

General Terms and Conditions of Purchase

1. Scope of Validity

1.1 For all deliveries and services to NAFTA Speicher GmbH & Co. KG (hereinafter referred to as "NAFTA") by contractors in terms of § 14 BGB (German Civil Code) the subsequent General Terms and Conditions of Purchase (hereinafter referred to as "GTCP") shall apply, unless explicitly otherwise agreed in the individual case.

1.2 The terms and conditions of the contractor shall only apply, if and insofar as NAFTA explicitly and in written form agrees. The absence of an explicit objection, the acceptance of the service or the simple reference to a correspondence of the contractor which contains his terms and conditions or refers to them, shall not be sufficient.

2. Order and Order Confirmation

2.1 NAFTA may revoke its order until receipt of the written order confirmation of the contractor.

2.2 If the order confirmation differs from the order, the deviation shall only become valid if and insofar as NAFTA agrees to it in writing. An acceptance of service as well as payments from NAFTA shall not signify agreement.

2.3 Orders and related agreements, modifications and terminations as well as all other legally relevant statements and notifications made after contract conclusion (e.g. setting time limits, reminders, withdrawals) presuppose the text form to become effective (§ 126b BGB).

3. Place of Fulfillment, Delivery Dates, Modifications of the Scope of Work, Packaging, Transport

3.1 Place of fulfillment is the place of delivery and/or service stated in the order or otherwise agreed. This shall also apply if consignment has been agreed. The deliveries shall be made DDP (Incoterms 2010) above named place of fulfillment.

3.2 The time limits and dates for delivery and service stated are binding. If the contractor realizes that an agreed date cannot be kept, he has to inform NAFTA without delay stating the reasons and the presumed duration of the delay in written form. The acceptance of a delayed delivery or service shall not constitute a waiver of claims for compensation of NAFTA. Partial or early deliveries are only admissible after prior consultation and written agreement of NAFTA.

3.3 If a penalty has been agreed, NAFTA may still assert it up to the due date of the final payment, without requiring any reservation according to § 341 section 3 BGB.

3.4 NAFTA shall be entitled to request changes of the scope of delivery or service including the contractually agreed dates, if this is reasonable for the contractor. The effects, in particular with regard to surplus costs and reduced costs as well as delivery dates shall be adequately taken into account and shall be agreed in written form between NAFTA and the contractor subject to the subsequent sentence prior to the execution of changes. In cases of imminent delays or in case of danger ahead, the contractor has to start the execution of the changes prior to a written agreement.

3.5 The contractor has to take back and dispose adequately of the packaging at his costs at the point of transfer of the goods.

3.6 Delivery notes are to be attached to the packaging in a clearly visible place and have to give the order number, the article description, the delivery amounts as well as notes as to possible partial deliveries. Deliveries consisting of several parts are to be identified as belonging together.

4. Prices, Invoicing, Maturity and Deductions, Default of Payment

4.1 The prices stated in the order or agreed otherwise are binding (fixed prices), they shall apply for the total contract term, exclude additional claims and are net prices plus the relevant statutory turnover tax. If by way of exception price adjustment regulations have been agreed in the individual contract, a price adjustment presupposes that it will be announced in written form before it becomes effective; a retroactive claiming shall be excluded. Unless something else has been agreed in written form in the individual contracts the prices include all services, ancillary services and expenses. If by way of exception a reimbursement of travel expenses has been agreed in the individual contract, such a reimbursement shall be limited to the standard amounts in accordance with the German Income Tax Act (EStG).

4.2 Invoices shall be made out on the deliveries and services performed which meet the legal requirements for invoices valid at that time in accordance with the turnover tax law of the states to which the deliveries/services are subject.

4.3 The invoice and/or credit note shall be issued timely after delivery or service in a verifiable form to the invoice recipient named in the order and the invoice address given. It may be transmitted electronically as PDF file, if the guidelines of the information leaflet "Instructions for sending invoices by e-mail" are observed which will be submitted to the contractor upon request. All performance records and other activity confirmations shall be added to the invoice in readable

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- form. The invoice shall include order number, project denomination and/or maintenance order, delivery address, description of the individual invoice items as well as the allocation to the order items, the amount and the unit prices. Possibly agreed discounts as well as the bank data and the currency of payment shall be given on the invoice. Already made part payments and payments on account shall be shown individually on the invoice. The remuneration shall be due 60 days after delivery and/or service and receipt of a verifiable proper invoice at NAFTA. The contractor shall grant 3 % discount in case of payment or offset within 14 days after delivery or service and receipt of invoice. In case of faulty performance the time limit only starts after complete remedy of the defect.
- 4.4 The contractor shall not assert rights resulting from a default of payment prior to the unsuccessful elapse of an adequate grace period agreed in writing. The default interest is 5 percentage points above the basic interest rate. The default interest is reduced insofar as the debtor proves that a lower damage has actually occurred.
- 4.5 The issuance of acknowledgements of receipt or possible payments by NAFTA shall not be considered as a waiver of possible claims or rights.
- 5. Assignment, Offset, Right of Retention**
- 5.1 The contractor shall not be entitled to assign his contractual claims in whole or in part to third parties or to have them collected by third parties without the prior written consent of NAFTA.
- 5.2 The contractor must only offset against undisputed or legally established counterclaims and assert a right of retention exclusively in case of such claims.
- 6. Warranty for Defects and Liability**
- 6.1 The warranty for defects and other liability of the contractor is governed by statutory provisions, unless stipulated otherwise in the following.
- 6.2 The inspection obligation in accordance with § 377 HGB (German Commercial Code) is limited to defects which become obvious during incoming goods inspection by external visual inspection also of the delivery documents included as well as during a quality check in a sampling procedure. A complaint shall be considered to be reported in time if the notification is made within 10 calendar days after hand-over. Defects only detected later are reported in time if the notification of defects will be made within 10 calendar days after detection. NAFTA shall also be entitled to claims for defects without any restrictions if the defect has remained undetected upon delivery or acceptance due to gross negligence.
- 6.3 The contractor shall indemnify NAFTA upon first request from all claims which third parties assert against NAFTA for reasons resulting from a defect in delivery or service or other violations of duty of the contractor, unless he proves that he is not responsible for the incident which caused the damage.
- 6.4 The period of warranty shall be prolonged by the time in which the defective performance cannot be used as intended.
- 6.5 The contractor shall acknowledge the subsequent performance claim of NAFTA resulting from the defect reported by NAFTA by repairing or exchanging the delivery and/or service or parts of it.
- 6.6 The contractor assures NAFTA that the delivery and/or the performance and its contractual use do not infringe any patent rights, copy rights or other proprietary rights of third parties. Notwithstanding the statutory claims the contractor shall indemnify NAFTA from all claims of third parties resulting from the infringement of proprietary rights for which the contractor is responsible. The contractor shall pay all expenses and costs arising for NAFTA for avoiding or eliminating an infringement of proprietary rights.
- 7. Compliance**
- 7.1 The contractor commits that he and any person acting for him has kept and will keep all applicable laws, in particular all applicable anti-corruption laws and anti-corruption provisions in the course of all actions and affairs in connection with the fulfillment of obligations from this contract. In addition the contractor commits to report each promise or offer and each inquiry or request of a financial or other advantage for or by the contractor without delay to NAFTA if the promise or offer, the inquiry or request, or the acceptance or granting of an advantage constituted an infringement against the above mentioned anti-corruption laws and anti-corruption provisions.
- 7.2 In case of an infringement of this paragraph 7 NAFTA may terminate the contract with the contractor without notice and request compensation for the damage resulting from the infringement. In addition the contractor is obligated to indemnify NAFTA and its staff members from all obligations, costs and damage due to an infringement of this paragraph 7 and to defend it against such obligations, costs and damage.
- 8. Minimum Wage**
- 8.1. The contractor covenants
(i) to pay to the workers he employs for the fulfillment of the contractual obligations in due time a wage of at least the amount of the applicable statutory or - if

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- higher - minimum wage according to the collective wage agreements and
- (ii) to undertake each of the subcontractors and temporary employment agencies commissioned by him to pass on an appropriate commitment to their subcontractors and temporary employment agencies. The contractor has to prove to NAFTA upon its request the observance of the above commitment.
- 8.2 NAFTA shall be entitled to terminate the contract without notice if the contractor or one of his subcontractors or temporary employment agencies of any level infringe obligations of MiLoG (German Minimum Wage Law) or of this paragraph 8 and/or the relevant contractual obligation.
- 8.3 The contractor has to compensate NAFTA for all damage in connection with claims against NAFTA according to § 13 MiLoG by workers of the contractor or his subcontractors or temporary employment agencies of any level and to indemnify NAFTA upon first request.
- 9. Commissioning of Subcontractors**
The commissioning of subcontractors with the provision of the overall performance or a part of it, its exchange as well as the complete or partial transfer of contractual rights and obligations to third parties by the contractor require the prior written consent of NAFTA. Even in these cases the contractor shall remain responsible for the fulfillment of the contractually owed performance in full. The contractor has to undertake all subcontractors commissioned in accordance with the obligations incumbent on him towards NAFTA, in particular according to paragraphs 7, 8, 10 and 12.
- 10. Working Rules, Health and Environment Protection Rules, Safety Rules**
For his deliveries and services the contractor has to observe the codes of practice, the recognized safety rules as well as the relevant accident prevention, environment and occupational safety regulations. The contractor is obliged to a safety-oriented way of working.
- 11. Rights of Use, Industrial Property Rights, Inventions**
- 11.1 As far as intellectual property is concerned by the use of deliveries and services or is created in connection with the service provision, the contractor grants to NAFTA an irrevocable right of use unrestricted in terms of time, place and content, transferable to third parties and sublicensable.
- 11.2 Insofar as within the scope of contract fulfillment patentable inventions are created as patents or utility models, the contractor shall transfer to NAFTA the rights connected with this invention, including the right to file the invention as property right. As far as within the scope of contract fulfillment other new patentable results are created, the contractor shall grant to NAFTA the comprehensive, exclusive, irrevocable right of use, unrestricted in terms of time, place and content, sublicensable, freely transferable to third parties. NAFTA shall be entitled to exploit the work results in any type of use, in particular to copy, reconfigure and publish them. These transfers and the granting of rights are settled by the prices agreed.
- 11.3 All work results prepared and developed by the contractor in the course of contract fulfillment, including all data, documents, plans, drawings etc. shall become the exclusive property of NAFTA upon its preparation without any separate remuneration and have to be handed over to NAFTA as originals and on data carriers upon NAFTA's request, at the latest upon completion of the order; a right of retention is excluded.
- 12. Insurance**
The contractor has to take out sufficient business liability insurances and environmental liability insurances (including the obligatory insurances) on his own costs for damages which might be due to him and his vicarious agents and assistants and for all risks from product liability during the overall contract term and beyond until the expiry of possible limitation periods. The contractor has to prove to NAFTA the amount of coverage. The contractual and statutory liability of the contractor shall remain unaffected by the scope and the amount of the insurance protection.
- 13. Confidentiality, Data Protection and Advertising**
- 13.1 The contractor has to observe absolute secrecy about all business and company secrets which become known to him in connection with the fulfilment of the contract as well as about other business and company circumstances, information, work results and documents (hereinafter referred to as "confidential information") and must not make them accessible to third parties without the prior written consent of NAFTA. The obligation to secrecy shall not apply insofar as and as soon as the confidential information is or becomes generally known, has already been known to the contractor before disclosure by NAFTA or is made known by third parties without violating the obligation of secrecy, is identified or developed by the contractor himself, independent of the provision by NAFTA or has to be revealed due to obligatory regulations. The contractor shall only pass on confidential information to his staff, subcontractors, their personnel and other vicarious agents if a transfer is absolutely necessary for the fulfillment of the contract and the contractor has

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- bound these recipients to secrecy in advance according to the requirements of secrecy. The contractor must not use confidential information for other purposes and has to take adequate precautions to protect it against unauthorized access of third parties. If the contractor becomes aware of the fact that unauthorized third parties have acquired possession of confidential information, he has to inform NAFTA without delay.
- 13.2 The contractor shall keep all relevant data protection provisions including the Basic Regulation on Data Protection and the Federal Data Protection Act. The contractor shall ensure that NAFTA and its affiliated companies are allowed to store and process all personal data provided by the contractor and its vicarious agents for the fulfillment of the contract and other purposes provided for in the contract. The contractor must only process and use the personal data transmitted by NAFTA or its vicarious agents for contractually agreed purposes and only within the scope of the applicable data protection regulations.
- 13.3 The business relations between NAFTA and the contractor as well as inquiries and orders must not be used for advertising purposes.
- 14. Choice of Law and Place of Jurisdiction**
- 14.1 These GTCP and all legal relations between NAFTA and the contractor shall exclusively be subject to the Law of the Federal Republic of Germany excluding uniform international law, especially the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- 14.2. The exclusive place of jurisdiction for all disputes arising from the contract relationship is Munich in the absence of a mandatory provision of the law stipulating otherwise.
- 15. Final Clauses**
- If individual provisions agreed separately are or become wholly or partly ineffective, this does not affect the validity of the other provisions. The contractor and NAFTA shall replace such an ineffective provision by an effective one which comes closest to the intended economic purpose. This shall also apply to gaps in the contract.