

General Terms and Conditions of Purchasing (GTC) of Freiberger Compound Materials GmbH (FCM)

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A. GENERAL PART

1. Scope of application, group companies and change of contractual partner

1.1. The General Terms and Conditions of Purchase (GTC) of FCM apply exclusively to all contracts, deliveries and other purchase, service and work performances. They are an essential part of each contract concluded and also apply to future business relations with the contractual partner without the need for their renewed express inclusion.

1.2. With regard to the type and scope of the contractual services, the following order of priority shall apply:

- the provisions of FCM's order and the technical documents on which the order is based (e.g. technical specifications, performance descriptions or bills of quantities and other requirements)
- any supplementary contractual conditions of FCM and/or third parties mentioned in the order.

The contractual partner also undertakes to comply with more extensive or modified guidelines provided by FCM and/or its customers.

1.3. Deviating terms and conditions of the contractual partner as well as amendments and supplements shall only be valid if they have been accepted by FCM in writing. This also applies if the general terms and conditions of the contractual partner have not been expressly contradicted or if they are to be included in the contractual relationship as shrink-wrap, click-wrap or other pre-formulated provisions.

1.4. FCM may transfer its rights and/or obligations under the contractual relationship to one or more third parties (assumption of contract and/or debt, assignment). The contractual partner has the right to terminate the contract extraordinarily in the event that the contract and/or debt is assumed and its interests are impaired.

B. GENERAL PROVISIONS OF THE CONTRACT

2. Conclusion of contract and documents

2.1. A contract is generally concluded by FCM's unconditional acceptance of the order. The contractual partner is obliged to accept the order of FCM within a period of 10 working days. After this period, FCM is no longer bound by the order.

2.2. Performance descriptions, drawings, weight, measurement and consumption data, raw material and performance specifications are binding and describe the agreed quality.

2.3. FCM retains ownership and exclusive rights of use of illustrations, drawings, calculations, presentations and other documents or information; they may not be made available to third parties without express written consent. They are to be used exclusively for processing on the basis of the order; after completion of the order they are to be returned unsolicited.

2.4. Drawings, models, samples or tools specially prepared by the supplier for FCM must be transferred to FCM after termination of the business relationship. The supplier is not entitled to dispose otherwise of such drawings, models, samples or tools without the express consent of FCM.

2.5. All materials provided by FCM remain the property of FCM with the proviso that FCM retains ownership of or directly acquires the objects produced by any processing of these materials. The property of FCM is to be kept in safe custody and insured for FCM under separate identification. Orders must be confirmed in writing. If the supplier does not accept the order within a period of two weeks after receipt, FCM is entitled to cancel the order.

3. General performance obligations of the contractual partner

3.1. The contractual partner shall provide services in accordance with the current state of science and technology as well as the required quality standards at the time of conclusion of the contract. Deliveries and services shall be comprehensively inspected and tested before provision.

3.2. The contractual partner is responsible for ensuring that the contractual services can be provided in accordance with the applicable legal and

sovereign framework relevant to their provision (e.g. regulatory requirements).

3.3. Services are to be provided at the agreed place of performance (in case of doubt, the registered office of FCM) at the agreed date

3.4. The contractual partner shall perform the services on its own responsibility. The contractual partner assures that competent and qualified contact persons are available within the scope of the performance of services, in particular for the coordination of tasks and for queries. The contractual partner shall ensure through organizational measures that the employees it has seconded within the scope of the provision of services are subject exclusively to its right of direction and disciplinary authority. Instructions are given exclusively within the framework of the agreed distribution of tasks. In the event of repeated poor performance or other serious misconduct, FCM may demand the immediate replacement of the employees concerned. The contractual partner shall bear the costs and training periods incurred for this.

3.5. The contractual partner shall notify FCM immediately if the specifications of FCM are defective, incomplete, contradictory or objectively not feasible or if components, materials or goods provided by FCM are not in accordance with the contract and/or are unsuitable for the specific use of the service. The purchaser is also obliged to examine and check the specifications and provisions provided, insofar as this is necessary for the preparation of the contractual service components.

4. Obligations of FCM

4.1. FCM will support the contractual partner in the performance of the contractually owed services to the necessary extent and as far as possible in an appropriate manner, in particular by providing the data, (confidential) information necessary for performance.

4.2. If FCM is dependent on delivery items/services for the provision of its cooperation services which it does not provide itself, it is only obliged to cooperate if the services can be obtained with reasonable efforts. FCM will immediately inform the contractual partner of the non-availability or limited availability of the services.

4.3. The obligations of FCM do not release the contractual partner from its obligation to comply with the usual and accepted security standards, such as the use of regularly updated anti-virus programs, a plausibility check of incoming data, data backup and the regular change of passwords and a customary access control.

5. Prices and terms of payment

5.1. The basis of FCM's claims for remuneration is the order. If payments are made by FCM, this does not constitute approval of deviations. Delivery "DDP" to the delivery address specified in the order shall apply according to Incoterms 2020 and shall include packaging, taxes, customs duties or charges subject to applicable law.

5.2. Invoices can only be processed by FCM if they state the order number as specified in the purchase order and if all necessary performance records (e.g. time sheets countersigned by FCM) are available in original. If necessary information for invoicing is not available in a timely manner, the contractual partner will be notified immediately.

5.3. The period allowed for payment is 14 days less 3% discount or 60 days net after performance and provision of the invoice. The timeliness of the payment by FCM is determined by the transfer of the transfer order to the bank/credit institution.

6. Transfer of risk and ownership, delay in delivery and performance

6.1. The delivery and performance time stated in the order is binding; the date of receipt by FCM and/or its customers is decisive. Upon delivery "DDP" in accordance with Incoterms 2020 of the services, ownership is transferred to FCM without limitation.

6.2. The contractual partner is obliged to inform FCM immediately in writing if circumstances occur or become apparent to him which indicate that the delivery time cannot be met. The contractual partner shall, in agreement with FCM, take all reasonable measures to avoid a delay and the resulting additional costs for FCM or, if this is not possible, to keep such costs as low as possible.

6.3. In the event of default by the contractual partner, FCM is entitled to the full statutory rights. FCM is also entitled, after the expiry of a reasonable period of grace, to make covering purchases and to invoice the supplier for the additional costs.

6.4. In addition to any legal claims, FCM is entitled to demand a contractual penalty of 0.5% of the order value of the delayed delivery/service per day, but not more than 5% thereof.

7. Failure to perform, warranty

- 7.1. If the contractual partner performs the services owed in a defective manner, FCM is entitled to assert its legal claims (in particular warranty claims). In the event of several simultaneous deficiencies in performance, FCM may give the contractual partner priorities for remedy.
- 7.2. The choice of the desired rights is the sole responsibility of FCM. FCM may, after the unsuccessful expiry of a reasonable period of time set by FCM for the remedy of the disruption/defect, remedy the disruption itself and demand reimbursement of the necessary expenses, unless the contractual partner rightfully refuses performance. A deadline need not be set even if the remedy of the disruption/defect has failed or is unreasonable for FCM. FCM may demand an advance payment from the contractual partner for the necessary expenses to be incurred.
- 7.3. The statutory conditions apply to the warranty periods. The statute of limitations is suspended by a notice or complaint of default by FCM. The limitation of claims is also suspended if the FCM checks the existence of a disruption of performance/defect.

8. License agreements, intellectual property rights (especially rights of use)

- 8.1. FCM shall be enabled in the most comprehensive manner possible to use and exploit the contractual services together with the corresponding documentation (patterns, drawings, specifications, etc.), in unchanged or modified form, either within its own company or by passing them on to third parties.
- 8.2. The contractual partner warrants that it has the right (in particular the intellectual property rights) to carry out or arrange for the carrying out of processing or changes or other services in respect of the services/confidential information with which FCM comes into contact in the course of the performance of the contract. Furthermore, it shall ensure that no rights of third parties exist which impede, restrict or exclude the contractual use of the services provided by the contractual partner and which are the subject of the contract.
- 8.3. Unless otherwise agreed, the contractual partner irrevocably grants FCM a simple, transferable, irrevocable and geographically unlimited right to use and exploit the services. The above granting of rights includes, in particular, the right to make the services available for its own purposes or for third parties for processing, modification (or other redesign), copying, publication and other distribution and exploitation of any kind, as well as the right to transfer the rights of use and to grant sublicenses limited or unlimited in time and content.
- 8.4. No reference may be made to the business relations existing with FCM to third parties without the express consent of FCM. FCM shall also not be named as a reference without the express consent of FCM.

9. Infringement of property rights/ exemption

- 9.1. If the performance of the contractual partner is subject to rights of third parties, the contractual partner shall indemnify FCM on first demand against all claims, liabilities, damages, costs and expenses, in particular court and attorney's fees, arising from a claim for infringement of patents, copyrights, licenses, trade secrets, trademark rights or other intellectual property rights of third parties.
- 9.2. If a claim or action for infringement of the rights described in 9.1 is brought or reasonably believed to be pending, either party may take steps to prevent the infringement or alleged infringement of such rights by continuing to provide the Services. In particular, by modifying or replacing any Services or by obtaining a license permitting the use of such rights that are infringed or alleged to be infringed. If FCM is no longer able to fulfil its performance obligations in accordance with the contract due to the infringement, it may withdraw from the contract concerning the infringement.
- 9.3. FCM will immediately inform the contractual partner about claims of third parties.

10. Liability

- 10.1. The liability of the contractual partner is based on the legal regulations.
- 10.2. Insofar as the contractual partner is responsible for a damage caused by a third party (in particular a customer), the contractual partner is obliged to indemnify FCM on first demand against claims for damages by third parties to the extent that the cause lies within its sphere of control and organisation.
- 10.3. The contractual partner undertakes to maintain a liability insurance with a minimum coverage of € 2.5 million per personal injury/property damage and to provide FCM with the relevant documentation on request.

C. SPECIAL PROVISIONS FOR SERVICES UNDER A SALES CONTRACT

11. Examination obligation of FCM

- 11.1. FCM will inspect the services rendered for obvious and recognizable defects as soon as actually possible (at least 10 working days) and, if available, notify the contractual partner in a comprehensible form with information suitable for the elimination of the defect (§377 HGB). FCM will give notice of non-obvious defects immediately upon discovery in the normal course of business. In this respect, the contractual partner waives the objection of failure to inspect the incoming goods.

D. SPECIAL PROVISIONS FOR CONTRACTUAL SERVICES

12. Warranty for contractual services

- 12.1. The contractual partner himself checks the service before it is handed over to FCM to ensure that it is complete and meets the contractual requirements and contains all functions according to the service description and specification. If required by FCM, the contractual partner shall notify FCM of the successful completion of functional tests.
- 12.2. The warranty periods begin with the acceptance by FCM.
 - The acceptance test of the contractual performance by FCM only begins after the completeness and functionality of the contractual performance has been demonstrated in accordance with the contractual requirements.
 - FCM is only obliged to perform an acceptance test if the contractual performance is complete.
 - The contractual partner is obliged to remedy any defects detected during the acceptance test without delay, at the discretion of FCM. The contractual performance shall be made available again for acceptance.
 - FCM is only obliged to make a written declaration of acceptance if the contractual performance is complete, in accordance with the contract and, if necessary, insignificantly defective. Partial acceptances are excluded. Confirmation of parts of the performance, concepts, specifications or milestones is not considered either as acceptance or partial acceptance, but only includes a release of the relevant part of the performance, according to which the contractual partner is to continue the performance of the performance to the agreed extent.
- 12.3. Periods of limitation for claims for defects shall commence upon overall acceptance of the contractual performance. The date of acceptance is the date of signing the acceptance protocol by FCM, which may not be unreasonably refused. If defects or missing functions or malfunctions are recorded in the acceptance protocol, the date of acceptance is the first day on which the last significant defect was removed or the last missing function was integrated and accepted without defects.

13. Termination and legal consequences of termination of the contract

- 13.1. FCM is entitled to terminate the contract prematurely at any time, even without good cause, subject to a notice period of 6 (six) weeks. In this case, FCM will only pay for the services rendered and usable for FCM up to the date of termination. §649 BGB remains unaffected.
- 13.2. The contractual partner shall surrender to FCM the contractual performance in full in the event of termination and pro rata remuneration in accordance with the determined degree of completion. This also includes all records and documentation (and copies thereof). There are no rights of retention or rights to refuse performance in respect of documents, data or other information to be surrendered.
- 13.3. The contractual partner undertakes, as far as possible, to provide the services required to transfer the contractual services to FCM or a third party designated by FCM free of charge for a period of up to six [6] months after termination of an individual contract.
- 13.4. If the regulatory content of individual provisions extends beyond the term of the contract (e.g. liability, copyrights, data protection), then these provisions shall also remain effective beyond the term of the contract.

14. License agreements, intellectual property rights (especially rights of use).

- 14.1. Notwithstanding Section 8.3, the contractual partner irrevocably grants FCM the exclusive, transferable, irrevocable and geographically unlimited right to use and exploit the services. The above granting of rights includes in particular the right to make the Services available for its own purposes or for third parties for processing, modification (as well as other redesign), copying, publication and other distribution and exploitation of any kind, as well as the right to transfer the rights of use and to grant sublicenses limited or unlimited in time and content.
- 14.2. The contractual partner is not entitled to apply for industrial property rights or the like to the contractual services or to have them applied for himself and/or third parties.

E. SPECIAL PROVISIONS FOR CONTINUING OBLIGATIONS (SERVICES, RENTALS, MAINTENANCE AND OTHER SERVICES)

15. Duration and termination of the contract

- 15.1. Unless a date for the commencement of the contractual services has been agreed upon, the contractual term shall commence with the signing of all relevant contractual documents by both parties.
- 15.2. If no end of the respective term has been agreed for continuous obligations, the respective part of the service can be terminated by the contractual partner with three months' notice and by FCM within one month in addition to the cases stipulated in these General Terms and Conditions of Purchase.
- 15.3. The right to terminate for good cause remains unaffected.
- Prior to termination for good cause, a written warning must be given. A written warning shall be sent to the defaulting party to the contract and the party shall be given the opportunity to remedy the defects giving rise to the good cause within 30 days of receipt of the warning. A warning notice is not required in particular if
- the contractual partner seriously and finally refuses to perform the services incumbent upon him;
 - the contractual partner whose vicarious agents or persons employed in performing an obligation culpably violate essential provisions of the contractual provisions (including the GTC, performance specifications);
 - the contractual partner violates penal provisions when using the services or there is an urgent suspicion of a criminal offence in this respect;
 - a change in the person of the contractual partner occurs, a company is sold or the corporate law circumstances change in such a way that there are justified doubts about the reliability and performance of the supplier and
 - if an application for the opening of insolvency proceedings has been filed against the Supplier's assets, if such proceedings have been rejected due to lack of assets, if enforcement measures have been taken against unsuccessful claims, or if enforcement measures have been taken and not cancelled within one month (e.g. lifting of the attachment).
- 15.4. The validity of §545 BGB is excluded.

With the termination of an individual or framework contract, FCM is entitled to simultaneously terminate all other individual contracts concluded with the contractual partner. If a minimum term has been agreed upon for an individual contract, before the expiry of which the respective contract cannot be terminated, the minimum term shall continue to apply until such time as the respective individual contract can be terminated for the first time in an orderly manner.

F. EXPORT / FOREIGN TRADE

16. Export control and foreign trade regulations

- 16.1. For the supply of all goods and provision of services under these terms and conditions, the contractual partner is obliged to comply with all applicable export control, customs and foreign trade regulations and to obtain all necessary permits, unless FCM is legally obliged to obtain any export permits itself.
- 16.2. The contractual partner provides FCM with the following for any goods or services:
- the "Export Control Classification Number" according to the US Commerce Control List (ECCN), if the goods are subject to the US Export Administration Regulations
 - all applicable export list numbers (ECCN);
 - the statistical commodity code according to the current commodity classification for foreign trade statistics and HS coding;
 - the country of origin;
 - the contracting party's declaration of origin (Europe) or preference certificates (non-Europe). In the event of a change in the origin or characteristics of the goods and services or the foreign trade regulations, the contractual partner is obliged to update the export control and foreign trade data as soon as possible, but no later than two weeks before the delivery date. The contractual partner is liable for all costs and damages incurred by FCM due to the absence or inaccuracy of the export control and foreign trade data.

G. FINAL PROVISIONS

17. Final provisions

- 17.1. Amendments or supplements to these terms and conditions, the contractual documents as well as waivers by FCM, such as exemplary for the enforcement of contractual penalties, must be made in writing. FCM's failure to insist upon full and/or partial compliance or fulfillment of any of the terms or provisions of these GPC and the supplemental provisions shall not be construed as an acknowledgement of the breach or waiver of future application of the relevant condition, provision, option, right or remedy.
- 17.2. The customer may only set off claims for remuneration against claims of FCM against claims of FCM which have been legally established or recognized by FCM. The assertion of rights of retention must also be based on the same contractual relationship.
- 17.3. The contractual parties undertake to refrain from actively enticing away employees of the other contractual party, either themselves or through third parties, during the term of the business relationship and within 12 months after termination.
- 17.4. The assignment or pledging of claims or rights of the contractual partner against FCM is not permitted without the consent of FCM.
- 17.5. The law of the Federal Republic of Germany applies exclusively. International law (in particular the UN Convention on Contracts for the International Sale of Goods, CISG or conflict of laws) is excluded.
- The place of performance and jurisdiction for all disputes arising from or in connection with this contract is the registered office of FCM. In addition, FCM is entitled to sue the contractual partner at its general place of jurisdiction. Any exclusive place of jurisdiction remains unaffected.
- 17.6. The invalidity, unenforceability or ineffectiveness of individual provisions of the contractual documents, even if these are included at a later date or regulated in a supplement, does not affect the validity of the remaining provisions. In place of the invalid, void or unenforceable provision, a provision shall be deemed to have been agreed which, as far as legally possible, comes as close as possible to what is economically intended according to the meaning and purpose of the invalid, void or unenforceable provision. The same applies to unintentional loopholes; in such a case, a provision is deemed to have been agreed which comes as close as possible to what would have been regulated according to the meaning and purpose of the present contract if the parties had known of the loophole; or should a provision be invalid with regard to a period of time or a specified conduct.