



General Terms and Conditions of Purchase and Service of Saint-Gobain Abrasives GmbH and Saint-Gobain Diamantwerkzeuge GmbH („Purchaser“)

As at: June 2018

§ 1 Scope

(1) For all sales, deliveries and other services of a contractor in the terms of § 14 BGB (German Civil Code), a legal person under public law or special funds under public law ("**Supplier**") to Purchaser (together the "**Parties**") the General Terms and Conditions of Purchase and Service of the Purchaser shall exclusively apply ("**General Terms and Conditions of Purchase and Service**").

(2) Irrespective of the fact whether the General Terms and Conditions of Purchase and Service are again explicitly agreed, these shall still apply for all future sales, deliveries and services of the Supplier to the Purchaser. The version valid at the time of the conclusion of contract shall apply. The Purchaser shall immediately inform the Supplier of any new versions of the General Terms and Conditions of Purchase and Service.

(3) Conflicting, supplementing or deviating conditions to the General Terms and Conditions of Purchase and Service shall not be recognised by the Purchaser, unless he has explicitly expressed the validity of the same in written form. The General Terms and Conditions of Purchase and Service shall also apply if the Purchaser, in the knowledge of conflicting or deviating General Terms and Conditions of Purchase and Service, nevertheless accepts the delivery or other service of the Supplier without reservation or a contractually obligated service without reservation.

§ 2 Initiation of business transactions, conclusion of contract, other declarations

(1) Irrespective of the fact whether a contract is concluded or not, expenses on the part of the Supplier for visits, drafts, tests, samples, cost estimates, quotations etc. during the initiation of business shall substantiate neither a payment obligation nor any other liability on the part of the Purchaser.

(2) Orders of the Purchaser are always non-binding until they have been submitted in text form or confirmed by the Supplier. Before the acceptance the Supplier shall draw the Purchaser's attention to any obvious incorrect or incomplete details (e.g. clerical or calculation errors) in the order, including the order documentation so that these can be corrected or completed; otherwise the contract shall be considered as not concluded.

(3) The Purchaser shall be bound by his own offers for a period of 3 [weeks].

(4) Oral agreements by representatives or other agents of the Purchaser shall only be binding if and insofar as the Purchaser confirms the same in text form.

(5) Legally relevant declarations and notifications which the Supplier has to make to the Purchaser or a third party shall require text form.

(6) Order confirmations, invoices and delivery notes as well as comparable documents must always state the Purchaser's order number.

(7) In the case of goods with limited storability, the Supplier shall clearly mark the expiry date and, in the case of goods with special storage and/or disposal regulations, mark this information on the delivered goods and packaging as well as in all order confirmations and delivery notes.

§ 3 Period of delivery and performance, contractual penalty

(1) The period of delivery and performance stated in the order shall be binding. If the Supplier anticipates delays in delivery or performance, he shall be obliged to immediately inform the Purchaser.

(2) In the event of a delay in delivery or performance the Purchaser shall be entitled – in addition to contractual fulfilment - to demand a contractual penalty for every commenced working day of delay amounting to 0.1 % of the order amount per commenced week, however, up to a maximum of 5 % of the total order sum.

The Purchaser can assert the penalty up to the final payment. Further legal claims shall remain unaffected; with regard to claims for damages Sec. 340 para. 2 BGB (German Civil Code) shall apply.

§ 4 Delivery, documents, transfer of ownership

(1) Unless otherwise agreed, deliveries shall be effected by “Delivery Duty Paid “DDP“; Incoterms 2010. Place of delivery is the delivery address stated in the order.

(2) Every delivery shall include a bill of lading stating the date (issue and dispatch), contents of the delivery (article number and quantity) and order identification of the Purchaser (date and number). Separate from the bill of lading the Purchaser shall be sent a notice of dispatch with the same contents. The Purchaser shall not be responsible for delays in the processing or payment resulting from breaches of the aforementioned stipulations.

(3) The Supplier is not entitled to have the service owed by him performed by third parties (e.g. subcontractors) without the prior written consent of the Purchaser. The Supplier bears the procurement risk for his services, unless otherwise agreed in individual cases (e.g. limitation to stock).

(4) For deliveries and services which are not from the Federal Republic of Germany, but from another member state of the European Union, the EU VAT identification number must be stated.

(5) Ownership of the goods shall be transferred at the latest to the Purchaser upon payment. Any extended or wider reservation of title shall be excluded.

§ 5 Prices and terms of payment

(1) The price specified in the order shall be binding and shall apply, unless otherwise agreed, for the delivery DDP. All prices are calculated including the statutory value-added tax, unless this is separately stated.

(2) Unless otherwise agreed, the price includes all services and ancillary services of the Supplier (e.g. assembly, installation) plus all additional costs (e.g. proper packaging, transport costs including possible transport and third party liability insurance). If so required by the Purchaser, the Supplier must take back the packaging material.

(3) The agreed price shall be payable within 30 calendar days of the complete defect-free delivery and performance (including any acceptance of performance that may have been agreed), as well as the receipt of a proper invoice. If the invoice is paid within 14 calendar days the Purchaser is entitled to deduct 3 % cash discount from the net amount.

(4) The Purchaser can only process invoices if these – in accordance with the stipulations in the order – state the order number specified there; the Supplier shall be responsible for all consequences of the non-observation unless he can prove that he is not responsible for this.

(5) The Purchaser is not liable for default interest. The right of the Supplier to payment of interest in arrears shall remain unaffected. In the event of payment default the statutory stipulations shall apply. In any case, a reminder on the part of the Supplier shall be required.

(6) The rights of offsetting and retention, as well as the plea of non-performance or incomplete performance of the contract, shall remain possible for the Purchaser to the extent allowed by law. The Purchaser is in particular entitled to withhold payments as long as he still has claims against the Supplier for incomplete or faulty fulfilment of contract.

(7) The Supplier is only entitled to offset or retain the goods if its counterclaims are on the same legal basis as its obligations or its counterclaims are based on the same contractual relationship.

(8) Supplier accepts the German act §1 MiLoG (Mindestlohngesetz). In case of doubts Saint-Gobain can request a proper verification from our suppliers. If our supplier is not able to show a verification



Saint-Gobain is authorized to impose a penalty of 5.000 €. Furthermore, Saint-Gobain is authorized to cancel the contract at once.

§ 6 Provision, tools, forms etc.

(1) Insofar as the Purchaser provides parts (e.g. software, finished and semi-finished products) to the Supplier, he shall retain title to the same ("**retention of title**"). Any processing or transformation shall be carried out by the Supplier for the Purchaser. If the goods subject to the retention of title are processed with other products not belonging to the Purchaser, the Purchaser shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (purchase price plus value-added tax) to the other processed objects at the time of processing.

(2) If the goods subject to the retention of title are intermixed with other goods not belonging to the Purchaser, the Purchaser shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (purchase price plus value-added tax) to the other processed objects at the time of processing. If such intermixing is done in such a way that the Supplier's item is to be regarded as the primary item, the Supplier shall proportionately transfer co-ownership to the Purchaser; the Supplier shall preserve the sole ownership or co-ownership on behalf of the Purchaser.

(3) Insofar as the value of the security rights vested to the Purchaser pursuant to Section (1) and/or Section (2) does not exceed by 10 % the purchase price of all goods subject to reservation of title and not yet paid, the Purchaser shall be obliged to release the security rights at the request of the Supplier. The Purchaser shall reserve the right to select the securities to be released.

(4) The Purchaser shall reserve the right to the title of tools, forms, samples and similar objects: such objects are to be used exclusively for the manufacture of the goods ordered by the Purchaser. The Supplier shall, for his own account, be obliged to insure the objects against fire, water and theft. The Supplier shall cede as of now all rights to claim compensation from this insurance; the Purchaser shall accept the transfer of these rights.

The Supplier shall be obliged, at his own expense and in good time, to carry out any necessary maintenance and inspection work or repairs to the tools of the Purchaser. The Supplier shall immediately inform the Purchaser of any incidents or breakdowns; if he refrains from this culpably, compensation claims shall remain unaffected.

§ 7 Documentation of the Purchaser

The Purchaser shall retain all titles, copyright, other industrial property rights to illustrations, drawings, samples and other documentation ("**Documentation**"). This shall also apply for Documentation that is not explicitly designated as "confidential". The Supplier may only forward Documentation to third parties with the explicit written agreement of the Purchaser.

§ 8 Warranty of defects, Supplier liability for damages

(1) In the event of a defect the Purchaser shall be entitled to statutory rights in full. In particular, the Purchaser shall be entitled to choose between the rectification of the defect or a new delivery. The Purchaser shall expressly reserve the right to claim for damages, including payment of damages in lieu of performance for the level of the default in full and in accordance with the statutory provisions.

(2) Product descriptions shall serve as an agreement about the quality structure of the products which – in particular through designation or reference in the Purchaser's order - are the object of the individual contract, or have been integrated in the General Terms and Conditions of Purchase and Service. In this respect it makes no difference whether the product description originates from the Purchaser, the Supplier or the manufacturer.

(3) By way of derogation of § 442 Section. 1 p. 2 BGB (German Civil Code), the rights to the warranty of defects shall also be unrestricted if the defect remained unknown to the Purchaser due to gross negligence.

(4) Rectification of defects shall also include removal of the defective goods and re-installation, provided that the goods have been incorporated into another item or attached to another item in accordance with their nature and intended use. Purchaser's legal claim for reimbursement of corresponding expenses according to Sec. 439 para. 3 BGB (German Civil Code) remains unaffected.

The expenditure costs for the inspection and rectification by the Supplier shall be borne by the same even if it transpires there was in fact no defect. The liability for damages of the Purchaser shall remain unaffected in the event of an unwarranted request to remedy a defect, insofar as the Purchaser recognised or was grossly negligent in recognising that there was no defect.

(5) If the Supplier fails to rectify the defects within a reasonable period set by the Purchaser, the Purchaser shall, for the account of the Supplier, be entitled to rectify the defects or acquire a replacement himself or by a third party. If the subsequent performance by the Supplier fails or it is unacceptable for the Purchaser (e.g. because of particular urgency, a threat to the operating safety or impending occurrence of disproportionate damage) or the subsequent performance is seriously and ultimately refused by the Supplier, a deadline need not be set; however the Purchaser shall immediately, if possible in advance, inform the Supplier of the self-rectification or the remedy by a third party.

(6) The period of limitation shall be 36 months, calculated from the delivery pursuant to § 4 (1) or the acceptance. Longer statutory periods of limitation shall remain unaffected by this.

(7) The Supplier shall be liable for damages in full pursuant to the statutory stipulations and irrespective of the degree of fault.

(8) The duty of the Purchaser to inspect is, insofar as the statutory provisions on the commercial duty of inspection and notification of defects pursuant to Sec. 377, 381 HGB (German Commercial Code) apply, limited to defects which become evident during the incoming goods inspection under external examination including the delivery documents (.e.g. transport damages, wrong and short delivery) or during the quality control in the random sampling procedure. If acceptance has been agreed, there is no obligation to examine the goods. In all other respects, it depends on the extent to which an examination is feasible in the ordinary course of business, taking into account the circumstances of the individual case. The obligation of the Purchaser to give notice of defects discovered at a later date remains unaffected. Irrespective of his obligation to inspect the goods, the Purchaser's complaint (notice of defects) shall in any case be deemed to be immediate and timely if it is sent within 5 working days after its discovery or, in the case of obvious defects, after delivery.

§ 9 Recourse against the Supplier

(1) The Purchaser is entitled to the legal recourse claims within a supply chain (supplier recourse according to Sec. 445a, 445b, 478 BGB (German Civil Code)) in addition to the claims for defects without restrictions. In particular, the Purchaser is entitled to demand exactly the type of subsequent performance (repair or replacement delivery) from the Supplier which he owes to his customer in the individual case. The legal right of choice of the Purchaser (Sec. 439 para. 1 BGB (German Civil Code)) is not restricted by this. (2) The claims of the Purchaser arising from Supplier recourse shall also apply if the defective goods have been further processed by him or another company, e.g. by installation in another product.

§ 10 Product liability, insurance

(1) Insofar as the Supplier is responsible for a product defect he shall indemnify, defend and hold harmless the Purchaser upon first demand from third-party claims for damages to the extent the reason for the product defect lies in the Supplier's sphere of power and organization and he is liable in relation to third parties.

(2) Under his obligation to indemnify, the Supplier must reimburse any expenses pursuant to §§ 683, 670 BGB [German Civil Code] or §§ 830, 840, 426 BGB, that arise from or in connection with any recall measures on the part of the Purchaser. The Purchaser shall inform the Supplier of the content and scope of the recall measures to be carried out - as far as can be reasonably expected - and give him the opportunity to comment on these. Any other statutory rights shall remain unaffected.

(3) The Supplier shall be obliged to conclude and maintain product liability insurance with a flat insurance coverage of at least 5 million EUR per personal injury/property damage. Further claims for damages on the part of the Purchaser shall remain unaffected.

§ 11 Property rights

(1) The Supplier shall ensure that in connection with his delivery no rights of a third party within the European Union are violated.

(2) If claims are made by a third party against the Purchaser due to such rights, the Supplier shall be obliged to indemnify the Purchaser against any such claim on first demand in text form; without the agreement of the Supplier, the Purchaser shall not be entitled to conclude any agreements with the third party, in particular not enter into any settlement.

(3) The Supplier's duty to indemnify shall apply to all expenses which necessarily incur to the Purchaser through or in connection with the claims asserted by a third party, insofar as the Supplier has not proved that he is not responsible for the breach of duty based on the violation of property rights.

(4) The period of limitation shall be 36 months, calculated from the delivery pursuant to § 4 (1) or acceptance.

§ 12 Export Control Law

(1) The Supplier must fulfil all requirements of the national and international export, customs and foreign trade law that apply to the goods and services to be supplied. The Supplier must obtain all required shipment authorizations and export licenses, unless, according to national and international export, customs and foreign trade law, the Purchaser or the third party and not the Supplier is responsible for applying for the permits.

(2) The Supplier must inform the Purchaser in text form as soon as possible and no later than 10 days before the delivery date of all information and data which the Purchaser requires in order to comply with the applicable foreign trade law on the export, transfer and import as well as re-export of goods and services in case of reselling, also for each product and service in particular:

the Export Control Classification Number (ECCN) pursuant to the U.S. Commerce Control List (CCL) or the classification "EAR99" if the item is subject to the U.S. Export Administration Regulations. If the item is enumerated on the United States Munitions List or otherwise subject to the International Traffic in Arms Regulations (ITAR) the Purchaser asks for immediate information;

all relevant control numbers of the Export Control List (provided the item is not specified in the Export Control List, it should be labelled as "AL: N")

the statistical goods number according the current goods classification of the external trade statistics and the HS (Harmonized System) Code;

the country of origin (non-preferential origin) and,

if requested so by the Purchaser: Supplier's declarations on the preferential origin (with European suppliers) or certificates on preferences (with non-European countries) ("Export Control and External Trade Data").

(3) In the event of alterations to the origin, properties of the goods or services or applicable external trade law, the Supplier must update the Export Control and External Trade Data as soon as possible and to inform the Purchaser no later than 10 days before the delivery date in text form. The Supplier shall cover all expenses and damages incurred through missing or faulty Export Control and External Trade Data.



§ 13 Meeting Applicable standards on the protection of human health and environment

Caring for the environment and respecting health and safety in the work environment are part of the Buyer's Principles of Conduct and Action.

The Seller undertakes to meet all applicable standards regarding chemicals sold to Buyers, regardless of whether these substances are supplied to be used on their own, in preparations, or in articles.

The Seller especially undertakes to comply with the REACH European Regulation n° 1907/2006 concerning the registration, evaluation, authorisation and restriction of chemical substances

Therefore, in accordance with the European Regulation REACH, if the substances provided within the framework of the present contract have to be registered with the European Chemicals Agency, the Seller guarantees in particular to the Buyer that the substances have been pre-registered and/or will be registered within the deadlines set by the European Regulation REACH, the aforementioned registration having to cover all use by the client of these substances.

In the event that all or part of the substances supplied to the customer are subject to authorisation or restriction, the Seller undertakes:

- with regard to substances subject to authorisation, to supply only those substances duly authorized for the uses the Buyer intends to make of these substances,
- with regard to substances subject to restriction, to supply only those substances
- which comply with the restriction measures imposed by European Regulation REACH,
- to notify the Buyer of any change in regulation applicable to these substances (especially in the case of a ban on their uses) and of any substitution feasibility for such substances.

The substances, whether supplied to be used on their own, or included in preparations, or articles, will have to be delivered:

- in packaging compliant with standards applicable to the labelling and packing of chemicals such as those set by the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) established by the United Nations,
- accompanied by sufficient information enabling the customer to use them in full safety. Whenever required by the regulations in force, the Seller undertakes to provide the Buyer with the corresponding material safety data sheets (MSDS). The MSDS should comply with the applicable regulations and be identical, irrespective of their linguistic version and/or of the country of delivery of the substances. The Seller will have to update MSDS on a regular basis and will have to communicate these updates to the Buyer. In addition, the Seller undertakes to notify the Buyer if the products supplied contain any substance of very high concern, as defined by the European Regulation REACH, above a 0.1% weight by weight.

The Seller undertakes to give the Buyer at least a six (6) months notice if, in the course of the present contract, he intends either to modify the ingredients and/or technical characteristics of the substances supplied, or to stop selling them. In such an event, the Seller will be liable towards the Buyer of all financial consequences borne by the Buyer due to the modification or withdrawal from sale of the substances.

§ 14 Responsible Development

The Seller is aware that the Saint-Gobain Group supports the UN Global Compact and has adopted General Principles of Conduct and Action available on the Internet site: <http://www.saint-gobain.com>. The Seller declares that he has read these Principles.



The Saint-Gobain Group notably expects its Sellers:

- to make sure that they have control of environmental risks related to both their processes and the products they use whether in their activity or when intervening on Group sites.
- to respect employee rights regardless of the country in which they operate.
- to refrain, even if permitted under applicable local legislation, from resorting to any forced or compulsory labour or to any child labour, either directly or indirectly or through sub-contractors, in the course of their production processes or when providing services or when intervening on Group sites.
- to provide their employees with the best possible conditions of health and safety and to observe, during their interventions on Group sites, all applicable health and safety rules.

§ 15 Governing law and place of jurisdiction

(1) These conditions shall be subject to the Law of the Federal Republic of Germany, excluding the UN-Convention on Contract for the International Sale of Goods (CISG).

(2) The place of performance shall be the headquarters of the Purchaser.

(3) The place of jurisdiction shall be the headquarters of the Purchaser; the Purchaser shall, however, reserve the right to file suit against the Supplier at his own place of jurisdiction.