

General Purchase Conditions of the company MFG Metall- und Ferrolegierungsgesellschaft mbH Hafner, Blondin & Tidou ("MFG")

1. Key conditions, scope of application

To the extent that no express written agreements are made between both parties, the orders of MFG are subject to the following conditions. MFG does not recognize General Terms of Business of our contractual partners that deviate, contradict or complement these Purchase Conditions.

2. Orders

- 1) Orders and agreements and also possible modifications are only binding if they have been issued or confirmed in writing by MFG. The acceptance of orders or modifications must be confirmed in writing to MFG promptly, at the latest, however, within a period of 14 days from the submission of the order.
- 2) If a service ordered by MFG is not available, then the contractor must inform MFG promptly; in this return services that have already been rendered must be returned within 3 days.
- 3) In the case of orders by electronic commerce, the contractor must promptly confirm to MFG the receipt of the order. This confirmation can be combined with a binding acceptance of the contract.

3. Delivery deadlines and delay

- 1) The agreed delivery deadlines are binding.
- 2) Excess- or short deliveries and/or deliveries before the agreed deadline require the previous consent of MFG; the contractors must pay the expenses caused by this.
- 3) In the case of delay by MFG's contractors, MFG has the right, after expiry of an appropriate period to demand subsequent delivery and compensation for damages due to delayed delivery, to have the delivery that was not made performed by a third party at the cost of the supplier, or to demand compensation for damages due to non-performance, or to withdraw from the contract.
- 4) If a delivery ex works is agreed upon, then the risk of the delivered merchandise is passed to MFG, if the delivered merchandise is delivery properly at the place of delivery, and the reception is documented.

4. Withdrawal from the contract

In addition, MFG retains the right to withdraw from the contract even in cases of force majeure, strikes and natural disasters, and also in cases of an objective lack of creditworthiness of MFG's contractual partner.

5. Notification of defects

The contractor waives the claim to late notification of defects so that the notification is given in cases of obvious defects, mistaken deliveries, mistakes in quantity as well as non-observance of the characteristic or durability guarantees within a period of 14 days.

6. Guarantee

- a) The contractor guarantees and ensures that all deliveries/services reflect the latest state of technology and the relevant legal provisions and regulations and guidelines from official bodies, professional associations and specialist groups. If MFG request it, the contractor will issue a characteristics certificate for the merchandise delivered.
- b) If the merchandise delivered is defective, which also includes the non-observance of a guarantee, then the contractor must replace the defective merchandise promptly and free of charge including all supplementary charges by either repair or exchange according to MFG's preference within the warranty period (subsequent performance). After failure of the subsequent performance, MFG has legal claims, especially to withdraw from the contract, reduction, replacement

delivery, and/or compensation for damages and reimbursement of expenses.

- c) Unless otherwise agreed the legal warranty period applies.

7. Proprietary rights of third parties

The contractor declares that the objects delivered do not infringe possible proprietary rights of third parties, especially patents, utility patents, copyright and competition rights, and it now accordingly indemnifies MFG from claims of third parties.

8. Cession, setting off and right of retention

- a) The contractor does not have the right to set off against MFG with payment claims that are not declared to be legally binding.
- b) The contractor's rights of retention are excluded to the extent that they are not based on the same contractual relationship.

9. Payment

If nothing else is agreed in the individual contract, payment is made net on the 15th day of the month following the receipt of invoice for delivery/service. In the event of defective delivery/service MFG has the right to retain payment in proportion to value until proper performance.

10. Final provisions, place of performance, jurisdiction and applicable law

- a) If provisions of these General Business Conditions are or become invalid, this has no influence on the validity of the remaining provisions. In this case the parties will reach an agreement that comes as close as possible in economic terms to the intent of the parties.
- b) Place of delivery is the receiving station designated by MFG.
- c) Place of payment and exclusive place of venue is Düsseldorf.
- d) Only the law of the German Federal Republic applies.

General Terms of Delivery of the company MFG Metall- und Ferrolegierungsgesellschaft mbH Hafner, Blondin & Tidou

§ 1 General scope of application

(1) All deliveries, services and offers from MFG Metall- und Ferrolegierungsgesellschaft mbH Hafner, Blondin & Tidou (hereinafter: "MFG") are provided only on the basis of the following General Terms of Delivery. These terms are a component of all contracts that MFG concludes with its contractual partners (hereinafter also called "customers") concerning deliveries and services offered MFG. They apply also to all future deliveries, services or offers to the customer, even if they have not been separately agreed to again.

(2) Purchase conditions that the customer may have are contradicted to the extent that they contradict the conditions stipulated here or to the extent that they contain provisions that exceed those of the conditions stipulated here. Even if MFG refers to a document containing or referring to terms of business of a customer or a third party, this does not constitute consent to the validity of these terms of business.

§ 2 Offer and conclusion of a contract

(1) All offers from MFG are without obligation and non-binding to the extent that they are not expressly designated as binding or do not contain a certain acceptance period.

(2) The customer is bound by offers made by him to MFG (e.g. in the form of delivery orders or orders) for 14 days starting from their receipt at MFG. Delivery orders/orders require written confirmation from MFG for their legal force. An invoice sent to the customer regarding the respective order is considered to be written confirmation.

(3) Only the purchase contract concluded in writing, including the General Terms of Delivery is decisive for the legal relationship between MFG and customers. This contract is a complete reproduction of all agreements between the parties to the contract on the object of the contract. Verbal agreements made by MFG before conclusion of this contract are not legally binding, and verbal agreements between the parties to the contract are replaced by the written contract to the extent that nothing expressly arises from them in a given case so that they remain in force.

(3) Amendments and modifications of the agreements made including these General Terms of Delivery are only valid if made in written form. Transmission by telecommunications, especially by fax or e-mail, is enough to ensure written form as long as the copy of the signed declaration is transmitted.

(4) Statements by MFG on the delivery- or service item (e.g., weight, measurements, present utilization value, capacity, tolerances and technical data) in addition to representations of this item (e.g., sketches and illustrations) are only of approximate significance, to the extent that their use for the purpose intended in the contract does not require exact conformity. They do not constitute guaranteed characteristics but rather only descriptions or designations of the contractual merchandise. Deviations common in commerce and deviations that result from legal regulations or represent technical improvements are allowed to the extent that they do not interfere with usability for the purpose intended in the contract.

(5) MFG reserves for itself the property or copyright to all offers and cost estimates that it offers as well as all sketches, illustrations, calculations, brochures, catalogues, models, tools and other documents or aids placed at the customer's disposal. The customer may not make these available to third parties, neither as such or in content, nor reveal them, use them or disseminate them himself or through third parties without MFG's express consent. If MFG so requests, the customer must return these objects completely and destroy any copies that may have been made, if they are no longer required by him in the regular course of business or if negotiations do not lead to the conclusion of a contract.

§ 3 Price and payment

(1) Prices apply for the scope of services and deliveries listed in the order confirmation. Excess- or separate services are calculated separately, as long as nothing else has been determined.

(2) Invoice amounts must be paid without delay within 14 days, unless otherwise agreed in writing. The payment date is determined by date of receipt at MFG. Cheques are considered valid payment only when

cash. If the customer does not pay when payment is due, then the outstanding amounts are subject to annual interest of 5 % from the due date; this does not affect claims for higher interest and further damages in the event of delay.

(3) Setting off with customer's counterclaims or withholding payment due to such claims is only permitted if the counterclaims are undisputed or established as legally valid.

(4) MFG has the right to perform outstanding deliveries or services only if pre-payment or security is provided, if after conclusion of the contract MFG learns of circumstances that could significantly diminish the customer's creditworthiness and that endanger the payment of the MFG's outstanding receivables by the customer from the respective contractual relationship (including from other individual contracts subject to the same framework contract).

§ 4 Delivery and delivery period

(1) Deliveries are made ex works unless otherwise stipulated.

(2) Periods and deadlines mentioned by MFG for deliveries and services apply only approximately, unless a fixed period or deadlines is expressly consented to or agreed upon. To the extent that shipping was agreed, the delivery periods and deadlines are related to the moment of transfer to the shipper, freight company or other third parties assigned to transportation.

(3) MFG can demand – without prejudice to its rights deriving from the customer's delay – an extension of delivery or service periods or a postponement of delivery or service deadlines by the period in which the customer does not comply with his contractual obligations toward MFG.

(4) MFG is not responsible for inability to deliver or for delivery delays to the extent that these are caused by force majeure or other events unforeseeable at the moment of conclusion of the contract (e.g., all sorts of interruptions of operations, difficulties procuring material or energy, transportation delays, strikes, lawful lockouts, shortages of labor, energy or raw materials, difficulty procuring necessary official authorizations, measures of authorities or failure of suppliers to deliver or incorrect or late delivery), for which MFG is not responsible. If such events make the delivery or service significantly difficult or impossible to provide, and this interference is not of a merely temporary nature, MFG has the right to withdraw from the contract. In the event of obstacles of temporary duration, the delivery or service periods are extended or the deadlines are postponed by the duration of the interference plus an appropriate start-up period. To the extent that acceptance of the delivery or service cannot be expected of the customer due to the delay, he can withdraw from the contract by prompt written notice to MFG.

(5) MFG has the right to make partial deliveries, if

- the partial delivery can be used by the customer in the context of the purpose intended in the contract,
- the delivery of the remaining ordered merchandise is ensured and
- no considerable additional labor or additional costs arise for the customer for this reason (unless MFG declares its willingness to pay these costs).

(6) If MFG is late in providing a delivery or service, or if provision of a delivery or service is impossible for MFG for whatever reason, then MFG's responsibility is limited to compensation for damages according to paragraph § 8 of these General Terms of Delivery.

§ 5 Place of performance, shipping, packaging, passing of risk, acceptance

(1) The place of performance for all obligations derived from this contractual relationship is the registered office of MFG, unless otherwise stipulated.

(2) The types of shipping and packaging are subject to MFG's dutiful judgement.

(3) The risk is passed to shippers, freight carriers or other third parties indicated for performance of shipping at the latest with the transfer of the delivered item (and here the beginning of the loading process is decisive). This also applies in the event that partial deliveries are made or that MFG has taken over other services (e.g., shipping). If the shipping or delivery of an object is delayed due to a circumstance caused by

the customer, the risk is passed to the customer on the day on which the item for delivery is ready for shipping and MFG has demonstrated this to the customer.

(4) Storage costs after passage of risk are paid by the customer. In the event of storage by MFG the storage costs amount to 0.25% of the invoice amount of the items to be stored per completed week. The claiming and documenting of further or lesser storage costs remain reserved.

(5) MFG only takes out an insurance policy for theft, damage from breakage, transport, fire and water and other insurable risks for shipments at the customer's express request and at his costs.

(6) If a formal acceptance must take place, the purchased item is considered to be accepted if

- delivery has taken place,
- MFG has informed the customer of the obligation of formal acceptance indicating the possibility of implied acceptance according to § 5 (6) and has requested formal acceptance,
- 12 working days have passed since delivery or the customer has begun to use the purchased item (e.g., has begun to operate a system that is delivered) and in this case 6 days have passed since delivery
- the customer has omitted to grant formal acceptance within this period for another reason, such as due to a defect demonstrated to MFG that makes the use of the purchased item impossible or significantly hinders it.

§ 6 Warranty, material defect

(1) The warranty period is one year from delivery, or if acceptance is necessary, one year from acceptance.

(2) The delivered items must be carefully examined promptly after delivery to the customer or to the third parties indicated by him. They are considered to be approved for obvious defects or other defects that would have been noticeable in a prompt, careful examination unless MFG receives a written claim for defects within seven working days after delivery. Regarding other defects the delivered items are considered approved by the buyer if the claim for defects is not received at MFG within 7 working days after the moment in which the defect appeared; if the defect was noticeable for the customer with normal use at an earlier moment, then this earlier moment is decisive for the beginning of the period for claims. At MFG's request, a rejected item must be sent back to MFG with carriage paid. In cases of justified claims due to defects, MFG remunerates the costs of the most economical shipping method; this does not apply if the costs are increased because the delivered item is located at a place other than the place for its intended use.

(3) In the event of material defects in the delivered items, MFG is obliged and entitled according to its decision, which must be made within an appropriate period, to remedy defects or to make a replacement delivery. In the event of failure, i.e., of impossibility, unreasonableness, refusal or inappropriate delay in remediation of defects or replacement delivery, the customer can withdraw from the contract or reduce the purchase price by an appropriate amount.

(4) If a defect is the fault of MFG, the customer can demand compensation for damages under the prerequisites stipulated in § 8.

(5) In the case of defects in the items delivered by other suppliers that MFG cannot remedy due to license rights or other essential reasons, MFG will, at its own choice, assert its warranty claims against the manufacturers and suppliers on behalf of the customer, or cede them to the customer. In cases of this sort of defects under the other pre-requisites and according to these General Terms of Delivery warranty claims against MFG can only exist if the execution in court of the aforesaid claims against the manufacturer and supplier was unsuccessful or, for example, due to insolvency, was futile. For the duration of the legal dispute the time-barring of the customer's relevant warranty claims against MFG is blocked.

(6) The warranty is inapplicable, if the customer alters the delivered item without consent from MFG, or allows it to be altered by third parties, and the remediation is unreasonable or impossible due to difficulties derived from this. In any event, the customer must pay the additional costs derived from the alteration.

§ 7 Proprietary rights

(1) MFG vouches for the fact according to this § 7 that the delivered item is free from industrial property rights or copyrights of third parties. Each party to the contract will promptly inform the others in writing in the event that claims due to infringement of such rights are made against him.

(2) In the event that the delivered item infringes industrial property rights or copyrights of a third party, MFG will at its choice and at its costs modify or exchange the delivered item so that third parties' rights are no longer infringed, while the delivered item continues to perform the function agreed to in the contract, or by conclusion of a licensing contract acquires the right to use for the customer. If MFG does not achieve this within an appropriate period, then the customer is entitled to withdraw from the contract or to reduce the purchase price correspondingly. The customer's possible claims for compensation for damages are subject to the restrictions of § 8 of these General Terms of Delivery.

(3) In the event of infringement of rights by products of other manufacturers supplied by MFG, MFG will at its own choice assert claims against the manufacturers and pre-suppliers on behalf of the customer or cede the claims to the customer. Claims against MFG exist in these cases in accordance with this § 7 only if the execution in court of the aforementioned claims against the manufacturers and pre-suppliers was unsuccessful, or, for example, due to insolvency was futile.

§ 8 Liability for compensation for damages due to negligence

(1) MFG's liability for compensation to damages for any legal reason, especially impossibility, delay or defective or mistaken delivery, violation of contract, infringement of obligations in the case of contractual negotiations and unlawful action, to the extent that this constitutes negligence, is restricted according to this § 8.

(2) MFG is not liable in the case of simple negligence of its bodies, legal representatives, employees or other agents, as long as it is not a case of infringement of the contract's essential obligations. The contract's essential obligations are those whose intent is the timely delivery of the item, its freedom from defects that hinder more than insignificantly its functionality and fitness for use, and also the duties to advise, protect and safekeeping intended to enable the use of the delivered item for its contractual purposes or the protection of life and limb of the customer's employees or the protection of his property from considerable damage.

(3) To the extent that MFG is liable according to § 8 (2) in such cases for compensation for damages, this liability is limited to damages that MFG has predicted at the conclusion of the contract as possible results of infringement of contract or that it should have been able to predict with due diligence. Indirect damages and consequential damages that result from defects in the delivered item, are otherwise only subject to compensation to the extent that such damages are to be expected typically with intended use of the delivered item.

(4) In the case of liability for simple negligence, the obligation to compensation by MFG for material damages is limited to € 5,000,000.00 per case of damage, even if it is a case of infringement of essential contractual obligations. For mere damage to property, MFG's liability in cases of the aforesaid sort is restricted to € 1,000,000.00.

(5) The preceding exclusions from and restrictions on liability apply to the same extent in favor of MFG's bodies, legal representatives, employees or other agents.

(6) To the extent that MFG provides technical information or other advice, and this information or advice does not pertain to the scope of services that it owes and to which it is contractually obliged, it does so without remuneration and any liability for this reason is excluded.

(7) The restrictions of this § 8 do not apply for MFG's liability due to premeditated action, for guaranteed characteristics, due to injury to life, body or health or in accordance with the Product Liability Act.

§ 9 Reservation of title

(1) The reservation of title agreed below serves to ensure all respective currently existing or future payment claims deriving from deliveries and services of MFG owed by the purchaser (including payment balance requests from a current account relationship restricted to this supply relationship).

(2) The merchandise delivered by MFG to the purchaser remains in MFG's property until the complete payment of all secured receivables. The merchandise and also the merchandise affected by reservation of title that replaces it according to the provisions below, will hereinafter be called "reserved merchandise".

(3) The purchaser stores the reserved merchandise free of charge for MFG.

(4) The purchaser has the right to process and to sell the reserved merchandise until the moment when a claim is made against him (Paragraph 9) in regular course of business. Pledging and transfer by way of security are not permitted.

(5) If the reserved merchandise is processed by the purchaser, then it is agreed that the processing takes place in name of and on behalf of MFG as manufacturer, and that MFG acquires the direct ownership or – if the processing is done with materials from several owners or the value of the processed item is greater than the value of the reserved merchandise – the joint ownership (co-ownership) of the newly produced item in the ratio of the value of the reserved merchandise to the value of the newly produced item. In the event that no such acquisition of ownership should begin, then the customer already transfers his future ownership or – in the above-mentioned circumstance – the co-ownership on the newly produced item as security to MFG. If the reserved merchandise is combined or inseparably mixed with other items into a unified item and if one of the other items must be viewed as the main item, then the Buyer transfers, to the extent that the main item belongs to him, on a pro-rated basis to MFG the co-ownership of the unified item in the relationship mentioned in Sentence 1.

(6) In the event of the further sale of the reserved merchandise, the Buyer cedes to MFG already at this time as a security the payment claim derived from this against the Buyer – in the case of co-ownership by MFG of the reserved merchandise, on a pro-rated basis corresponding to the share of co-ownership. The same is true for other payment claims that take the place of the reserved merchandise or arise with respect to the reserved merchandise, such as e.g., insurance claims or other claims due to unlawful acts in cases of loss or destruction. MFG confers revocable authority on the Buyer to collect the payment claims ceded to MFG in his own name. MFG may revoke this authority to collect only in case of an enforcement event.

(7) If third parties lay claim to the reserved merchandise, especially by pledging, the buyer will promptly inform them of MFG's ownership and notify MFG of this so as to enable it to execute its ownership rights. To the extent that the third party is unable to reimburse costs in or out of court arising in this context, the Buyer must pay these costs for MFG.

(8) MFG will release the reserved merchandise and also the items or payment claims taking their place as soon as their worth exceeds the amount of the secured payment claims by more than 25%. The selection of the items that must be release after this is made by MFG.

(9) If MFG withdraws from the contract due to the Buyer's infringement of the contract – especially late payment – (enforcement event), MFG has the right to demand the reserved merchandise.

(10) An enforcement event in the sense of Paragraph 9 occurs, if the complete performance of the contract by the customer seems to be excluded – perhaps due to the application for or initiation of insolvency proceedings (including an insolvency plan proceedings).

§ 10 Final provisions

(1) The place of venue for disputes arising from contracts that were concluded on the basis of these conditions is the court responsible for the registered office of MFG. MFG has the right to make claims against the customer in the legally stipulated jurisdiction. Obligatory legal regulations on exclusive jurisdictions are unaffected by this provision.

(2) The relationship between MFG and the customer is subject exclusively to the law of the Federal Republic of Germany.

(3) If this contract or the terms of delivery contain gaps in provisions, then to fill in these gaps provisions with legal efficacy are considered to be agreed to which the parties to the contract could have agreed according to the economic objectives of the contract and to the purpose of the General Terms of Delivery, if they had known about the gap in provisions.