

## TERMS AND CONDITIONS OF PURCHASE FOR WR GRACE AND ITS AFFILIATED COMPANIES

**General:** The Terms and Conditions of Purchase below shall apply to all present and future orders of W. R. Grace & Co. and other affiliated companies, hereinafter referred to as "Grace". Terms and conditions of the Supplier conflicting with or deviating from the Terms and Conditions of Purchase below shall be accepted by us only if we expressly agree to their applicability in writing. These Terms and Conditions of Purchase shall also apply if Grace, in awareness of terms and conditions of the Supplier which conflict with or deviate from the present Terms and Conditions of Purchase, accepts the delivery or service without reserve or pays for it. The provisions of the Bürgerliche Gesetzbuch [German Civil Code], in case of construction services supplemented by the Verdingungsordnung für Bauleistungen [contracting rules for award of public works contracts]/B and C, as amended from time to time, shall apply.

- 1. Offer:** The Supplier in their offer shall strictly comply with the request with regard to quantity and quality and, in case of deviations, shall explicitly point out the latter. The offer, including any samples, shall be made free of charge at the specified date. Samples and analysis data shall always be binding and shall apply for the entire delivery.
- 2. Order:** Orders by Grace shall be valid only if they have been made in writing. Oral subsidiary agreements - including retroactive changes and additions - shall also require written confirmation. Each order shall be confirmed by the Supplier immediately and in writing. If such confirmation is not issued within one week following receipt of the order, the Purchaser shall no longer be bound to the order. The delivery must exactly correspond to the order in all parts. The prices agreed with such order shall be invoiced. The Purchaser shall not accept any invoices containing higher prices than those indicated in the order. Insofar as these are estimated prices, the amount of the order shall be deemed to be the binding upper limit.
- 3. Framework agreement:** Insofar as a written framework agreement with the Supplier exists with regard to specific goods or services, Grace shall waive the requirement for a confirmation of order when ordering or calling for these goods or services. Individual orders within the framework agreement shall become effective if the Supplier does not object to them within 5 business days following receipt. A confirmation of order which deviates from the order shall become effective only if confirmed by Grace in writing. Delivery requests in accordance with mutually agreed delivery schedules shall not require any confirmation.
- 4. Period of delivery and force majeure/default:** Agreed dates and periods of delivery shall be binding. With regard to the timeliness of deliveries, receipt by the receiving office indicated by Grace in the order shall be decisive. The period of delivery shall commence on the date of the order. If agreed deadlines are not observed, the statutory provisions shall apply. The Supplier shall be obliged to immediately inform Grace either in writing or by fax if circumstances resulting in the inability to observe the agreed deadlines should occur or become foreseeable. In this context, the Supplier shall indicate the reason for and the expected duration of the delay in delivery. The acceptance of the delayed delivery or service without reserve shall not contain any waiver of the claims for compensation which Grace is

entitled to due to the delayed delivery or service. The Supplier may invoke the failure to supply necessary documents on the part of Grace only if the former has sent a written reminder regarding the documents and has not received these within a reasonable time period. Unless otherwise agreed, partial deliveries and partial services shall be excluded.

**5. Transfer of risk:** With regard to the place of performance for delivery, the place of delivery indicated in the order (factory premises Grace) shall be decisive. In case of delivery to a different place, the latter's factory premises shall apply. Delivery to the Purchaser shall only be affected at the place of delivery. The Supplier shall bear the risk of accidental loss or accidental deterioration of the object of sale until delivery. This shall also apply if delivery carriage forward has been agreed. If delivery is agreed at the time of the order, the object shall not be deemed to have been delivered until after its acceptance by Grace.

**6. Liability for defects/Incoming goods inspection:** The Supplier shall guarantee that the deliveries and services correspond to the agreed specifications and are free from defects which negate or reduce their value or their fitness for customary use or for the use provided for by the contract. Deliveries and services shall be affected in accordance with industry standards. The Supplier shall comply with the laws, regulations and official requirements applicable in the Federal Republic of Germany and shall take as a basis the technical regulations, standards and guidelines in the versions applicable at the time of conclusion of the contract. In case of deviations from the agreed specification, Grace shall be notified thereof immediately and prior to the delivery of the products. Delivery must not be affected until written approval by Grace has been issued. Any deviations from the specifications must be clearly marked on the test certificate / certificate of analysis. In the event of planned changes to the manufacturing or testing process which might affect product quality, Grace shall be notified immediately. In the event of notifiable incidents, recalls and complaints, the Supplier shall assist Grace in any way possible, up to granting the latter access to the production documentation. This information shall be treated confidentially by Grace, unless justified interest in the disclosure of the information exists. Deliveries by the Supplier shall only take place after a previous, thorough and documented quality control on the basis of the parameters agreed upon with Grace. The Supplier shall be obliged to inform Grace of the organization and maintenance of this outgoing goods inspection in a verifiable manner. The Supplier shall inform Grace of any modifications to this outgoing goods inspection without delay. An incoming goods inspection shall only take place with regard to obvious defects, transport damages, completeness and identity. Grace shall give notice of such defects within a reasonable period of time. Grace reserves the right to perform an incoming goods inspection covering additional aspects to the ones above. Furthermore, Grace shall give notice as soon as defects are noticed in accordance with the conditions of the normal course of business. To this extent, the Supplier shall waive the objection of a delayed notification of defects. Grace shall be entitled to the full statutory claims for defects. Grace shall in any event have the right to demand rectification of defects or delivery of a new item from the Supplier at its own discretion. The right to damages, in particular the right to compensation instead of performance, shall expressly remain reserved. Claims for defects - regardless of the legal ground - shall become statute-barred 36 months after delivery has been affected. Longer contractual or statutory periods of limitation shall remain unaffected thereby. The period of limitation shall commence upon the transfer of risk. If the Supplier does not proceed to rectify the defect immediately following such request for removal of defects by Grace, Grace shall in

urgent cases, in particular for purposes of defense against acute risks and / or to avoid disproportionately great damage, have the right to perform such removal of defects itself or have it performed by a third party at the expense of the Supplier. If the Supplier fulfils their obligation for supplementary performance by means of substitute delivery, the period of limitation shall begin anew for the goods delivered as replacement after their delivery, unless the Supplier, at the time of supplementary performance, has expressly and appropriately reserved undertaking the substitute delivery merely as a gesture of goodwill. If any costs, including, but not limited to, transport, infrastructure, labor and material costs or costs for an incoming goods inspection exceeding the usual scope, are incurred by Grace as a result of the defective delivery of the object of the agreement, these costs shall be borne by the Supplier.

**7. Property rights:** The Supplier shall guarantee that its delivery and its foreseeable use by Grace do not infringe any patents or other third-party property rights. If Grace is subject to a third-party claim due to such infringement of property rights, the Supplier shall release Grace from such claims at the first written request, provided that the former is the responsible party with respect to the claims, and the Supplier shall reimburse Grace for any necessary expenses resulting from the assertion of the claim. If the utilization of the delivery by Grace is impaired by existing third-party property rights, the Supplier shall either acquire the corresponding license at the Supplier's expense or shall modify or exchange the affected parts of the delivery in such a way that the delivery no longer conflicts with third-party property rights and that it is in accordance with the contractual agreements at the same time.

**8. Product liability:** If the Supplier is responsible for a product damage, they shall insofar be obliged to release Grace from any claims for damages by third parties upon first request if the cause is located in the Supplier's territory and organizational area and the Supplier is liable themselves in the external relationship. The Supplier shall undertake to maintain product liability insurance with a sum insured of EUR 10m (lump sum) per personal injury / damage to property. If Grace is entitled to additional claims for damages, these shall remain unaffected. The Supplier shall provide Grace with a copy of the valid insurance policy upon request.

**9. Supplies/Tools:** Supplied material shall remain the property of Grace. As such, it is to be stored separately and must only be used for orders by Grace. Any processing or transformation by the Supplier shall be affected on behalf of Grace. In the event of combination or commingling with items which are not owned by Grace, Grace shall acquire co-ownership of the new item at the ratio of the value of Grace's item against the others at such point in time. In case the Supplier's item is to be regarded as the main item, the Supplier undertakes to transfer co-ownership to Grace on a pro-rata basis. Grace shall reserve the title to all tools provided or financed by Grace. The Supplier shall be obliged to use the tools exclusively for the production or processing of the goods ordered by Grace. The Supplier shall be obliged to insure the tools owned by Grace at replacement value at the Supplier's own expense and to maintain them.

**10. Prices/Terms of payment:** The price indicated in the order shall be binding. The Supplier shall submit an invoice for each delivery separate from the delivery via email to [AccountsPayable.GOC@grace.com](mailto:AccountsPayable.GOC@grace.com) . Invoices must under no circumstances be enclosed with the goods. The wording of the invoice shall match the order designations and shall include Grace's order number.

Unless otherwise agreed in writing, Grace shall pay the purchase price net within sixty (60) days or net ten (10) days with a two percent (2%) discount, such choice of payment term being solely at Buyer's option from the date of receipt of the correct invoice. Payments shall not imply acceptance of the deliveries or services as being in conformity with the contract. Invoices of different Grace Companies must not be accumulated. If Grace effects a payment prior to the delivery of the goods or service, the Supplier shall be obliged to issue an advance payment guarantee in the same amount to Grace. Grace shall be entitled to request a 10% performance bond from a German financial institution in the amount of the invoice value.

**11. Prohibition of assignment:** The Supplier shall not be entitled to assign receivables from supplier relationships with Grace to third parties. Section 354 a HGB [German Commercial Code] shall remain unaffected.

**12. Weights:** The quantity received by the Purchaser as determined by the latter or the official weighing documents shall be decisive for the calculation.

**13. Shipping:** With regard to shipping, the special shipping instructions shall be observed. Normal and customary packaging guaranteeing safe transport shall be used for all deliveries. Shipping shall be affected at the lowest freight and insurance rates. Delivery notes or packing slips indicating the Grace Order number shall be enclosed with each delivery. Unless expressly agreed otherwise, the following shall apply: Delivery free domicile incl. insurance and packaging.

**14. Confidentiality:** Grace shall reserve the proprietary rights, industrial property rights and copyrights to any specifications, illustrations, drawings, calculations and other documentation, samples, models and the like. They shall be subject to strict confidentiality and must not be made accessible to third parties without the express written consent of Grace. This shall also apply with regard to those items which the Supplier has developed or further developed in accordance with the specifications provided by Grace or with the collaboration of Grace. The knowledge obtained in collaboration between the Supplier and Grace, as well as the collaboration itself, must not be disclosed to third parties. The obligation to secrecy shall continue to be in effect even after the fulfillment of the contract, as long as the production knowledge contained therein has not become public knowledge.

**15. Place of performance/Place of jurisdiction/Applicable law:** The exclusive place of performance with regard to delivery and payment shall be the place of destination indicated in the order. Grace shall have the right to sue the Supplier at their place of business. The contractual relationship, even in case of procurements from abroad, shall exclusively be subject to the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Sales Convention, CISG) shall be excluded.

**16. Closing provision:** Should individual provisions of this agreement with the Supplier, including these General Terms and Conditions, be or become ineffective either in whole or in part, the validity of the remaining provisions shall remain unaffected thereby. The provision that is ineffective either in whole or in

part shall be replaced by such provision whose economic success comes as close as possible to that of the ineffective provision.