

1. Scope of validity

- 1.1. All purchase orders of VMT GmbH for deliveries of goods or services from its suppliers shall be exclusively subject to the following Standard Terms and Conditions of Purchase (“**Terms of Purchase**”) unless something to the contrary has been explicitly agreed in writing. The Supplier’s alternative, contrary or supplementary standard terms and conditions will only become an integral part of the contract if VMT has explicitly acknowledged in writing that these terms and conditions shall apply. This also applies even if VMT unreservedly accepts deliveries from the Supplier while in the knowledge of the Supplier’s general terms and conditions.
- 1.2. These Terms of Purchase, as amended, also apply as a master agreement to future purchase orders placed with the Supplier even if no reference is made to them. The current Terms of Purchase, as amended, can be viewed at <https://vmt-gmbh.de/downloads/agb/>.
- 1.3. References to the applicability of legal regulations are solely for the purpose of clarification. Even in the absence of such a clarification, the legal regulations shall apply unless they are directly amended or explicitly excluded within these Terms of Purchase.

2. Conclusion of contract

- 2.1. Purchase orders, amendments and other such legally-relevant declarations are only binding if made in writing. The requirement of the written form is also satisfied if such declarations are issued by fax, email or via an agreed electronic data interchange. Written purchase orders are valid without a signature.
- 2.2. Written correspondence shall be conducted with the purchasing department placing the order. Arrangements made with other departments must be confirmed in writing by the Purchasing Department if these contain agreements modifying the provisions contained in the Terms of Purchase.
- 2.3. Within 3 days, the Supplier must confirm to VMT its acceptance of the purchase order or indicate errors (e.g. spelling mistakes or computational errors) and incomplete points. VMT will then correct the purchase order and reissue it to the Supplier for its confirmation.
- 2.4. VMT’s non-response to the Supplier’s quotations, invitations or other such declarations shall only be deemed to constitute agreement, if this is explicitly agreed in writing.

3. Delivery, transfer of risk, delivery time and late delivery

- 3.1. Unless the relevant purchase order contains a contrary agreement, the Supplier’s deliveries are made DAP [named place of destination] (Incoterms 2020). The Supplier is responsible for the proper packaging, labelling and consignment to VMT in accordance with the currently applicable regulations, as amended (ADR / RID / ADN / IMDG Code / IATA DGR or ICAO TI).
- 3.2. All timbers used (crates, pallets, dunnage etc.) must be handled and appropriately labelled in accordance with the IPPC standards.
- 3.3. In the case of deliveries “ex works”, a ready for collection notice shall be sent to the dispatch department of VMT (versand@vmt-gmbh.de).
- 3.4. The risk of the accidental loss and accidental deterioration of the goods will pass to VMT upon the hand-over made at the place of performance. If a formal acceptance procedure has been agreed, the transfer of risk shall place at that time.
- 3.5. The delivery time stated in the order is binding. The Supplier is duty bound to promptly inform VMT in writing if it becomes apparent that the stipulated delivery time cannot be fulfilled. In doing so, the Supplier must state the reasons for the delay and its foreseeable duration. Part or full deliveries may only be made prior to the agreed delivery time with the prior written consent of VMT.
- 3.6. If the Supplier fails to deliver its performance within the agreed delivery time or not at all, it shall be in default; the rights of VMT – especially to cancel the contract and claim damages – are defined according to the legal regulations.
- 3.7. The acceptance of late delivery does not constitute a waiver of claims to damages.

4. Transfer of ownership

The transfer of ownership to VMT must take place with the hand-over of the goods to VMT, irrespective of the payment of the price. VMT shall nevertheless acquire the unreserved ownership of the goods no later than with the payment of the complete purchase price. Every form of retention of title shall be extinguished with the transfer of ownership.

5. Documentation

- 5.1. The Supplier shall promptly and duly provide any proofs of origin (such as suppliers’ declarations, movement certificates in terms of preference rules of origin) furnished with all necessary information.

- 5.2. Operating instructions and spare parts lists requested by VMT shall be sent in electronic form parallel to the delivery to inkauf@vmt-gmbh.de.

- 5.3. The Supplier is duty bound to indicate any dangerous goods existing with the goods, and it must provide VMT, unprompted, with all the documents (safety data sheets, test certificates, test summaries) required for the transport (road, rail, sea and air).

- 5.4. Requisitioned documentation is deemed to be a constituent element of the purchase order. If the requested documentation is not provided, the purchase order is deemed to be not fully fulfilled.

6. Prices, payment conditions and offsetting

- 6.1. The price stated in the purchase order is binding and includes all the Supplier’s services and ancillary services as well as all ancillary costs (e.g. proper packaging, export documents, customs duty, import duties, transport costs, as well as insurance, where relevant).
- 6.2. One original copy of the invoices must be sent to VMT, and include the order number, contract number and project number, quantity, price and other identifying information (especially VMT’s article numbers). Invoices must be sent separately from the delivery of the goods. For deliveries made from territories outside of the EU customs territory, the delivery of the goods must be accompanied by a copy of the invoice and a pro forma invoice.
- 6.3. Following the complete delivery and receipt of the goods, VMT will pay duly issued, verifiable invoices within 14 days with 3% early payment discount or 60 days net, in accordance with the agreed payment schedule. Where invoices are sent electronically, the transmission date is taken as the baseline date (document date) for the payment.
- 6.4. If bills of acceptance are designated for payment by the Supplier with the agreement of VMT, the bill of exchange tax and a reasonable discount rate will be payable.
- 6.5. VMT’s payment does not constitute acknowledgement of the invoice.
- 6.6. VMT is entitled to offset the receivables it has against the Supplier. The Supplier shall only have a right to offset or withhold payment in respect of counterclaims established under the same legal arrangement and which are undisputed or have been declared valid by an enforceable legal judgement.

7. Defective delivery

- 7.1. The rights of VMT if there are material defects or defective legal titles in the goods, are defined in accordance with the legal regulations, unless otherwise agreed in the following.
- 7.2. According to the legal regulations, the Supplier is particularly liable for ensuring that the goods exhibit the agreed quality. Any product descriptions forming part of the relevant purchase order – particularly through their specification or reference thereto in the VMT’s purchase order – are deemed to constitute an agreement regarding quality. It is irrelevant if the project description originated from VMT or the Supplier.
- 7.3. VMT’s duty to examine as defined in section 377 German Commercial Code (“HGB”) is limited to defects apparent to VMT at the time of the incoming goods inspection by external inspection including the shipping documents, as well as VMT’s quality controls performed using the sampling procedure (e.g. transportation damage, incorrect delivery or short deliver). There is no duty to examine if an acceptance procedure has been agreed. Otherwise this depends on the extent to which an examination is feasible within the course of normal business given the particular circumstances of the specific case.
- 7.4. The duty to report defects remains unaffected in respect of subsequently discovered defects. In all cases, VMT’s notification of defects is deemed to have been made promptly and in good time, if it is received by the Supplier within 10 calendar days following the discovery of the defect.
- 7.5. The Supplier guarantees the contractually-compliant quality of the goods for a period of 24 months following commissioning (go-live) by the end customer, but at the latest up to 36 months following delivery of the goods to VMT.
- 7.6. VMT will inspect the delivery after it is received, insofar as this is customary within the ordinary course of business and given its type and purpose.
- 7.7. If VMT demands subsequent performance, the Supplier will fulfil this request without delay.
- 7.8. In urgent cases or if the Supplier fails to fulfil the defect claims, VMT shall be entitled to arrange the necessary measures at the cost of the Supplier and irrespective of its obligations; the Supplier will be notified prior to the performance of such measures, except in urgent cases.

8. Drawings and other documents

- 8.1. All drawings will be thoroughly discussed with VMT prior to production. Following the execution of the works, the Supplier must promptly provide VMT with the drawings and calculations relevant to the actual work performed, along with other technical documents relating to the delivery, in the requested number and form. The Supplier is duty bound to transfer ownership in these documents to VMT free of charge.

This does not affect the intellectual property pertaining to the documents. VMT or third parties may use them free of charge in order to perform repairs and to produce spare parts.

- 8.2. VMT's agreement to drawings, calculations and other technical documents does not affect the Supplier's sole responsibility with respect to the delivery. If the Supplier does not object in writing, this likewise applies to VMT's proposals and recommendations, as well as for modifications discussed between the Supplier and VMT.
- 8.3. All as-built documents, jigs, tools, models, etc. provided by VMT to the Supplier will remain the property of VMT and may only be used for the contractually agreed purposes. They may only be made available to third parties insofar as necessary and for the purpose of fulfilling the purchase order. The Supplier must, without any separate payment, grant VMT the exclusive licences to use and exploit all of the documents, drawings, calculations, etc. created by the Supplier in connection with the fulfilment of the purchase order.

9. Export controls and customs duty

- 9.1. The Supplier must inform VMT in writing as soon as possible prior to the delivery date, about any authorisation requirements pursuant to the applicable German, European (EU), U.S. export, customs and foreign trade laws, as amended, and pursuant to the export, customs and foreign trade laws, as amended, of the country of origin. In this regard, the Supplier must provide the following information and data:
- the export list number according to Annex "AL" to the German Foreign Trade and Payments Regulation or comparable list positions from relevant export lists;
 - the European (EU) lists of goods;
 - the "Export Control Classification Number" according to the "U.S. Commerce Control List" (ECCN), if the goods are subject to the "U.S. Export Administration Regulations" (EAR);
 - the commodity code (HS/CN code);
 - the country of origin (trade policy/non-preferential origin);
 - (long-term) suppliers' declarations to the preferential origin (for EU suppliers) or certificates relating to preferences (for non-EU suppliers);
 - all other information and data that VMT requires for export and import and for the re-export of the goods, in the event of further sale.

The Supplier is obliged to inform VMT in writing without delay of any changes to the abovementioned information and data.

10. Conformity obligations

- 10.1. The Supplier is obliged to adhere to the recognized technical standards (in particular the German industry (DIN) norms, the regulations of the German Institute of Electrical Engineers (VDE), the guidelines of the Association of German Engineers (VDI), DVGW (German gas and water association) rules and regulations) and the statutory provisions governing product safety (in particular the German Product Safety Act), the internationally valid minimum labour law standards, in particular all conventions of the International Labour Organization with regard to employee rights, working hours and occupational health and safety, as well as all valid statutory and official provisions.
- 10.2. The Supplier will refrain from active or passive, direct or indirect involvement in any form of bribery or corruption, the infringement of human rights or discrimination against its employees, forced labour or child labour.
- 10.3. The Supplier must ensure that all its contractors involved in any way in the manufacture of the products it supplies to VMT, will comply with the obligations set out in paragraphs 10.1 to 10.2 above.
- 10.4. The Supplier assures, moreover, that its products satisfy the requirements of the Regulation (EC) No 1907/2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals, as amended ("REACH Regulation"). Insofar as necessary under the REACH Regulation, the substances contained in the Supplier's products shall be pre-registered or registered following the expiry of the transition periods, unless the substance is exempted from registration.
- 10.5. Suppliers headquartered in countries outside of the EU, undertake to appoint an *Only Representative* ("OR") in accordance with Art. 8 REACH Regulation, with a registered address in the EU; the OR's name and address will be disclosed to VMT. The OR will assume all registration and other REACH-related obligations of the Supplier. If the OR has performed a pre-registration or registration, this must be notified to VMT and the registration number disclosed. The Supplier must promptly inform VMT of any change of OR or the cessation of the OR's activities.

- 10.6. The Supplier gives its assurance that the products supplied by it do not contain any substances on the Candidate List as per Art. 59(1) and (10) REACH Regulation. The Supplier undertakes to promptly inform VMT in writing if any of its supplied products contain substances on the Candidate List. The Supplier will identify the individual substances by name and disclose the mass concentration as precisely as possible.
- 10.7. If deliveries include hazardous substances within the definition of the German Hazardous Substances Regulation or products that might possibly release such substances when used, the Supplier must, unprompted, provide VMT with the data needed to draft the safety data sheet.
- 10.8. The Supplier undertakes, moreover, to ensure that the products supplied by it fulfil all the requirements of the Regulation (EC) No 1272/2008 ("CLP Regulation"). In particular, the non-EU suppliers give an assurance that their OR has performed the registration for the supplied products in the classification and labelling inventory in accordance with Art. 39-42 CLP Regulation.
- 10.9. The Supplier undertakes to comply with the provisions on conflict materials as contained in section 1502 of the *Wall Street Reform and Consumer Protection Act* ("Dodd-Frank Act"). If conflict materials are needed in connection with the manufacture of products delivered by the Supplier or for the operation of such products, the Supplier must disclose the origin of these materials. The Supplier must, on demand, promptly provide VMT and VMT's associate companies, with the complete documentation concerning the use and the origin of conflict materials.
- 10.10. If the Supplier infringes any of the obligations set out above, the Supplier shall indemnify VMT and its customers in respect of all costs, third-party claims resulting from the infringement of the provision set out above. This does not apply if the Supplier is not responsible for this breach of duty. Furthermore, VMT shall be entitled to promptly cancel the relevant purchase order at any time and refuse to accept the corresponding delivery without VMT incurring any costs in this regard. This does not affect possible claims for damages.
- 10.11. If the Supplier awards sub-contracts, it is agreed that the Supplier shall be liable to VMT for the actions and omissions of its sub-suppliers, including material deliveries, fulfilment of all regulatory compliance requirements, in the same way that it, the Supplier, is liable for its own works and services.

11. Duty to inform

- 11.1. The Supplier must promptly inform VMT in writing of the following types of changes:
- changes in manufacturing processes, changes in materials or supplied parts used in goods or services, the relocation of production locations, as well as changes to procedures or systems for testing goods or changes to other quality assurance measures;
 - changes to the controlling interest in the Supplier's enterprise; and
 - negative changes to the Supplier's financial situation.
- 11.2. VMT is entitled to examine, to the necessary extent, whether these changes have any detrimental effect on the goods, the purchase order or the business relationship. The Supplier must make the necessary documents and proofs available on demand, to the extent required.

12. Confidentiality, references, and data processing

- 12.1. The conclusion of the contract, as well as all business and technical information of which the Supplier is made aware in connection with the business relationship, must be treated by the Supplier as confidential. The Supplier may only make this information available to those individuals who strictly require it for the purpose of making the delivery to VMT, and who are likewise bound to a duty of confidentiality.
- 12.2. Without prior explicit written consent, the Supplier is prohibited from naming VMT or the business relationship between the Supplier and VMT as a reference in any form whatsoever.

13. Place of performance, forum generale, choice of law

- 13.1. The place of performance for all supplies and services is the registered address of VMT or the delivery address stated on the purchase order. The place of performance for payments is the registered address of VMT.
- 13.2. All disputes arising from or connection with these Terms of Purchase, a purchase order or the business relationship between the Supplier and VMT shall be resolved under the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 13.3. The forum generale (place of jurisdiction) is that court with general jurisdiction over the place at which VMT has its registered address. VMT may nevertheless pursue actions against the Supplier before its own forum generale.