



## **General Terms and Conditions for Suppliers (GTC, Edition February 2011)**

### **1. Scope**

These GTC are applicable for the legal relationship between SIG Combibloc Group AG or any of its affiliates (hereafter „SIG“) and the Supplier.

These GTC, together with the Quantity Agreements and the Orders, constitute the entire understanding and agreement between the Parties. They supersede all negotiations, prior discussions, and preliminary agreements between the parties.

In case of discrepancies, the Quantity Agreements shall prevail.

The GTC may only be amended with the written consent of SIG. Other General Terms and Conditions, Supplier Conditions and the like are herewith without an extra notification expressly rejected by SIG and shall not be deemed accepted by SIG in any way.

The GTC may be amended by SIG from time to time. In case of substantial amendments, SIG will inform the Supplier appropriately to the extent possible about such amendments. The up to date version of the GTC is available online as follows:

[http://www.sig.biz/site/en/medien/download-bereich/6\\_terms\\_of\\_purchase/Terms\\_of\\_Purchase.jsp](http://www.sig.biz/site/en/medien/download-bereich/6_terms_of_purchase/Terms_of_Purchase.jsp)

### **2. Offering**

Offers and tenders must be provided by the Supplier free of charge.

### **3. Conclusion of Contract**

Orders are legally binding only if made in writing. Repeat orders, call-offs, as well as changes and corrections thereto can also be communicated by e-mail.

Oral orders and orders made by phone are only valid if confirmed in writing by SIG subsequently.

### **4. Order Acceptance, Right of Cancellation**

The Supplier shall confirm the order in writing and without modification, including the complete order data within 10 days after receipt of the order. In the absence of such confirmation, SIG shall be entitled to cancel the order without cause. Any obligation or liability of SIG in respect of any such order cancellation is hereby waived.

### **5. Variation of Orders**

Orders may be varied with regard to quantity, quality and/or technical aspects by SIG to the extent that the variations are economically and technically reasonable for the Supplier.

Possible extra costs arising from such alternation requests have to be communicated to SIG immediately. Notwithstanding the amount of and the reasons for the extra costs arising from such change request, SIG is entitled to revoke its alternation request.



## **6. Written Form**

If not expressly agreed otherwise between the Parties or stated in these GTC, the written form requirement is fulfilled by sending the confirmation by letter post, fax, e-mail or by electronic data interchange (EDI).

## **7. Prices, Freight Cost, Taxes**

Prices are deemed fixed prices unless otherwise agreed.

Cost for packaging and freight to supply point as well as customs and duties, if applicable, are included in the price and cannot be charged extra to SIG. Unless agreed to the contrary, any applicable VAT will be added to the price (including packaging and freight).

If the Parties have not agreed on a price, the current list price of the Supplier shall be binding subject to consideration of usual commercial discounts (i.e. cash or quantity discounts).

## **8. Supply and Place of Delivery**

All Invoices, waybills, delivery notes and other correspondence referring to the order must reference the order number.

Upon dispatch of the goods, the Supplier shall send SIG a delivery note containing a material list, the order number and the place of delivery.

On each consignment, the Supplier shall attach, visibly from the outside, a packing list detailing the delivered Goods with their measurements, the weight, the number of parts, the order number as well as the place of delivery.

In each case, deliveries exceeding the ordered amount will be accepted by SIG only upon specific written consent. Under the obligations of the respective order, incomplete deliveries are considered as a partial default with the same consequences as for late delivery according to article 11 of these GTC.

The goods have to be packaged properly in order to avoid any damage during transportation. If possible, the Supplier shall use ecological packaging materials.

The Supplier shall be refund SIG for any extra costs that are incurred due to the non-compliance with the above obligations of the Supplier.

The Supplier is required to accept returns of packaging materials, replacement parts etc. in accordance with any applicable laws and regulations.

Until arrival at the delivery point, the delivery of the Goods is at the risk of the Supplier.

Unless otherwise agreed, the place of performance shall be at the indicated point of delivery,

[In addition / if specified in the order], the Parties refer to the INCOTERMS in effect at the delivery date.

## **9. Disclosure of Changes of Product Features**

The Supplier shall mark all delivery notes and invoices with the international identification code according to the World Customs Organization's code list (WCO).

The Supplier shall inform SIG in advance by giving a written notice, if the identification code has been changed for any reason.



The Supplier shall inform SIG about any changes of product features and specifications beforehand in order to allow SIG to perform any necessary amendments of the system or of the process. The Supplier shall also inform SIG about any impact that can arise out of such changes, i.e. on processes, storage as well as on possible security issues that have to be taken.

The implementation of such changes and amendments requires the written approval of SIG. The written consent of SIG shall only be refused if the changes and amendments result in a cost increase (i.e. due to more extensive security provisions), if they are not fully compatible with the existing systems and processes or due to other good reasons.

The Supplier is liable for any damages that occur from a non-observance of this disclosure requirement and will hold SIG harmless and defend SIG against any corresponding claims from third parties.

## **10. Invoicing**

Invoices and supporting documents have to be sent to SIG separately with each delivery. Incorrectly submitted invoices are deemed not received.

The invoice does not replace the delivery note.

## **11. Payment Terms**

Invoices have to be paid within 45 days net from their delivery date or within 20 days applying a discount of 3% of the invoiced price.

If test certificates have to be submitted by the Supplier, such certificates shall be sent together with the delivery to SIG. The term of payment starts only after receiving the respective test certificates.

## **12. Assignment of claims**

Claims against SIG may not be assigned to any third party.

## **13. Delivery Terms, Late Deliveries**

Agreed delivery terms are binding and have to be respected. The delivery term is deemed fulfilled if the goods have arrived at the place of delivery specified by SIG or have been accepted by SIG in due time.

The Supplier shall inform SIG in writing immediately about any possible delay of the delivery term, indicating the reasons for the delay as well as the estimated new delivery date.

SIG is entitled to get information about the status of the order on the premises of the Supplier. To the extent necessary, the Supplier shall grant SIG, upon prior notice, access to its premises as well as the relevant documents and files.

The consequences for late delivery are the following:

In the event of default and after granting a grace period of 20 days to the Supplier in order to comply with its delivery duties, SIG is entitled, at its sole discretion, either (i) to insist on delivery, (ii) to cancel the contract and to claim damages, or (iii) to organize a replacement delivery or performance by a third party at the expense of the Supplier.



SIG is entitled to withhold payment in part or in full until the Supplier has fulfilled its obligations completely.

#### **14. Early Delivery, Partial Delivery**

SIG is entitled to refuse early delivery unless sufficient space is available and the early delivery does not cause any extra cost. The acceptance of early delivery has no impact on the passing of risk and on the payment term, which shall remain pegged to the original, agreed delivery date.

Partial deliveries have only to be accepted by SIG if so agreed. Partial deliveries have to be invoiced separately, and the respective invoice must show the remaining quantity.

#### **15. Warranty**

The Supplier shall deliver all goods in accordance with applicable laws and regulations, as well as recommendations of authorities and trade organisations. The goods have to be produced according to the state of the art and have to be certified regarding compliance with safety regulations.

The regulations for noise protection according to DIN 45641 and 45635 have to be observed.

Any relevant material safety data sheets have to be handed over with the delivery. If not, the Supplier shall be obliged to indemnify and defend SIG for corresponding claims of third parties.

SIG has to be informed immediately in writing if the delivery cannot be made in accordance with SIG's order.

The Supplier shall use ecologically friendly products and processes and is responsible to observe applicable environmental regulations during production and delivery of the goods.

SIG shall strive to inform the Supplier within 10 days from arrival of the goods about any visible defects. Hidden defects have to be notified to the Supplier within 10 days from their discovery.

Any defects, including without limitation defects in material and non-conformance with specifications, descriptions or agreed properties, have to be remedied within the shortest possible delay at the expense of the Supplier. SIG has the choice whether the defective goods shall be repaired or replaced by the Supplier.

In addition, the Supplier is liable for the cost of remediation of deficiencies, including cost of investigation, dismantling and (re-)assembly, transport and labour cost as well as any other consequential cost.

If the Supplier fails to remedy the defects within a reasonable timeframe set by SIG, SIG is entitled to terminate the contract or to claim a reduction of the price. Any claims for damages shall be reserved.

Minor deficiencies can also be remedied by SIG or by a third party according to SIG's instructions without prior notification by SIG and at the expense of the Supplier.



## **16. Warranty Period**

Unless expressly otherwise agreed, the warranty period is 24 months from delivery at the agreed point of delivery or the acceptance date as indicated on the acceptance protocol. The warranty period for spare parts commences with their installation or use.

The warranty period for buildings and building material conforms to the corresponding SIA-norms or, if not applicable, to the corresponding legal regulations.

If a deficiency is discovered within 6 months from the date of delivery, the Parties assume that the Goods have been delivered in a defective condition, unless the opposite has been proved by the Supplier or is obvious.

The warranty period is suspended as long as the Parties do not agree about a warranty claim.

## **17. Force Majeure**

The parties shall be excused from their respective obligations in case of an event of Force Majeure (i.e. natural catastrophes, war or warlike events, civil disturbance) or in the event of a country-wide general strike that cannot be influenced by the affected party, for the duration of such event and to the extent that the party is affected by the event. To the extent reasonably possible, each party shall immediately inform the other and to adjust their performance under the agreement to the new situation.

SIG shall be excused from the acceptance of ordered goods or services and is entitled to terminate the agreement to the extent that the goods or services have become useless for SIG due to the delay caused by the event of Force Majeure.

Each party shall bear its own damages.

Interruptions of production as a result of wearouts, defects or other breakdowns and the like of machines and equipment are not considered as a case of Force Majeure.

## **18. Quality Management and Insurance**

The Supplier guarantees to maintain a quality management in accordance with the state of the art. If necessary, the Parties shall agree upon a Quality Agreement containing the corresponding details.

The goods have to be marked in such way to make them recognisable as being produced by the Supplier.

Unless otherwise agreed, the Supplier shall contract product and general liability insurance with coverage of at least EUR 5 million. Upon request, the Supplier shall make the policy available to SIG for inspection, and shall name SIG as an additional insured under the policy.

## **19. Export Control Clause**

Regardless of any data contained in the quotation, the Supplier shall provide, and support by documentary evidence, the following information to SIG:

- the customs tariff numbers of the goods
- whether the goods and/or services of the purchase order are subject to export restrictions according to the latest version of the foreign trade regulations, the



foreign trade law and the export list or the law on the control of military weapons and the European regulations on export control of dual-use items

- whether U.S. export control laws and regulations are applicable; the Supplier shall also provide the relevant documents for the authorisation process in case of re-export.

The Supplier shall provide a copy of the export licence or a negative certificate valid according to the latest regulations issued by the competent authority.

## **20. Product Liability**

The Supplier is liable for any cost arising from any infringement of public safety regulations or product safety regulations to the extent such infringement is caused by the goods of the Supplier.

## **21. Liability of SIG**

SIG is only liable in cases of gross negligence or intention. The liability is limited to the contract value. This restriction does not apply to bodily injury.

The liability restrictions also apply to subcontractors and to employed third parties.

The Supplier is responsible to take all necessary measures to ensure adherence to all safety instructions by its employees and subcontractors. SIG cannot be held liable in any case for damages arising from an insufficient observation of safety instructions by the Supplier.

## **22. Intellectual Property Rights**

The Supplier guarantees that the delivered goods and services are not subject to intellectual property rights of third parties. The Supplier ensures that the supply and usage of the delivered goods does not infringe upon any patents, licenses or other intellectual property rights of third parties.

The Supplier shall indemnify SIG for any corresponding claims of third parties.

SIG is entitled to acquire any intellectual property rights or licences from the legitimated third parties at the expense of the Supplier.

## **23. Return of Documents and Tools**

Tools and documents provided to the Supplier by SIG have to be returned to SIG or upon request from SIG to be destroyed to the extent they are of no use anymore, at the latest after termination of the contractual relationship between the Parties. If requested by SIG, the extermination of the documents and tools has to be confirmed by written notice.

Lost Tools and Documents have to be replaced at the Supplier's expense.

## **24. Confidentiality**

Each party will keep confidential all non-public information received from the other party and will only be disclosed to third parties with the express written consent of the disclosing party.

The Supplier will not make any reference to third parties or public announcements regarding its supplies to SIG without SIG's prior written consent.



## **25. Benefit of and Assignment to Related Companies**

The rights and obligations of the Supplier may only be assigned or otherwise transferred to a third party with the prior written approval of SIG. Notwithstanding anything to the contrary herein, the rights and obligations hereunder can be assigned or transferred without the written consent of the other party to any entity who is affiliated to the Party, provided that such affiliated entity agrees to fully assume all rights and obligations and is financially and technically capable of fulfilling all obligations.

## **26. Additional Terms and Conditions Only applicable to Quantity Agreements**

This provision does not apply to single orders and other contractual relationships that are not entitled or to be construed as Quantity Agreements.

### ***26.1. Termination without Cause, Terms of Cancellation***

Unless otherwise agreed, Quantity Agreements can be cancelled without cause after termination of the agreed minimum term of the Agreement with a notice period of three months effective at the end of each month.

A possible minimum duration of the Contract will be stated in the Quantity Agreement.

### ***26.2. Termination with Cause***

A party may terminate a Quantity Agreement with immediate effect by giving written notice to the other party if:

- a) that other party enters into bankruptcy procedures or becomes or declares itself insolvent,
- b) that other party breaches any provision of this Agreement that is capable of being remedied, and then fails to remedy the breach within 30 days or, if necessary, within a reasonable time period after receiving notice requiring it to do so;
- c) that other party breaches any material provision of this Agreement that is not capable of being remedied;
- d) SIG changes material provisions of these GTC to the disadvantage of the Supplier by the time of their coming into effect.

In case of a termination of a Quantity Agreement with immediate effect, SIG is only obliged to pay for the goods that could be used appropriately yet.

### ***26.3. Surplus Stock***

SIG shall have no obligation to purchase any surplus stock upon expiry or termination of a Quantity Agreement if this is not due to economical, technical reasons. Any further claims for compensation (e.g. due to loss of profit) are explicitly excluded.

## **27. Gift Policy**

In the scope of the business relation, no gifts or any other donations shall be granted to SIG's employees by the Supplier.

## **28. Language**

In case of discrepancies between the two linguistic versions, the English version shall prevail.



## **29. Invalidity**

If any provision of these GTC is held to be illegal, invalid or unenforceable, such provision shall not affect the validity of any other provisions thereof. The parties shall in good faith replace such provision with a new provision which shall be legal, valid and enforceable and which comes closest to the intention of the original provision.

## **30. Jurisdiction and Governing Law**

The place of jurisdiction shall be, at SIG's choice, either at the domicile of SIG or at the domicile of the Supplier. The applicable law shall be in compliance with the particular applicable law at the place of jurisdiction. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG / Vienna 1980) is expressly excluded.