Should there be differences between the German and other versions of these laws, regulations, or standards, the German version applies.

### **9.2**

The Supplier must perform an outgoing-goods examination. After the goods have arrived, we will examine the goods for obvious defects, identity, shortages, as well as for transportation damage. We have no obligation to further examine the goods. We will report defects to the Supplier within an appropriate period of time after their discovery. In this respect, the Supplier waives objections based upon the delayed notification of defects.

### **9.3**

Should there be defects, we have the choice of demanding rectification of defects or the delivery of replacement goods.

In addition, we may, after a reasonable additional extension period has expired without results, or, should, because there is particular urgency, it no longer be possible to set a grace period, after notifying the Supplier, at the Supplier's expense ourselves undertake the remedy of the defect, have the defect remedied by a third party, or procure replacement goods elsewhere. This settlement of costs does not apply when the Supplier is not responsible for the defect.

### **9.4**

The Supplier must bear all expenses caused by the remedy at or delivery of replacement goods to the place at which the goods are in use. We will inform the Supplier of the place at which the goods are in use at his request.

### **9.5**

The period of limitations for claims due to defects is 36 months after delivery, or, when this has been agreed upon or is required by statute, after acceptance.

### **9.6**

Unless the effort for the supplementary performance is negligible or the supplementary performance is an explicit act of goodwill by the Supplier, should the Supplier repair the goods, or replace them either partially or wholly, the period of limitations according to Subsection 9.5 with respect to this defect begins anew.

## **10. Third-party Industrial Property Rights**

### **10.1**

The Supplier warrants that no third-party industrial property rights e. g., patents, utility patents, or other rights; or business or trade secrets, will be violated by the use of the delivered goods, even in the country of end use. At our first written request, the Supplier must exempt us to this extent from any possible third party claims.

### **10.2**

The Supplier is not liable to the extent that he manufactures the goods exclusively according to our drawings and models, and he did not know or could not have known that the manufacture of these goods violated third-party rights.

## **11. Liability**

### **11.1**

Should claims based on product liability be raised against us by a customer or other third party, the Supplier must exempt us from such claims at our first written request if and insofar as the damage has been caused or contributed to by a defect in the product provided by the Supplier. This term does not apply in those cases of fault-dependent liability in which the Supplier is not responsible for the breach of duty.

### **11.2**

To the extent that the cause of the damage lies in the Supplier's area of responsibility, proof that the defect caused the damage is sufficient; otherwise, the Supplier carries the burden of proof.

### **11.3**

The Supplier always assumes the costs and expenses, including the costs of possible litigation or recall, corresponding to his proportion of the cause or fault. This condition also applies in cases of discernible or imminent serial defects.

### **11.4**

The Supplier must cover his risk of liability with an appropriate insurance policy and, upon our request, prove that such coverage exists.

### **11.5**

The Supplier must bear damages arising from noncompliance with these conditions. He is also liable for every even ordinary negligent act of his employees, vicarious agents, or other agents.

## **12. Means of Manufacture, Models, Drawings**

### **12.1**

Tools or other means of manufacture made on our order and paid for by us (jointly referred to as „Means of Manufacture“) become our property when the final payment is made. Our taking possession of the Means of Manufacture will be supplanted by the Supplier borrowing the Means of Manufacture from us. The Supplier must keep the Means of Manufacture belonging to us separate from articles not belonging to us. Our ownership must be clearly identified as such on the Means of Manufacture themselves as well as in the company records. After the conclusion of the business relationship, every Means of Manufacture must be handed over to us upon request. These Means of Manufacture may neither be used by the supplier for his own purposes, nor may they be made available to third parties.

### **12.2**

Manufactured items made according to our documents or specifications (e. g., drawings, models, etc.), or with our Means of Manufacture or copies of our Means of Manufacture may neither be used by the supplier nor offered or delivered to third parties.

## **13. Confidentiality**

### **13.1**

The Supplier obligates himself to maintain confidentiality with respect to third parties regarding all details of our order, e. g., number of pieces, technical construction details, commercial conditions, etc., as well as all further information requiring confidentiality, in particular drawings, models, Means of Manufacturing, etc., that he has knowingly or unknowingly, orally or in physical form received from us in connection with the order (hereinafter „Confidential Information“).

Placing our company on a reference list or using our order for advertising purposes is permitted only after obtaining our written permission.

### **13.2**

Confidential Information must be returned to us without charge and without our having requested it as soon as it is no longer needed to carry out the order. Confidential Information may be used by the Supplier only for carrying out the current order and may neither be used by the Supplier for his own purposes nor be made available to third parties.

### **13.3**

Except for those cases in which he is not at fault, the Supplier obligates himself to pay a contractual penalty of 20% of the order value upon violation of these confidentiality obligations. In addition, we may terminate the complete contractual relationship with the Supplier without notice and without compensation for especially severe violations, and, when appropriate, to demand the return of payments already made. In particular, an especially severe violation of the obligation has been committed when the Supplier gives Confidential Information to competing third parties. We reserve the right to claim this penalty until final settlement has been made.

## **14. Assignment**

Rights accruing to the Supplier under this contract may be assigned or pledged only with our prior written consent.

This condition does not apply to monetary claims. However, we may perform to the Supplier with the effect of a full discharge.

**15. Place of Performance, Place of Jurisdiction, and Applicable Law**

**15.1**

The place of performance for all deliveries and services is our place of business.

**15.2**

**The place of jurisdiction is the court that is competent at our place of business.** However, we have the right to initiate legal proceedings in the court of competent jurisdiction for the supplier's place of business.

**15.3** German law applies.