

General Terms and Conditions of Purchase (GTCP) of the Company MÜPRO Services GmbH

- 1. General, Scope of Application**
- (1) The below General Terms and Conditions of Purchase (GTCP) shall apply to all procurement transactions between
- a) MÜPRO Services GmbH and/or
b) German companies affiliated with a), hereafter referred to individually or collectively as "Buyer", on the one hand, and our business partners and suppliers (also "Seller"), on the other hand. These GTCP only apply if the Seller is an entrepreneur as defined in § 14 German Civil Code (BGB), a legal entity organised under public law, or a special public fund.
- (2) Our General Terms and Conditions of Purchase apply in their latest version and to all subsequent transactions without any need of express reference or agreement upon their conclusion.
- (3) If the Seller delivers identical goods to additional MÜPRO Group affiliates in addition to the Buyer, the price shall be considered agreed upon between the Buyer and Seller that represents the lowest price that the Seller offered the Buyer another MÜPRO Group company for these goods at the time of order ("most favourable conditions"). The basis is the ex-factory price; not to be taken into consideration, however, are transport costs, fees, taxes, customs duties, etc. To the extent that the Seller provides volume discounts to the relevant MÜPRO Group company for identical goods, these are also to be offered and credited in favour of the Buyer. The Seller is obliged to already provide the Buyer with relevant price and discount details prior to conclusion of contract.
- (4) These Terms and Conditions of Purchase apply to all procurement transactions such as tools, machines, equipment, parts, raw materials, other materials, software, performed work or services of any kind ("delivery item" or "deliverable"), without respect to whether the Seller manufactures the goods itself or purchases them from suppliers.
- (5) To the extent that the contractual services are construction services, statutory regulations shall apply exclusively under exclusion of the VOB/B (German Construction Tendering and Contract Regulations, part B.)
- (6) Our General Terms and Conditions of Purchase (GTCP) shall apply exclusively. Any differing, conflicting or additional General Terms and Conditions of the Seller shall become a part of any contract only to the extent to which we expressly agree to them in writing. This requirement of consent shall apply in every case, e.g. also if we agree without reservation to accept a delivery in full knowledge of the Seller's General Terms and Conditions.
- (7) Any individual agreements made with the Seller in individual cases (including ancillary or supplementary agreements or amendments) shall always take precedence over these GTCP. A written contract or our written confirmation shall be definitive for the content of such agreements, subject to evidence to the contrary.
- (8) Legally relevant declarations and notifications that are to be submitted to us by the Seller after conclusion of contract (e.g. deadlines, reminders, declaration of withdrawal) require the written form to be effective.
- (9) Any references to the applicability of statutory provisions only serve for purposes of clarification. Even without such clarification, the statutory provisions apply, unless directly modified or expressly excluded by these GTCP.
- 2. Conclusion of Contract**
- (1) Our order shall be considered binding at the earliest upon written submission or confirmation. The Seller is to point out to us any obvious errors (e.g. typos and arithmetic errors) and incomplete details of the order, including order documents, for purposes of correction and completion prior to acceptance; otherwise, the contract shall be considered not concluded.
- (2) The Seller is required to confirm our order in writing within 3 working days or in particular to carry out the order by dispatching the goods without reservation (acceptance). Late acceptance is considered to be a new offer and requires acceptance by us.
- 3. Deliverables / Modifications / Spare Parts**
- (1) The content and scope of deliverables result from the individual order and from the documents referenced in the individual order as well as from these General Terms and Conditions of Purchase. Any ideas, drafts, models, samples, or other work results produced by the contractor when providing the contractual services are part of the deliverable.
- (2) The Seller will check any specifications, work descriptions and other information made available to the Seller for the execution of a supply contract, and any items, parts or other materials made available to the Seller for the execution of the supply contract, to determine their suitability for the purpose intended by the Buyer and the Buyer's final customer. Should it become evident through this examination that it is necessary or advisable to make modifications or corrections to either the items provided or the objects of the agreement, the Seller is to inform us without delay. The Seller shall then inform us in writing whether, and where necessary, which amendments the Seller is to make. If in the Seller's view, such modifications may lead to the agreed costs of the contractual items being changed or if the agreed deadlines cannot be met, the Seller is to point this out to us without delay. Appropriate arrangements for handling any such effects, particularly with regard to additional or reduced costs and the agreed deadlines, are to be mutually agreed upon. If no consensus is reached within a reasonable period of time, the Buyer shall decide as it sees fit.
- (3) The Seller shall undertake to ensure that it has timely knowledge of any information and circumstances necessary to the fulfilment of its contractual obligations, and also of our intended use of the deliverables. The Seller may only allege the absence of necessary documents if it sent a written request in good time yet did not receive the documents within a reasonable period. The Seller is responsible for ensuring that its deliveries encompass all deliverables necessary for approved, safe usage, that they are suitable for the intended use, and comply with current state of science and engineering.
- (4) In carrying out its contract performance, the Seller shall observe all relevant standards, laws and legal provisions under applicable law, in particular any relevant provisions pertaining to safety, environmental protection, hazardous substances and materials, and accident prevention, as well as the generally-accepted safety rules and relevant requirements of the Buyer and its final customer.
- (5) In case Regulation (EC) No. 1907/2006 of December 18, 2006 ("REACH Reg.") applies to the deliverables, the Seller guarantees that these comply with the requirements of the REACH Reg. as well as all national provisions passed in implementation of this regulation ("REACH"). The Seller guarantees the fulfilment of all REACH obligations, including the (pre-)registrations and the provision of REACH-compliant safety data sheets and IMDS data sheets. To the extent that deliverables are not rendered in compliance with REACH, the Buyer reserves the right to withdraw from or cancel the framework or individual orders. The Seller obliges to inform the Buyer without delay concerning all changes that may negatively impact REACH compliance. The Seller shall hold the Buyer harmless for all claims of third parties due to non-compliance with REACH. The non-fulfilment of requirements and obligations arising from REACH constitutes a fault substantiating warranty rights.
- (6) The Seller is to inform the Buyer of any permits and reporting obligations required by the authorities for the import and operation of the deliverables. The Seller is especially obliged to comply with the export control regulations in effect at the time delivery is made. Without being separately requested to do so, the Seller is required to notify the Buyer in writing, no later than upon delivery, of any export control designation of the contract items or parts thereof according to applicable law at the time of delivery, especially according to relevant EU and US regulations. The relevant export control list and list position are to be designated for every delivery item, or parts thereof, subject to export controls.
- (7) The Buyer is entitled, at any time prior to acceptance, to request that the Seller make modifications to the deliverable, particularly if these concern design and construction. This does not include standard materials that the Seller also delivers to other contractual partners in a standardised form. The Seller is obliged to make the modifications without delay, based on the existing contractual terms and conditions. If, in the Buyer's view, such modifications may lead to the agreed costs of the contractual items being changed or if the agreed deadlines cannot be met, the Seller is to point this out to the Buyer without delay. Appropriate arrangements for handling any such effects, particularly with regard to additional or reduced costs and the agreed deadlines, are to be mutually agreed upon. If no consensus is reached within a reasonable period of time, the Buyer shall decide as it sees fit.

- (8) The Seller warrants that for a period of 10 years following delivery of the contractual items, it shall be able to supply the Buyer with additional contractual items or parts thereof, as spare parts, at reasonable market prices, unless, based on technological progress, a compatible or adequate part can be supplied.
- (9) If the Seller discontinues delivery of spare parts upon expiry of the period specified above in number 7, the Buyer shall be given an opportunity to place an order one last time.
- 4. Delivery Time and Delivery Delay**
- (1) The delivery time specified by the Buyer in the order is binding. Definitive for meeting agreed deadlines and schedules is the receipt of the fault-free delivery and/or service at the place of performance or the successfully completed acceptance or other performance review, if such a review is agreed upon or provided by law.
- (2) The Seller is obliged to promptly notify us in writing of any apparent delay in its performance, any anticipated possible delay of its performance or apparent or anticipated possible problems with delivery in the agreed quality. The Seller can only invoke causes of a delay for which it is not responsible if it has fulfilled its notification obligation towards us.
- (3) Notification of delays by the Seller and thus all related postponements of agreed delivery schedules in no way exempts the Seller from delay consequences, unless the waiver of delay consequences is expressly declared in writing by the Buyer when the schedule is changed. To this extent, despite postponement of the delivery schedules after delay notifications by the Seller, the Buyer continues to be entitled to all rights from the supply contract resulting from or associated with the Seller's delay.
- (4) If the Seller does not render its deliverable or not within the agreed delivery time, or if it is in default, our rights – in particular with respect to withdrawal and claims for damages – shall be determined by statutory provisions. Additional costs, in particular in case of necessary covering purchases, shall be at the Seller's expense. The acceptance of a late delivery without reservation does not constitute a waiver of claims for compensation. The provisions in para. 3 remain unaffected.
- (5) If the Seller is in default, we are allowed to demand lump-sum compensation for the damage caused by the delay - in addition to further statutory claims. This compensation shall equal 1% of the net price for each completed calendar week of delay up to a maximum of 5%, however, of the net price of the delayed goods. In addition to fulfilment, the Seller is entitled to demand the contractual penalty and as a minimum amount of the compensation for damages owed by the Seller according to statutory provisions; the assertion of additional damage shall remain unaffected. If the Buyer accepts the late performance, the Buyer shall assert the contractual penalty no later than upon final payment.
- 5. Delivery, Packaging, Labelling**
- (1) Deliveries are to be effected on the terms "Delivered Duty Unpaid" ("DDU") (pursuant to Incoterms 2000), unless otherwise agreed in the individual order.
- (2) The respective destination is also the place of performance for the delivery and any subsequent performance (obligation to deliver).
- (3) The delivery must be accompanied by a delivery note indicating the date (issue and shipment), content of the delivery (item number and quantity), our order code (date and number), as well as the supplier's lot number. If the delivery note is missing or is incomplete, the Buyer does not accept responsibility for any resulting delays of handling and payment. Separate from the delivery note, the Buyer is to receive a relevant notification of dispatch with the same content.
- (4) Unless expressly agreed by the Buyer, partial deliveries are excluded.
- (5) To the extent required by law, the Seller is to provide the receiver of the subject of the contract or the Buyer with a supplier's declaration, if possible long-term supplier's declarations, and to hand over the necessary documents where required.
- (6) The Seller obliges to use environmentally-friendly packaging that allows for re-use or economical disposal. Styrofoam chips are not permitted as packaging material. The packaging should provide protection against damage, contamination and humidity during transport and storage, so that assembly by us or by a company contracted by us can be completed without additional efforts. Important indications and signs for content, storage and transport are to be placed visibly on the packaging. Returnable packaging shall be shipped back freight collect to the Seller at its address.
- (7) The Seller is to mark or label the goods and the packaging in the manner contractually agreed or prescribed by the Buyer.
- (8) The Seller is to mark the goods and the packaging according to statutory provisions in the country of origin, at the Buyer's headquarters and at the place of delivery and to supply all necessary information (e.g. safety data sheet and hazardous material information) along with the goods. In case the Seller needs details from the Buyer, it is obliged to obtain it from the Buyer in a timely manner.
- 6. Return of Empties and Pallets**
- Unless disposable packaging is used, the return of empties or pallets and packaging material shall be made freight collect at the Seller's expense. The empties account is directly settled exclusively with the Seller. If delivery is made via forwarder, the Seller shall manage the empties account.
- 7. Use of Sub-contractors**
- In the absence of the Buyer's prior written consent, the Seller is not entitled to have third parties (e.g. sub-contractors) render performance for which it is responsible. The Seller bears the procurement risk for its contractual obligations unless agreed otherwise in a particular case (e.g. limitation to inventory).
- 8. Acceptance, Transfer of Risk, Transfer of Ownership, Retention of Title**
- (1) To the extent that acceptance is necessary based on the type of deliverable according to the applicable law or due to a contractual agreement, the deliverable shall be considered accepted upon the Buyer's written declaration of acceptance. If the Buyer does not uphold its duty to participate in an acceptance inspection after written notification of acceptance readiness by the Seller, the deliverable shall be deemed accepted four (4) weeks after initial use and written notification of acceptance readiness by the Seller, to the extent that during this time the Buyer does not claim any faults that would prevent acceptance.
- (2) If the contract deliverable of the Seller is integrated into an overall deliverable of the Buyer vis-à-vis its final customer, acceptance of the deliverable provided by the Seller shall only occur with acceptance of the client's acceptance of the overall deliverable by the final customer, without requiring express declaration to this effect. Under no circumstances do payments constitute acceptance of the contractual item.
- (3) Unless individually agreed in deviation from the contract, to the extent acceptance is required according to the aforementioned provision, the transfer of risk shall occur upon acceptance of the deliverable, otherwise upon complete delivery of the deliverable.
- (4) To the extent that the deliverable is produced by the Seller itself, the Buyer shall become the owner of the deliverable at the time when it is produced, otherwise when it is delivered to the Buyer.
- (5) Any reservation of title by the Seller concerning deliverables to us is excluded unless we provide express written consent to a reservation of title in a separate agreement.
- 9. Prices, Terms of Payment, Set-offs and Right of Retention**
- (1) The negotiated prices are lump-sum fixed prices. If hourly rates are adopted in the proposal, they serve solely for cost transparency. Any other provision shall only apply to the extent that it is agreed in writing that invoicing shall occur exclusively according to units on the basis of negotiated hourly rates.
- (2) Prices respectively include all expenditures of the contractor, e.g. costs for material, use of installations, travel costs, transport, insurance, packaging free domicile, customs duties, taxes etc.
- (3) If a payment plan is negotiated, payments shall occur after receipt of a relevant partial invoice according to the schedules and partial amounts agreed in the payment plan. Prior to acceptance of overall performance by the client, all payments shall be made as down payments, without recognition of previous performance as fulfilment. Invoicing of the final instalment shall occur only after complete delivery and, to the extent provided by the contract or by law, after acceptance of the overall deliverable. The Buyer is entitled to retain the final instalment or a maximum of 10% of the order value until expiry of the warranty period. The Seller is entitled to replace such a retention by providing a directly enforceable warranty guarantee (upon initial request, waiving the defence of failure to pursue remedies) from a bank or a credit insurer.
- (4) Invoices are to be issued to us in duplicate, indicating the purchase order number, purchase codes and numbers of each order item. Furthermore, the invoice must include all the details needed to authorise the deduction of input tax, in particular the tax number

or Value Added Tax identification number, and other mandatory details of an invoice pursuant to the relevant legal provisions of applicable law. If an invoice does not contain the aforementioned details, the Buyer is not obliged to pay the stated value added tax. If the Buyer is denied the deduction of input tax due to a non-compliant invoice, the Seller is to reimburse the client for any value added tax paid.

- (5) The payment shall be made within 14 working days, subject to a deduction of a 3% discount, or within 30 calendar days net by means of payment chosen by the Buyer. Payment deadlines are activated with the later of the following possibilities: (a.) Delivery or acceptance of the deliverable, (b.) receipt of the invoice or (c.) by the deadline stated in the order.
- (6) The Seller is not entitled to assign its receivables to third parties or to have them collected by third parties. If the Seller assigns its receivables from the Buyer to a third party contrary to Sentence 1 without the Buyer's consent, the assignment shall be effective nonetheless. The Buyer can, however, render performance to the Seller or to the third party with a discharging effect.
- (7) Payments by the Buyer shall be considered made as soon as they have been submitted by the Buyer for payment.
- (8) In case of faulty delivery, the Buyer is entitled to retain payment in a proportionate amount until proper fulfillment.
- (9) The Buyer is entitled to rights to set-off and retention within the scope permitted by law as well as the objection of non-performance of the contract. In particular, the Buyer is entitled to withhold due payments as long as it has claims against the Seller, based on incomplete or inadequate performance.

10. Confidentiality

- (1) The Seller obliges to hold strictly confidential all commercial and technical details that are not commonly known to which the Seller becomes privy through the business relationship and to safeguard them against unauthorised access, loss or use. This also applies in particular to any provisions (jointly referred to below as "information"). These are subject to strict confidentiality and are not permitted to be submitted or made available to unauthorised third parties without the Seller's written agreement. This does not apply to information which (a) is or becomes generally known, without any breach of this obligation, (b) is made known to the Seller by a third party, without breach of any relevant obligation, or (c) the Seller can prove either to have possessed it before this obligation came into effect, or to have developed it independently afterwards.
- (2) The copying of such information is only allowed within the scope of operational requirements and copyright provisions. The information provided to the Seller is to be handed over to the Buyer without a special request upon completion of work, in adherence with the confidentiality clause, or securely destroyed upon consultation with the Buyer. The Seller shall not retain or archive any copies, duplicates etc., unless it is obliged to archive materials based on statutory regulations. Subject to any other rights, the Buyer may request their return as soon as the Seller is in breach of duty.
- (3) Employees of the Seller and sub-contractors are to be bound by the same obligations.
- (4) Unless other terms have been agreed upon in the purchase order, this confidentiality obligation is to remain in force for a period of five (5) years after delivery and/or performance.
- (5) The Seller is only entitled to use this business relationship for advertising purposes with written approval of the Buyer.

11. Force Majeure

- (1) In the event of force majeure, in particular labour disputes, civil unrest, official measures and other unforeseeable, unavoidable and serious events, the parties to the contract are to be temporarily and mutually relieved of their obligations for the duration of the disruption. The contractual parties are obliged to supply the necessary information without undue delay, to the extent reasonably possible, and to adapt their commitments to the changed circumstances in good faith.
- (2) Should force majeure cause contractual obligations to be suspended for a period exceeding one week, the client shall be entitled to terminate the contractual relationship with immediate effect. In this case, the contractor shall be able to demand reimbursement of any documented expenditures incurred based on its trusting in the continuation of the contractual relationship up until suspension of the contractual obligations.

12. Defective Delivery

- (1) The Seller warrants that all its deliveries
 - a) meet the specifications agreed in the contract,
 - b) are free from defects in materials and workmanship and manufacturing defects,
 - c) comply with current state of science and engineering at the time of acceptance,
 - d) at the time of acceptance comply with applicable legal, regulatory, industry-specific standards and requirements, in particular, safety, environmental protection, building regulatory, hazardous material, hazardous goods and accident prevention provisions, along with the quality assurance specifications of the Buyer and the final customer,
 - e) are suitable for the intended purpose contractually agreed or apparent for the Buyer.
- (2) Notwithstanding § 442 para. 1 sentence 2 German Civil Code, we are also entitled to claims for defects without restriction if the defect remained unknown to us upon conclusion of contract as a result of gross negligence.
- (3) Concerning the commercial obligation to inspect goods and report defects, the statutory provisions (§ 377, 381 German Commercial Code (HGB)) shall apply, subject to the following: The Buyer's obligation to inspect the goods is restricted to defects that become apparent during the Buyer's goods receiving inspection, upon superficial examination, including the delivery documents, as well as during our quality control through sampling procedures (e.g. shipping damage, incorrect or short deliveries). There is no obligation to inspect the goods if an acceptance has been agreed. In addition, it depends on whether an inspection is deemed appropriate in the normal course of business, taking into account the circumstances of the individual case. The Buyer's obligation to notify in case of defects discovered at a later date shall remain unaffected. In all cases, the Buyer's complaint (notification of defect) shall be considered prompt and timely if it is received by the Seller within 14 working days.
- (4) If the Seller does not fulfil its obligation of supplementary performance – at the Buyer's option either by remedying the defect (rectification) or by delivery of goods free from defects (replacement) – within an adequate period stipulated by the Buyer, the Buyer may carry out remedial actions itself and claim compensation for the necessary expenditure or an advance payment from the Seller. If supplementary performance by the Seller has failed or is not a reasonable option for the Buyer, (e.g. in particularly urgent cases, danger to operational safety or impending incidence of disproportional damages), a notice period is waived; the Buyer shall inform the Seller of such circumstances without delay, if possible in advance.
- (5) Furthermore, the Buyer is entitled to a reduction in the purchase price or to withdrawal from the contract in accordance with statutory provisions in the event of a material defect or a defect of title. In addition, the Buyer holds the right to claim compensation for damages and for the reimbursement of expenses in accordance with statutory provisions.
- (6) In addition, the Seller is to reimburse to the Buyer all costs incurred in association with the remedy of defects or replacement of defective deliverables (including shipping, handling, installation/deinstallation, material and labour).
- (7) The warranty period is 36 months from delivery to (purchases and services) or acceptance (performed work) by the Seller. To the extent that the deliverable is part of an overall deliverable provided by the Buyer to its customer, the warranty period shall be 36 months from acceptance of the overall deliverable by the Buyer's customer, however no longer than 48 months from delivery to the Buyer.
- (8) If a defect occurs within the first 12 months after the warranty period has begun, it is assumed that this already existed at the time of transfer of risk or acceptance, unless the Seller is able to prove that the defect occurring was culpably caused by the Buyer.
- (9) Any further legal or contractual claims shall remain unaffected.

13. Supplier Recourse

- (1) The Buyer is entitled, without restriction, to the legally defined rights of recourse within a supply chain (supplier recourse pursuant to §§ 478, 479 German Civil Code), in addition to the right to claims for defects. The Buyer is especially entitled to demand exactly the type of supplementary performance (rectification or replacement) from the Seller that the Buyer owes to its customer in an individual case. The Buyer's legal right to choose the remedy (§ 439 para. 1 German Civil Code) shall not be restricted by this.
- (2) Before acknowledging or fulfilling a claim of defect asserted by a customer of the Buyer (including reimbursement of costs pursuant

- to §§ 478 para. 2, § 439, para. 2 German Civil Code), the Buyer will notify the Seller, explaining the facts in brief, and request a written statement. If the statement is not forthcoming within a reasonable period and no amicable solution is reached, the claim of defect actually granted by the Buyer shall be deemed owed to its customer; in this case the Seller is obliged to produce proof of the contrary.
- (3) The Buyer's claims to supplier recourse shall also apply even if the goods were processed by the Buyer or one of its customers, e.g. by integrating them into another product, before they are sold to a consumer.
- 14. Other Liability / Insurance**
- (1) The Seller is liable for any claims arising from the infringement of granted and registered industrial property rights as well as copyright violations during contractual use of the deliveries and services. The Seller shall indemnify the Buyer and its customers from any claims arising from the infringement of any such industrial property rights. This does not apply in cases where the Seller is working according to drawings, models, data etc. provided by the Buyer, and does not know, or, in connection with the services it is providing, does not need to know that industrial property rights are being infringed as a result. In the event of infringement, the Buyer is entitled, at the Seller's expense, to obtain from the owner of such industrial property rights the necessary authorisation to deliver, commission, use, resell, etc. the contractual item. Any additional entitlement of the Buyer to compensation for damages shall remain unaffected.
- (2) The Seller will indemnify and hold harmless the Buyer from any third party claims arising from product liability, if and to the extent that it is responsible for the damage which has occurred, and will reimburse the Seller for any expenses incurred by or in connection with any recall action or service measures undertaken by the Buyer or one of its customers. The Seller shall inform the Buyer, as far as is possible and reasonable, about the content and scope of product recall or service measures and provide the Buyer with the opportunity to comment on this. The principles of § 254 German Civil Code will apply accordingly to the damage adjustment between the Buyer and the Seller.
- (3) Should the deliverables provided by the Seller include any work on the business premises of the Buyer or one of its customers, then the Seller will implement all precautions necessary to prevent injury to persons or damage to property. The Seller shall indemnify and hold harmless the Buyer from any damage, costs and expenditures caused due to work carried out by the Seller on business premises, unless the damage was caused through no fault of the Seller.
- (4) The Seller is liable for its representatives, vicarious agents and sub-contractors to the same degree as for its own negligence.
- (5) The Seller shall undertake to obtain insurance, particularly against personal injury, property damage and financial loss, with typical industrial cover of at least a coverage amount of 10 million Euros per case of damage. If requested to do so, the Seller is to submit to the Buyer appropriate proof of insurance. The Seller hereby assigns to the Buyer in advance all insurance claims against the insurer in connection with the contractual items, and the Seller accepts this assignment. The act of obtaining insurance and the assignment of insurance claims in no way limits the Seller's liability.
- (6) Any further legal or contractual claims shall remain unaffected.
- 15. Compliance**
- (1) The Seller is obliged to fully familiarise itself with the code of conduct for suppliers and business partners ("Code of Conduct") of the Buyer, which may be reviewed on the Buyer's website (www.muepro.de).
- (2) The Seller acknowledges that compliance with the Buyer's Code of Conduct is of vital importance for a business relationship with the Seller. Consequently, the Seller agrees that in case of a breach of the principles in the Buyer's Code of Conduct, it will inform the Buyer of the breach immediately.
- (3) In case of any breaches of the Buyer's Code of Conduct communicated by the Seller to or discovered by the Buyer, the Seller shall immediately take remedial action. If this is not possible within a reasonable time, the Buyer is entitled to cancel the existing contracts extraordinarily, without notice for good cause.
- (4) The Seller shall compensate the Buyer for any liabilities incurred by the Seller due to an infringement of the principles in the Buyer's Code of Conduct by the Seller or one of his/her sub-contractors, and thus holds the Buyer harmless.
16. Compliance with Minimum Wage Act, Provision of Surety, Special Right of Termination
- (1) The Seller guarantees that each of its employees is continuously and promptly remunerated at a level not less than the applicable statutory minimum wage. The Seller shall also impose commensurate obligations on any subcontractors and employment agencies with whom the Seller maintains contractual relationships.
- (2) With respect to subcontractors and employment agencies with whom the Seller or its subcontractor maintain contractual relationships, the Seller guarantees that each worker employed by them shall be continuously and promptly remunerated at a level not less than the applicable statutory minimum wage.
- (3) The Buyer is entitled to verify the Seller's obligation to pay the minimum wage by reviewing business documents, in observance of data protection regulations. For this purpose, upon request of the Buyer, the Seller shall provide free of charge verifiable documentation within a suitable period, in particular documents pursuant to § 17 German Minimum Wage Act (MiLoG) and payrolls, each in anonymised form. The Seller shall also impose commensurate obligations on any subcontractors and employment agencies with whom the Seller maintains contractual relationships.
- (4) The Seller fully indemnifies the Buyer from all liability pursuant to § 13 German Minimum Wage Act (MiLoG). In the event that claims are asserted against the Buyer by employees of the Seller, its subcontractors or employment agencies with whom the Seller maintains contractual relationships, pursuant to § 13 German Minimum Wage Act (MiLoG), regardless of culpability, the Seller is strictly liable for all respective costs of the claim. To safeguard this right of recourse, the Seller is obliged to provide the Buyer upon request with a surety in the form of an irrevocable and directly enforceable guarantee upon initial request at a bank or credit insurer in Germany authorised to perform these types of transactions. The costs for the guarantee shall be borne by the Seller.
- (5) Should the Seller breach its obligations under para. 1 or in the event of any claims asserted against the Buyer by employees of the Seller, its subcontractors or employment agencies used by the Seller, pursuant to § 13 German Minimum Wage Act (MiLoG), the Buyer shall be entitled to terminate orders and other agreement in part or whole – without notice.
- 17. Applicable Law, Place of Jurisdiction and Other Provisions**
- (1) The laws of the Federal Republic of Germany, excluding international uniform law, in particular the United Nations Convention on Contracts for the International Sale of Goods, shall apply to these GTCP and the contractual relationship between us and the Seller.
- (2) If the Seller is a merchant as defined in the German Commercial Code, a legal entity under public law, or a special public fund, the exclusive – also international – place of jurisdiction for any disputes arising under this contract shall be the Buyer's headquarters. The same applies if the Buyer is an entrepreneur as defined by § 14 German Civil Code. However, the Buyer is also entitled in all cases to bring suit at the place of performance of the delivery obligation pursuant to these GTCP or an overriding individual agreement at the Seller's general place of jurisdiction. Overriding statutory provisions, especially for exclusive competent jurisdictions, shall remain unaffected.
- (3) Should any or several provisions or an essential part of the order or of these General Terms and Conditions of Purchase be or be rendered ineffective, fully or partially, or should the order or these General Terms and Conditions of Purchase contain any loopholes, this shall not affect the remaining parts of the order or these General Terms and Conditions of Purchase, which will remain in full force and effect. In lieu of the invalid provision, a new provision shall be adopted that most closely fulfils or approximates the intent and purpose of the invalid provision. Any other gaps are to be filled according to best judgement.

Last updated: March 2017