



## **General Conditions of Purchase** **Last updated August 2019**

### **1. General Information**

- 1.1 The following general terms and conditions of purchase (hereinafter "Conditions of Purchase") apply to all orders by TIGER Coatings GmbH & Co. KG, Negrellistraße 36, A-4600 Wels, Austria (hereinafter "TIGER"), unless agreed otherwise in writing. Once an order has been made according to these conditions, they will apply to all future orders, even if not stated explicitly. Unless agreed otherwise in writing, the Conditions of Purchase take precedence over any conflicting terms and conditions of the Supplier, regardless of the type. The term "Supplier" refers to any of TIGER's contractual partners to a purchase, works or service agreement.
- 1.2 Fulfillment activities or silence on the part of TIGER does not indicate acknowledgment of the Supplier's terms and conditions.
- 1.3 Other agreements, side agreements, assurances and amendments to the Conditions of Purchase may be agreed in writing and only by the individual case. Email satisfies the writing requirement in terms of these Conditions of Purchase.
- 1.4 In all written documents from the Supplier, the respective TIGER order number must be included. This applies to messages, order confirmations, invoices, delivery notes and other documents.
- 1.5 If any provision of these Conditions of Purchase is invalid or unenforceable, the remaining provisions continue to be valid in full. In this case, instead of the invalid or unenforceable provision, a valid and enforceable provision that is financially similar replaces, as agreed, the invalid or unenforceable provision.
- 1.6 TIGER is entitled to correct obvious errors, such as typing and calculation errors in orders, offer confirmations and similar documents at any time.

### **2. Offers**

Offers must be created free-of-charge for TIGER. All written offers for TIGER must be legally binding for a period of at least 4 weeks after receipt for the bidder/supplier and constitute, regardless of the preparations for tenders, neither a claim to placing an order nor to payment.

### **3. Placing orders**

- 3.1 Orders are only binding for TIGER when they are completed on the order forms of TIGER. Oral or telephone orders and verbal agreements and changes are only valid if they are confirmed in writing by TIGER.
- 3.2 Delivery schedules agreed for a longer period between the Supplier and TIGER are only for advance planning of the parties and are neither binding in terms of quantity nor in terms of delivery date, but require special individual order placement by TIGER.
- 3.3 The assignment or transfer of the execution of orders in whole or in part to third parties or subcontractors of the Supplier is permitted only on a case-specific basis and each time requires the written consent of TIGER. The Supplier is also responsible ensuring that its subcontractors comply with the Conditions of Purchase. If the Supplier fails to comply with this regulation, TIGER is not obligated to accept the delivery or service, resulting in the consequences of non-fulfillment.



- 3.4 The Supplier is obliged to inform TIGER of any modification of materials, manufacturing processes and similar in a timely manner.
- 3.5 TIGER may at any time cancel or postpone orders.

#### **4. Placing orders**

- 4.1 For orders by fax, the fax copy of the order must be returned with a confirmation statement by fax or email to TIGER. When ordering via email, the confirmation email must reply to and include the TIGER email containing the offer.
- 4.2 Any modified acceptance of an order that deviates from the offer represents a new offer and requires written confirmation by TIGER.
- 4.3 In the event that no binding offer by the Supplier precedes an order by TIGER and the Supplier does not want to accept this order, the Supplier is obliged to immediately inform TIGER, at the latest within 48 hours after receipt of the order. For any breach of this obligation, the Supplier is liable, also in case of slight negligence, for all damages suffered by TIGER, including lost profits.

#### **5. Delivery, Handover, Acceptance**

- 5.1 The Supplier must inform TIGER once a year in writing regarding the replenishment lead time, i.e. the period from receipt of the order by the Supplier until delivery to TIGER, for the individual products delivered. This delivery time is binding for the Supplier. Otherwise, TIGER calculates for each delivery delay of one business day a penalty of 0.1% (one percent) of the total cost of such an order to a maximum value of 10% of the total order value.
- 5.2 Unless otherwise specified in writing in the order by TIGER, deliveries are delivered duty paid ("DDP" – Incoterms 2010). The delivery time and date or delivery period listed in the order refers to the arrival of the delivery at the place of delivery at TIGER specified in the order. If no delivery location is indicated on the purchase order, the plant in Wels is the delivery location. TIGER is not obliged to accept the goods before the agreed delivery date and time or the beginning of the agreed delivery period. Unless otherwise agreed in writing, the Supplier is not entitled to make partial and advance deliveries. In case of early delivery, the payment periods begin first at the agreed delivery date or the beginning of the delivery period.
- 5.3 As soon as the Supplier realizes that timely delivery is not possible, or is only partly possible, it must notify TIGER immediately, stating the reasons and the expected duration of the delay. In case of delayed delivery, even if the Supplier has fulfilled his duty of notification, TIGER is authorized to withdraw from the agreement or to insist on delivery. If TIGER insists on delivery, then these Conditions of Purchase apply, notwithstanding point 5.1. However, TIGER is also entitled to cover itself otherwise at the cost of the Supplier. In any case, further claims of TIGER, in particular claims for damages, remain unaffected hereby.
- 5.4 The acceptance of goods is only possible on weekdays from Monday to Thursday 7:00 to 14:00 and Friday 7:00 to 11:00.
- 5.5 The delivery (i.e. each carton, container or each box) must be accompanied by the proper accompanying documents on which the complete order, the delivery address, the name of the Supplier, the TIGER item number, name and quantity must be included. Without proper accompanying documents, the delivery is not considered fulfilled according to contract and is not therefore accepted, but is instead, at the discretion of TIGER, either stored or returned at the risk and expense of the Supplier. The delivery must be properly packed and, if necessary, be handled according to any shipping instructions from



TIGER. The resulting failure to comply with such instructions must be borne by the Supplier.

- 5.6 The legally valid acceptance of the delivery and the passing of the transfer of risk occurs only after verification and approval through incoming goods inspection by TIGER. A previous confirmation of delivery or a payment of the invoice does not constitute an acceptance on the part of TIGER, and TIGER reserves as such the right to subsequently reject delivery.

## **6. Prices**

- 6.1 The agreed prices are net fixed prices excluding VAT, and all include all supplier-related expenses related to delivery and service by the Supplier. Exchange rate and currency fluctuations, as well as bank charges are borne by the Supplier.
- 6.2 Insofar as prices and conditions have not been predefined already in the order by TIGER, but are stated subsequently, they only become effective if accepted in writing by TIGER. Price increases on the part of the Supplier are generally excluded or if so only by express agreement with TIGER.
- 6.3 The fixed prices include additional requests for wage or material price increases, or the like and apply regardless of destination, including costs for transportation, insurance, packing, taxes, duties and charges, which are related to the delivery and service of the Suppliers in the states in which they are provided. If in exceptional cases TIGER takes on shipping and packaging costs, based on a special express agreement with the TIGER, the Supplier must provide the most affordable transport. The place of performance is not affected by this.
- 6.4 If surcharges or discounts are agreed for the purchase of certain quantities of product for a certain period, the surcharges or discounts accruing from such an agreement must be provided to TIGER by the end of the period in the following in the form of a bonus credit.

## **7. Invoices**

- 7.1 Invoices, regardless whether or not they are enclosed with the delivery of goods, must be provided in a single copy to TIGER for Austrian Suppliers, and in duplicate for foreign Suppliers, stating the name and address of the Supplier, company name and address of TIGER, the delivery slip number, the UID numbers of the Supplier and TIGER, as well as all order details (number, date, amount, etc.). Invoices relating to services and/or installations must be enclosed with confirmed time records with appropriate confirmation by TIGER. Only invoices that meet the above criteria are considered to have been prepared according to the contract, are edited by TIGER and justify the settlement of the bill.
- 7.2 The treatment of multiple orders in a single invoice is inadmissible, unless it was agreed to issue collective bills. TIGER reserves the right to return invoices that do not fully comply with these conditions; in this case, the invoices are considered not submitted until received again.



## **8. Payment**

- 8.1 If no special agreement is made, the payment period begins with receipt of goods or services properly performed and presentation of an invoice in accordance with item 7 of these Conditions of Purchase. For invoices not properly prepared or complaints regarding the delivered goods or services, the payment period from removal of defects starts anew. Until the complaints have been properly addressed, payments may be withheld.
- 8.2 At TIGER's discretion, payment has to be made either within 14 days less 3% discount or within 60 days net, and the payment is considered completed upon delivery of the transfer order to the bank – either in writing or via email – or with the posting of a corresponding check for deposit only. However, any payment does not mean a recognition of the compliance of the delivery nor a waiver of the claims resulting from fulfillment deficiencies, warranty and/or damages related to contract fulfillment.
- 8.3 COD orders will not be accepted, unless otherwise agreed in writing in the order.
- 8.4 The Supplier is not entitled under any circumstances to settle its liabilities against TIGER against receivables from TIGER. An exception to this is the agreement for mutual invoicing of credit memos.
- 8.5 Assignments of the Supplier's claims against TIGER are not permitted without the written consent of TIGER.
- 8.6 In case of delayed payment by TIGER, Suppliers are entitled to interest on account of delay in the amount of the 3-month Euribor. Further claims of the Supplier against TIGER for this reason, such as interest as regards damages, as well as reminders and collection costs, are excluded.

## **9. Warranty**

- 9.1 The Supplier assumes full liability for executing the order in accordance with the delivery and for complying with all the relevant legal provisions and standards, particularly with regard to the regulations in force within the European Communities. The Supplier is equally liable for the goods and components it has delivered or processed, as well as services provided, in addition to goods and components (or services) it has not produced (or provided). The deliveries and services must demonstrate the properties commonly expected and agreed and the properties described in the manuals, notes, brochures, mailers and other public or TIGER-accessible information media and must be able to be used according to the nature of the business and the agreement reached.
- 9.2 The warranty period is two years. It begins to run with the processing of the goods, provided this is within the shelf life; in case of concealed defects this period runs from discovery of the defect.
- 9.3 The Supplier acknowledges that an inspection of the raw materials prior to processing at TIGER is only randomly possible, and it can be determined only in the course of processing and/or monitoring of the finished product, whether flawless raw materials, auxiliary materials, etc. have been delivered. For goods (raw materials), which are processed further by TIGER, the warranty period therefore begins when the goods sold are used or processed.
- 9.4 If TIGER, in the case of an unauthorized change of Suppliers for raw materials, does not make use of its right to withdraw from the contract, then the warranty period is extended by 12 months.
- 9.5 The defectiveness of goods and services upon delivery or execution is presumed rebuttable, if the defect is discovered during the warranty period. Defects of deliveries



- that are not challenged at handover will be provided by TIGER to the Supplier after they are discovered, at the latest, within the agreed warranty period in writing or orally. The obligation regarding complaints with regard to commercial law (§ 377 UGB) is waived.
- 9.6 In case of defects, whatever their nature or size, TIGER is entitled at its discretion to request from the Supplier a conversion, a price reduction or – in case of unrecoverable defects – to require corrective action, setting a reasonable time limit. TIGER is also entitled to make improvements itself or through third parties at the expense of the Supplier. All costs related to the improvement of the delivery or the return of defective goods, as well as all related risks, are charged to the Supplier. The Supplier is also liable without fault for claims resulting from the damages. If the legal deadline to correct the defect is not observed, TIGER is entitled to choose between conversion or price reduction. In urgent cases and in the case of tardiness by the Supplier in correcting deficiencies, TIGER is entitled without notice to correct the defects at the expense of the Supplier (substitute performance).
- 9.7 The Supplier must voluntarily provide any storage and operating instructions, as well as safety instructions and warnings, with the goods delivered and, where appropriate, provide other necessary measures in connection with the handling of the goods delivered.
- 9.8 The Supplier is also liable for the completeness and accuracy of the information or statements contained in certificates or test results, and confirms its familiarity with the relevant standards and all relevant factors relating to the goods or services, as well as related laws and regulations.
- 9.9 The Supplier must, upon request, assign to TIGER any warranty claims it may have against its predecessors, provided that the defects are based on such defective preliminary work. The warranty claims against the Supplier remain unaffected.

## **10. Liability**

- 10.1 The Supplier is liable for all damages and their consequences.
- 10.2 If TIGER cannot fulfill its contractual obligations because of bad delivery by Suppliers or the Supplier's performance, the Supplier indemnifies and holds TIGER harmless in this regard.
- 10.3 If defects in spite of random inspection are not identified prior to delivery by TIGER, but only with the complaint by the TIGER client to TIGER, and TIGER is thus liable to pay compensation, the Supplier is obligated to indemnify and hold TIGER harmless.
- 10.4 The Supplier must indemnify and hold TIGER harmless with regard to all claims by third parties arising from the violation of official safety regulations or due to domestic or foreign product liability regulations or laws and to compensate all resulting damages.
- 10.5 If it comes to a standstill in production due to late deliveries or other poor performance, which is not due to force majeure, the Supplier is liable for all damages arising for TIGER and/or TIGER clients and for the prevention of such production stoppage and especially for costs accrued by TIGER for staff at a rate of EUR 65.00 per hour and employee.
- 10.6 At the request of TIGER, the Supplier must prove the volume and the possible liability consequences appropriate to the liability insurance in sufficient amount with the order acceptance. If the Supplier is unable to prove this, TIGER has the right to cancel the order in whole or in part, without extension of time.



## 11. Confidentiality

- 11.1 All documents, information, drawings, documents, samples or other know-how, which have been transferred to the Supplier by TIGER, whether orally, in writing or in electronic form ("Confidential Information"), remain the property of TIGER and are not allowed to be used by the Supplier for purposes other than execution of the specific order. All copyrights, usage and exploitation rights for confidential information remain in this respect with TIGER. All confidential information provided to the Supplier and which becomes known to the Supplier during the cooperation between the companies has to be kept secret without exception and may he not brought to the notice to third parties without the express written consent of TIGER.
- 11.2 In particular, the Supplier must respect the rights of TIGER and other industrial property rights (patents, utility models, etc.). Products which have been manufactured according to specifications of TIGER by the Supplier may not be used or exploited by the Supplier. The Supplier may neither offer it nor deliver it to third parties.
- 11.3 The Supplier agrees not to subject the samples provided by TIGER to analysis in terms of a reverse-engineering.
- 11.4 TIGER neither guarantees nor accepts any liability for the accuracy of confidential information transferred to the Supplier.
- 11.5 The Supplier is obliged to return or delete permanently all samples, documents, disks or other storage media provided by TIGER at first request immediately.
- 11.6 The duty of confidentiality on the part of the Supplier is valid for 5 years after completion of the order, for technical information (such as formulations, process and production details) the period is considered unlimited.

## 12. DATA PROTECTION INFORMATION

- 12.1 The following data protection information provides an overview of the processing of personal data. The complete information and the additional rights can be found in the privacy policy at [www.tiger-coatings.com/datenschutz](http://www.tiger-coatings.com/datenschutz). TIGER will also be happy to provide you with this as a paper copy.
- 12.2 TIGER Coatings GmbH & Co KG is responsible for the following processing activities.
- 12.3 TIGER Coatings GmbH & Co KG processes the name, address, postal address, e-mail address, telephone number and contact data of the respective contact person as well as the date and time of the visit to the website, the IP address used, browser type and operating system, the pages visited and the origin page, name and URL of the accessed file and data by video surveillance.
- 12.4 For the collection of personal data, TIGER Coatings GmbH & Co KG uses, in particular, cookies, analysis services, contracts and independent entries by the person concerned.
- 12.5 The data will be used, in particular, for processing the contractual relationship, to ensure convenient use and trouble-free establishment of a connection to the website, transmission of a newsletter, communication, demand-driven design and continuous





optimization of the website, for advertising purposes for transmission to third parties and for video surveillance for the purpose of property protection.

- 12.6 Data will only be transmitted to companies and business partners (including banks) commissioned by TIGER Coatings GmbH & Co KG and obliged to observe the statutory data protection regulations for the purpose of performing services and carrying out supplier audits. In the event of an incident, data will also be passed on to appropriate bodies for the purposes of tax and accounting audits and for the defense of legal claims.
- 12.7 In any case, data shall be kept by TIGER Coatings GmbH & Co KG in an individual-related form until the end of the business relationship or until the expiry of applicable guarantee, warranty or limitation periods; in addition until the end of any legal disputes in which the data are required as evidence; or at least as long as the legally prescribed retention obligations require it.
- 12.8 Persons concerned have the right to information, deletion, correction, objection and revocation. Inquiries in this regard should be directed to the contact person at TIGER for data protection at the e-mail address [datenschutz@tiger-coatings.com](mailto:datenschutz@tiger-coatings.com).

### **13. REACH**

- 13.1 The Supplier is solely responsible for ensuring that the delivered goods meet fully the requirements of Regulation (EC) no. 1907/2006 (REACH), dated December 18, 2006, in the currently valid version and amendments as well as all national provisions in implementation adopted as part of this regulation.
- 13.2 The Supplier guarantees that all obligations of REACH have been met. In particular, the Supplier guarantees that every chemical substance used or contained in the goods is approved and released for our use.
- 13.3 If the substance under REACH requires authorization, the contractor guarantees that all restrictions on admission of the Annex XVII to REACH have been complied with and that the Supplier has fulfilled its obligation to provide comprehensive safety data sheets in accordance with REACH. The Supplier also warrants that it has complied with the requirements of Articles 32 and 33 REACH.
- 13.4 The Supplier must monitor the publication of the list for approved substances of the European Chemicals Agency (according to REACH, list of particularly dangerous substances) and check and notify us immediately and on its own initiative once goods are supplied containing a substance whose recording is required in the list of dangerous substances.
- 13.5 The Supplier undertakes to properly and promptly inform TIGER of any changes that may affect compliance with REACH, and to provide TIGER, unsolicited and at its own expense, all the information necessary for TIGER to ensure compliance with the requirements of the REACH regulation.
- 13.6 In the event that the Supplier is not established in the EU, the Supplier has to appoint a sole representative who resides in the EU and is responsible for compliance with the import requirements of REACH. The Supplier must provide the contact data for this sole representative without any request before delivery.
- 13.7 TIGER reserves the right to cancel orders when goods are delivered that are not consistent with the requirements mentioned above. In case of cancellation of global or specific contracts or proven violations of national or international rules for the



implementation of REACH by the Supplier, the Supplier undertakes, with respect for us to all liabilities to third parties, to indemnify and hold harmless and to bear any disadvantages, losses or bear damages arising for TIGER in case of injury.

#### **14. Force Majeure**

- 14.1 In the event of force majeure, such as war, war-like events, natural disasters and occupational strikes, TIGER is released for the duration of the disturbance of the duty of acceptance and is also entitled to rescind the contract, without the Supplier levying claims against TIGER.
- 14.2 In cases of force majeure which restricts the Supplier from complying with its obligations, immediate written notification must be sent to TIGER and confirmation by the relevant Chamber of Commerce. For the duration of such events, the contractual obligations are considered suspended.

#### **15. Accessories**

TIGER-supplied specifications, samples and other documents and aids made available remain the sole intellectual and physical property of TIGER and TIGER reserves all rights in this regard. Accessories may be used only for the agreed purpose, neither reproduced by TIGER nor be made available or released to third parties, and must always be treated confidentially. Parts provided by TIGER (raw materials, components, etc.) remain in any case the property of TIGER and, if they are no longer needed for the agreed purpose, they must be returned without request to TIGER. If they are not returned, the costs of the materials provided will be invoiced to the Supplier.

#### **16. Intellectual Property Rights**

The Supplier indemnifies and holds TIGER harmless in connection with all patent, copyright and trademark disputes related to its delivery, and must ensure the full, unlimited use of the goods supplied, regardless whether at fault or not, to compensate TIGER for all costs, expenses and other disadvantages that arise from the limited use of the goods supplied. The indemnification obligation of the Supplier refers to all expenses, including any royalties accruing for TIGER or in connection with claims of third parties.

#### **17. PLACE OF PERFORMANCE, APPLICABLE LAW AND PLACE OF JURISDICTION**

- 17.1 Place of performance for product delivery is the delivery address stated on the order, in the absence thereof the TIGER Plant A-4600 Wels, Negrellistraße 36.
- 17.2 All legal relationships to which these purchase conditions apply are subject to Austrian law, excluding any conflict of legal norms. The application of the CISG is excluded.
- 17.3 The jurisdiction for any disputes linked to the business relationship between the Supplier and TIGER, in particular from or in connection with these Conditions of Purchase is exclusively the respective competent court in Wels. Nevertheless, TIGER has the right to sue the Supplier at any other court of competent jurisdiction for the Supplier at home and abroad.





18. **General, legal and regulatory requirements**

- 18.1 The supplier must ensure that all relevant processes, products and services, in particular environmental, dangerous goods and accident prevention regulations, comply with the applicable legal and regulatory requirement of the exporting country, the importing country and the destination specified by TIGER. Furthermore, the supplier must comply with standards, regulations and specifications asserted by TIGER according to latest standards. TIGER may audit the supplier to verify the documents and processes.
- 18.2 The supplier must pass on all relevant legal and regulatory requirements as well as product and process-related special features to its suppliers. Subcontractors must also be required to pass on the supply chain, up to the actual place of manufacture.

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