



General Terms and Conditions of Purchase Gebr. Heinemann SE & Co. KG

1. Applicability, Offer and Acceptance

- 1.1 These General Terms and Conditions of Purchase (hereinafter the "General Terms and Conditions") apply to all business relationships with our suppliers (hereinafter individually "Supplier"). These General Terms and Conditions apply only if Supplier is an entrepreneur (*Unternehmer*, as defined in § 14 of the German Civil Code (*BGB*)), a public entity, or a public special trust (*öffentlich-rechtliches Sondervermögen*).
- 1.2 Any General Terms and Conditions of Supplier different from, in conflict with, or in addition to our General Terms and Conditions shall be part of the contract only if and to the extent we have expressly consented to their applicability in writing. Acceptance or payment of products or services by Gebr. Heinemann SE & Co. KG (hereinafter "GH") shall not be construed as consent to any general terms and conditions of Supplier.
- 1.3 These General Terms and Conditions shall also apply to any future business transactions between GH and Supplier. GH shall promptly notify Supplier of any changes to these General Terms and Conditions.
- 1.4 Unless offers from GH expressly provide for a specific time period for which the offer is valid, offers shall be valid for a period of one week from the date they are made. Timeliness of acceptance shall be determined with reference to the date it is received by GH.
- 1.5 Any modifications or amendments to orders or contract terms must be in written form.

2. Delivery Periods/Deadlines, Transfer of Risk

- 2.1 The delivery periods/deadlines specified in the order are binding. If no delivery period is specified in the order or otherwise agreed, the delivery period shall be two weeks beginning on the contract date.
- 2.2 Compliance with delivery periods/deadlines shall be determined with reference to the date the goods arrive at the place of performance free of defects or, if provided by contract or applicable law, the date the goods are successfully accepted or otherwise successfully pass inspection, as applicable.
- 2.3 Supplier shall promptly notify GH if and as soon as circumstances occur or become reasonably apparent indicating that Supplier will not be able to perform its obligations under a contract in whole or in part, or will not be able to do so in a timely manner.
- 2.4 In the event of non-delivery GH may avail itself of all remedies available under applicable law, without limitation, including the right to rescind the contract and the right to claim expectation damages after a reasonable grace period has expired without receipt of delivery.
- 2.5 The risk of loss shall not transfer to GH until the goods have been delivered to GH at the agreed place of destination, even if the parties have agreed upon shipment.

3. Property Rights, Licenses, Intellectual Property Rights of Third Parties, Indemnity

- 3.1 Delivered goods shall become the property of GH at the latest when payment is made.
- 3.2 Any extended or expanded retention of title in favor of Supplier is hereby excluded, unless otherwise agreed, for example for consignment goods.



- 3.3 All models, plans, samples, draft, props, source codes, documentation, intermediate products or by-products produced or provided by Supplier shall become the property of GH at the time of delivery or acceptance. Supplier hereby licenses to GH the exclusive rights, in perpetuity, throughout the world and without limitation, to use all work results produced in connection with orders for purposes of any kind, including, without limitation, the right to process or otherwise alter work results, and the right to reproduce, distribute or otherwise disseminate work results, and the right to make work results accessible to the public or to perform work results in public, whether in original or modified form. The licensed rights shall include, without limitation, the right to use work results to the exclusion of any third parties (including Supplier) and, in particular, the right to continue the development of work results either directly or through third parties, and the right to allow third parties to use work results as desired by GH.

As a result of the rights licensed to GH above, Supplier shall have no right to transfer work results to any third parties, in original or modified form. All drawings, draft, samples, etc., provided by GH to Supplier for purposes of submitting orders or performing contracts shall remain the property of GH. Such materials shall not be used, reproduced or made accessible to any third parties for any other purposes. Upon demand of GH Supplier shall fully return such documentation to GH, if and when it is no longer needed by Supplier in the ordinary course of business or if and when contract negotiations between the parties have failed. In such case any copies made by Supplier shall be destroyed, the only exceptions being documents of which Supplier is required to keep records by law, as well as the storage of data for backup purposes in the course of Supplier's standard data backup.

- 3.4 In the event that Supplier makes available to GH for advertising purposes any images, graphics, text blocks or any other information or data, GH shall have the right to use such materials in the ordinary course of business for advertising purposes in relation to end customers and buyers who are not end customers ("Retailers"). GH further shall have the right to sublicense the right to use such materials to one or several Retailers, while retaining the personal right to use such materials. In such cases the Retailer, in turn, shall have the right to use the aforementioned information and data for advertising purposes vis-à-vis end customers in the ordinary course of business.
- 3.5 Supplier warrants that GH's use of ordered products or services, or of information and data delivered in accordance with Section 3.4, will not infringe any rights of third parties, including, without limitation, any intellectual property rights of third parties. Supplier agrees to fully hold harmless and indemnify GH from and against any and all claims brought by third parties based upon any infringements, e.g., infringements of copyrights, patents, utility patents, design patents, trademarks or other intellectual property rights, such as trade secrets or rights under unfair competition law.

4. Production, Compliance, Disclosure Obligations

- 4.1 Supplier agrees to deliver no products made under working conditions that involve exploitation, harm the environment or human health, or are inhumane or degrading, including, without limitation, child labor. Upon request Supplier shall designate the place of production to GH and provide GH with access to the place of production for inspection purposes.
- 4.2 Deliveries shall be made in conformity with the provisions of the GH "requirements for suppliers and freight forwarders for goods delivery" as amended from time to time, which are hereby made a part of and incorporated by reference into these General Terms and Conditions.
- 4.3 Deliveries shall be in conformity with generally accepted engineering principles applicable at the place of performance at the time delivery is made and in compliance with all laws and regulations applicable at the place of performance, including, without limitation, product and occupational safety laws and regulations, environmental and social standards, labeling laws and regulations, consumer protection laws and regulations, Dual System standards, and accident prevention laws and regulations. GH shall have the right to demand proof of compliance with the above criteria in the form of a certificate issued by a recognized certification organization (SGS, Bureau Veritas, DEKRA, TÜV, etc.). This shall also apply, without limitation, to compliance with social standards and the International Code of Conduct, and to chemical and/or physical materials testing results.



- 4.4 Supplier shall label goods to be delivered in conformity with applicable laws and regulations, enclose all accompanying documentation, such as safety data sheets and operating instructions, and deliver goods in such a form and along with such information as is needed to guarantee the unimpeded worldwide distribution of the products by GH. In addition, Supplier shall provide information about any non-European import requirements or restrictions. If such information is missing at the time of delivery or is not provided later upon demand within a reasonable time period, GH shall have the right to bring warranty claims in accordance with the terms of the contract and applicable law, without prejudice to any other rights and claims.
- 4.5 Upon the request of GH Supplier shall deliver goods along with a certificate of origin or provide such certificate of origin after delivery upon request. If the certificate of origin is missing at the time of delivery or is not provided later upon demand within a reasonable time period, GH shall have the right to bring warranty claims in accordance with applicable law, without prejudice to any other rights and claims.
- 4.6 Supplier shall deliver all goods, including packaging, in compliance with the following:
- If goods are transported by railway, roadway, inland waterway or overseas, with the applicable provisions of the German Regulations on the Transportation of Hazardous Materials on the High Seas (*Gefahrgutverordnung See*), the German Regulations on the Transportation of Hazardous Materials by Roadway, Railway or Inland Waterway (*Gefahrgutverordnung Straße, Eisenbahn, Binnenschifffahrt*), as well as with the applicable provisions of the International Maritime Dangerous Goods Code (IMDG Code), the *Accord européen relatif au transport international des marchandises dangereuses par route (ADR)*, the *Règlement concernant le transport International de marchandises Dangereuses par ferroviaire (RID)*, and the *Accord européen relative au transport international des marchandises Dangereuses par voie de Navigation intérieure (ADN)*.
 - If goods are transported by aircraft, with the applicable provisions of the Dangerous Goods Regulations of the International Air Transport Association (IATA-DGR), the requirements of the International Civil Aviation Organization Technical Instructions (ICAO-TI), enclosing with deliveries the appropriate safety sheets in the English language and identifying all hazardous features relevant for transport, including the correct technical name and applicable UN number.
- If information in the English language about potential hazards of products as required under the applicable code is missing at the time of delivery or if such information is not made available later upon demand within a reasonable time period, GH shall have the right to bring warranty claims in accordance with the terms of the contract and applicable law, without prejudice to any other rights or claims.
- 4.7 Suppliers who bring goods with the meaning of the German Packaging Regulations (*Verpackungsordnung*) into commerce in the Federal Republic of Germany for the first time shall inform GH under which German Dual System they are licensed. If suppliers bring goods into commerce in another country, the above provisions shall apply based upon the laws and regulations applicable in the relevant EU country.
- 4.8 If goods delivered to GH carry the trademark protected "*Grüner Punkt*" logo, Supplier shall pay all fees for use of the trademark.
- 4.9 Any Supplier who as a manufacturer or supplier brings into commerce in the Federal Republic of Germany electrical or electronic devices for the first time must comply with the applicable provisions of the German Electrical and Electronic Equipment Act (*Elektrogesetz*) and transmit Supplier's EAR registration number to GH at the latest when the goods are delivered. Otherwise GH shall have the right to bring warranty claims in accordance with the terms of the contract and applicable law, without prejudice to any other rights or claims.
- 4.10 In the event that Supplier is a manufacturer (*Hersteller*), original seller (*Erstinverkehrbringer*) or importer (*Einführer*) within the meaning of the German Act on the Safety of Appliances and Products (*Geräte- und Produktsicherheitsgesetz*), Supplier shall comply with all provisions of the Act, including, without limitation,



labeling requirements and provisions requiring operating instructions in the language of the distribution territory to be included. Operating instructions must specify the intended purpose of the products, address improper use, warn of risks and hazards, and specify under which conditions products must be recalled. In the event that Supplier is not in compliance with the above at the time of delivery or within a reasonable time period after a demand from GH, GH shall have the right to bring warranty claims in accordance with the terms of the contract and applicable law, without prejudice to any other rights and claims.

- 4.11 If Supplier imports into the Federal Republic of Germany batteries or products into which batteries have been installed or which include batteries, Supplier shall provide the German Environmental Protection Agency with prior notice and register for membership in the Mutual Return System for Used Batteries for Electrical or Electronic Equipment (*Gemeinsames Rücknahmesystem für Geräte-Altballerrien*). Supplier shall affix the necessary labeling and comply with all prohibitions of sale under the German Battery Act (*Batteriegesezt*).
- 4.12 For deliveries imported from third countries, the provisions of the EUTR (European Timber Regulation EU 995/2010) apply:
1. The supplier assures that the timber supplied or the timber products generated from it originate from usages that comply with the applicable legal provisions.
 2. It must be possible to identify the entire supply chain of the merchandise supplied and to verify this with documents.
 3. The supplier is obliged to provide the following information for every delivery or to send this to the contact responsible at Gebr. Heinemann:
 - Completed document “Declaration according to Article 6a EUTR” 995/2010”
 - Certificates, documents and other evidence that prove the legal acquisition of the product deliveredDeliveries from third countries will only be accepted by Gebr. Heinemann SE & Co. KG (released for import) if all the documents required are available at the time of the import and thus the entire supply chain can be presented by means of documents.

In order to ensure the merchandise is imported smoothly, it is expected that

- for new articles that come under the EUTR, the relevant contact at Gebr. Heinemann is informed at least four to six weeks before the planned import
 - in the event of a change in the source of supply, Gebr. Heinemann is informed without delay. Relevant documents must be enclosed accordingly
 - Gebr. Heinemann will be informed without delay if a certificate that has been provided becomes invalid
- Furthermore, Gebr. Heinemann SE & Co. KG or one of the service providers it uses are permitted to conduct audits of the supply chain at a forestry level and review parts of the entire supply chain for evidence of compliance with legal requirements, if applicable.

If the supplier cannot provide the evidence required as per the EUTR, Gebr. Heinemann SE & Co. KG reserves the right, after consultation, to have the merchandise checked for compliance with legal stipulations by a certified company at the cost of the supplier (e.g. Thünen Institut). If the result regarding timber/timber products indicates illegal logging, the merchandise will either be destroyed at the cost of the supplier or be returned to the supplier. If a review of the documents sent is required by an EU-recognised monitoring organisation or inspection body, the costs incurred will be charged to the supplier after consultation.

5. Prices

- 5.1 All negotiated prices shall be valid for the agreed time period or until changed by mutual agreement of the parties.
- 5.2 Prices shall include all expenses of Supplier, such as customs fees, packaging and insurance, as well as free delivery, unless otherwise agreed in writing.
- 5.3 Unless otherwise agreed, GH shall make payment by check for deposit only or by bank transfer. Timeliness of payment shall be determined with reference to the date the funds are mailed or transferred by GH.



Payment periods and cash discount periods shall commence on the date on which delivery is made free of defects, however not before the date the invoice is received by GH.

- 5.4 Payment by GH shall not be construed as agreement to or acceptance of any prices, terms and conditions.
- 5.5 Deduction of a cash discount shall also be permitted if GH exercises its right of offset or withholds payment in a reasonable amount due to defects.

6. Invoicing

- 6.1 Invoices for goods, as well as credits, shall be sent exclusively to the following P.O. box address:

Gebr. Heinemann SE & Co. KG
Postfach 60 10 69
22210 Hamburg

- 6.2 Invoices for costs, such as costs of promotions, advertising space, services, etc., shall be sent exclusively to the following P.O. box address:

Gebr. Heinemann SE & Co. KG
GH location*, department/shop**, party placing the order***
Postfach 60 10 47
22210 Hamburg

* Invoices to the head office (Koreastrasse, Hamburg) shall use the abbreviation "ZEN." Invoices to our warehouse in Hamburg-Allermöhe shall use the abbreviation "ALL". Invoices to our airport-locations shall use the three-digit IATA airport code.

** Please insert the department of the party placing the order (e.g., logistics, data processing) or the shop for which services were rendered.

*** Please insert the first and last name of the party placing the order.

- 6.3 Invoices shall be based on the packing list (one packing list = one invoice). Please refer to the GH Requirements for Invoices and Credits in Schedule I.

7. Assignment of Claims, Offset

- 7.1 Supplier shall not assign any claims against GH to any third parties, or allow such claims to be collected by any third parties, except with the prior written consent of GH. This shall not apply to monetary claims.
- 7.2 GH shall have the right to offset counterclaims against claims of Supplier.
- 7.3 Supplier shall have no right to offset any counterclaims unless such counterclaims are undisputed or have been established by a final and conclusive court judgment.

8. Warranty

8.1 For goods required to be inspected by GH in accordance with § 377 of the German Commercial Code (*HGB*), the period for inspection and providing notice of any visible defects is five business days from acceptance of delivery. The period for providing notice of any hidden defects is five business days from discovery of the defect.

8.2 Supplier's warranty obligations for defects shall be governed by applicable law, unless provisions specifically negotiated by the parties take precedence.



- 8.3 If Supplier wrongfully fails to fulfill its warranty obligations or obligations to correct defects within a reasonable time period set by GH, GH shall have the right to perform the necessary work, or have such work performed by third parties, at the cost and risk of Supplier. Supplier's contractual and legal warranty obligations, obligations to correct defects, and obligations to pay damages shall remain unaffected thereby.
- 8.4 The warranty period shall be as provided by applicable law. If Supplier receives a notice of defect from GH, the limitation period shall be tolled until the defect is corrected or correction of the defect is refused.
- 8.5 If goods are replaced or repaired, the warranty period for the replaced or repaired goods shall begin to run anew, unless it is reasonable to assume for GH based upon Supplier's conduct that Supplier did not believe it had a legal obligation to replace or repair the goods, but rather replaced or repaired the goods only as a matter of courtesy or for similar reasons.

9. Liability, Indemnity, Insurance Obligation

- 9.1 Supplier's liability shall be governed by applicable law.
- 9.2 Supplier shall indemnify and hold harmless GH from and against any and all claims brought by third parties on the basis of any defects, infringements of intellectual property rights of third parties, or product damages caused by products or services delivered by Supplier, based upon the degree to which such damages were caused by Supplier. If as a result of any defect of a product delivered by Supplier GH is obligated to recall products from third parties, Supplier shall be liable for all costs associated with the recall.
- 9.3 Supplier shall at its own cost maintain a product liability insurance policy with a coverage limit of at least €5 million, which, unless otherwise agreed in a particular case, need not cover the risk of product recalls, criminal penalties or similar damages. Supplier shall transmit a copy of the liability insurance policy to GH at any time upon demand.

10. Embargoes and Sanctions

Without prejudice to any other rights, GH shall have the right to rescind contracts if the performance of such contracts would be in violation of any national and/or international foreign trade laws or regulations, such as embargoes or sanctions.

11. Confidentiality

- 11.1 Supplier shall keep confidential the contents and terms and conditions of orders placed by GH (including, without limitation, prices and quantities), as well as all information and documentation made available for this purpose, in each case with the exception of information that is in the public domain). Supplier shall require its employees and subcontractors to agree to the same duty of confidentiality.
- 11.2 Except with our prior written consent Supplier shall not make reference to its business relationship with us in any advertising materials, brochures, etc., and Supplier shall not display any items produced for us.

12. Place of Performance, Governing Law, Venue and Jurisdiction

- 12.1 The place of performance for all obligations of Supplier is the specified delivery address, and the place of performance for all payments is the registered office of the GH company placing the order.
- 12.2 All orders shall be subject to the laws of the Federal Republic of Germany. Applicability of the UN Convention on Contracts for the International Sale of Goods (CISG) and German conflict of laws provisions is hereby excluded.
- 12.3 The exclusive venue and jurisdiction for any and all disputes arising from or in connection with the agreement between Supplier and GH shall be in the courts of Hamburg, Germany. GH reserves the right to file legal action against Supplier in a different court.



Gebr. Heinemann
Gegründet 1879

13. Severability

- 13.1 If any provisions of the agreement between Supplier and GH, or of these General Terms and Conditions, are or become invalid in whole or in part, the validity of the remaining provisions shall remain unaffected thereby. Any invalid or impracticable provision shall, as of the date of invalidity/impracticability, automatically be replaced by such valid provision as most closely approximates the economic effect of the original provision taking into consideration the interests of both parties, unless a provision of applicable law that was overridden by the invalid provision is revived. The same shall apply, *mutatis mutandis*, if any provisions have been inadvertently omitted.
- 13.2 In the event of any conflicts between the German version of these General Terms and Conditions and any foreign-language version of these General Terms and Conditions, the German version shall be controlling.



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Schedule I Requirements for Invoices and Credits

Invoices must, in conformity with § 14 para. 4 of the German Value-Added Tax Act (*Umsatzsteuergesetz*), include the following information:

- the full name and address of the supplier and the recipient of the products or services
- the income tax ID number or VAT ID number of the party delivering the products or services; for deliveries within the EU, the VAT ID number of the party receiving the products or services also must be included
- the invoice date
- a serial invoice number
- the quantity and type of products delivered, or the scope and type of services rendered
- the date when the products or services were delivered
- the charges broken down by tax rates and individual tax exemptions, and any agreed discounts
- the tax rate and tax amount, or notice of any tax exemption

In addition, GH requires the following information for the easy verification of invoices:

- the order number(s) and item(s) (sales order number for textile products)
- the packing list number(s) and item(s)
- an itemized list of all invoiced products (no summary)
- Supplier and GH item number, as well as product description
- Supplier and GH features (color, size), as well as description
- the recipient of the goods (SAP business)
- invoice reference for credits
- credit request memo number (*Kürzungsbeleg*, reduction memo) for credits
- net amounts for invoiced items (excluding VAT)
- currency
- bank account information (IBAN/SWIFT code)
- agreed payment terms
- invoice in the English language for foreign suppliers

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