

## **General Terms and Conditions of Purchase (GTCPs)**

### **of the MOSOLF SE & Co. KG Corporate Group**

#### **A Scope, applicable law, place of jurisdiction, contractual language**

1. Insofar as nothing deviating or supplementary is agreed in writing between the parties, which are both entrepreneurs within the meaning of Section 14 of the German Civil Code [BGB], all deliveries, services and offers of the suppliers of MOSOLF SE & Co. KG and of the suppliers of the companies affiliated with MOSOLF SE & Co. KG within the meaning of Sections 15 et seq. of the German Stock Corporation Act [AktG] which have their registered office in Germany (hereinafter referred to as "MOSOLF") shall be performed on the basis of these General Terms and Conditions of Purchase (hereinafter referred to as "GTCPs"). These GTCPs shall also apply to all future deliveries, services or offers to MOSOLF, even if they are not separately agreed again. These GTCPs also constitute an essential part of all contracts concluded by MOSOLF with its suppliers for the deliveries or services they offer, unless otherwise agreed.
2. Any terms and conditions of the supplier or third parties shall not apply, even if MOSOLF does not separately object to their application in individual cases. Even if MOSOLF refers to a letter containing or referring to the terms and conditions of the supplier or a third party, this shall not constitute acceptance of the validity of these terms and conditions.
3. These GTCPs as well as all legal relationships and contracts concluded between MOSOLF and the supplier shall be governed by the law of the Federal Republic of Germany excluding private international law (PIL) and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
4. The contractual language for the entire business and

legal relationship between MOSOLF and the supplier is German, unless otherwise agreed.

#### **B Orders and assignments, subcontracting**

1. All offers made by MOSOLF are non-binding and subject to change unless they are expressly identified as binding or contain a specific commitment period. As far as offers from MOSOLF do not expressly include a commitment period, MOSOLF shall be bound to the offer for one week after the date of the offer. Acceptance shall be deemed timely so long as the supplier's the declaration of acceptance is received by MOSOLF within that period. MOSOLF does not waive the receipt of a declaration of acceptance within the meaning of Section 151 of the German Civil Code [BGB].
2. MOSOLF shall be entitled to change the time and place of delivery as well as the type of packaging at any time by notification in writing or in text form, provided that it notifies the supplier thereof at least 5 calendar days before the agreed delivery date. The same shall apply to changes in product specifications, insofar as these can be implemented within the scope of the supplier's normal production process without significant additional expenditure, in which case the notification period pursuant to the above sentence shall be at least 10 calendar days.

MOSOLF will reimburse any resulting additional costs only and insofar as these are proven and appropriate. If the above changes result in delivery delays that cannot be avoided despite the supplier making reasonable efforts within its normal production and business operations, the originally agreed delivery date shall be postponed accordingly. The Supplier shall notify

MOSOLF in writing or in text form of the anticipated additional costs or delivery delays resulting therefrom in good time prior to the delivery date, though at least within 3 working days after receipt of the notification from MOSOLF pursuant to the above Sentence 1 of this Section B Point 2 of these GTCPs.

3. The delivery obligations to MOSOLF may only be subcontracted by the supplier provided that MOSOLF gives its express consent thereto. MOSOLF may only refuse consent for good cause, e.g. in the case of subcontracting to a competitor of MOSOLF.

#### **C Prices, terms of payment, invoice details, offsetting and retention**

1. The price indicated in the order is binding.
2. Unless otherwise agreed in writing, the price includes delivery and transport to the shipping address specified in the contract, including packaging and insurance of the goods.
3. Insofar as it is agreed that the price shall not include the packaging and / or insurance, and the compensation for the (loaned) packaging and / or insurance is not expressly stated, this shall be invoiced at verifiable cost. At the request of MOSOLF, the supplier must retrieve the packaging at its own expense.
4. Unless otherwise agreed, MOSOLF shall pay the purchase price within a period of 14 calendar days with 3% discount or within 30 calendar days net from the delivery of the goods and receipt of an invoice, providing that the invoice is correct and, in particular, compliant with tax regulations.
5. All order confirmations, delivery slips and invoices provided by the supplier must include the order number, product number, delivery quantity and the delivery address as well as the relevant bank details. If one or

more of these details is missing or incomplete and, as a result, processing by us is within our normal business operations is delayed, the payment periods specified in Section C Point 4 of these GTCPs shall be extended by the period of the delay. The information provided by the supplier in accordance with Section C Point 5 Sentence 1 of these GTCPs shall be deemed to be correct and binding, unless the supplier informs MOSOLF otherwise in writing or in text form.

6. In the event of late payment, MOSOLF shall owe default interest in the amount of five percentage points above the base interest rate in accordance with Section 247 of the German Civil Code [BGB].
7. The supplier may only offset the claims of MOSOLF if the counter-claim of the supplier is undisputed or legally established. The supplier may only assert its right of retention if such is based on claims from the same contractual relationship and these are likewise undisputed or legally established.

#### **D Quality, delivery time and delivery, transfer of risk, assignment**

1. When performing deliveries, the supplier must comply with the latest recognised technical rules, all safety regulations and other relevant statutory or official provisions as well as the agreed technical data. For materials (substances, preparations) and objects (e.g. goods, parts, technical equipment, empties) which, due to their nature, their properties or their condition, pose a hazard to life, body or health of humans, to the environment and to other matters, and which, pursuant to statutory provisions, must be subject to special treatment in terms of packaging, transport, storage, handling and disposal, the supplier must enclose a complete Safety Data Sheet in accordance with the applicable Ordinance on Hazardous Substances with its offer and submit it to MOSOLF. In the case of changes to the materials and objects or in the event of a change

in the legal situation, the supplier shall provide MOSOLF with updated data sheets on its own initiative.

2. The delivery time specified in the order (delivery date or period) is binding. Early deliveries shall not be permitted, unless otherwise agreed.
3. The supplier shall be required to inform MOSOLF immediately in writing or in text form if any circumstances occur or become apparent which will result in the supplier's inability to meet the delivery time.
4. If the day by which the delivery is to be made at the latest can be determined on the basis of the contract, the supplier shall be deemed to be in default at the end of this day without the need for a reminder from MOSOLF.
5. In the event of a default in delivery, should the supplier fail to comply with a reasonable grace period set by MOSOLF in writing or in text form, MOSOLF shall be entitled to the statutory claims without restriction, including the right of withdrawal and the right to demand compensation for damages instead of performance.
6. In the event of delivery delays after prior warning or reservation in writing or in text form, MOSOLF shall be entitled to demand a contractual penalty of 0.5%, maximum 5% of the respective order value, for each commenced week of the delay in delivery. The contractual penalty paid shall be credited towards the delay damages to be compensated by the supplier.
7. The supplier shall not be entitled to make partial deliveries, unless expressly agreed otherwise.
8. Even if shipment to MOSOLF has been agreed, the risk shall not be transferred to MOSOLF until the goods are handed over to MOSOLF at the agreed place of destination during opening hours.
9. The supplier shall not be entitled to assign its claims from the contractual relationship to third parties. This

shall not apply to cash receivables.

## **E Ownership protection**

1. MOSOLF reserves the ownership or the copyrights of the placed orders, awarded assignments as well as drawings, illustrations, calculations, descriptions or other documents provided to the supplier. Without the express consent of MOSOLF, the supplier may not make them available or disclose them to third parties, nor use or reproduce them or permit third parties to do so.  
  
At the request of MOSOLF, the supplier must return all these documents and any copies to MOSOLF, providing that they are no longer required by the supplier in the ordinary course of business or if negotiations do not result in the conclusion of a contract. In this case, any copies made by the supplier shall be destroyed, with the exception of storage within the scope of statutory retention requirements and with the exception of the storage of data for security purposes as part of usual data storage practice.
2. Tools, devices and models which MOSOLF makes available to the supplier or which are manufactured for contractual purposes and for which the supplier invoices us separately shall remain the property of MOSOLF or become the property of MOSOLF. They must be identified by the supplier as the property of MOSOLF, carefully stored, insured against damage and loss of any kind and used only for the purposes of the contract. The supplier shall notify MOSOLF without delay of any not inconsiderable damage to these items and any loss thereof. Upon request, the supplier shall be required to return these items to us in proper condition provided that they are no longer required by the supplier for the purpose of fulfilling the contracts concluded with MOSOLF.
3. Retention of title of the supplier shall only apply insofar as they relate to the payment obligation of MOSOLF for

the respective products or items to which the supplier reserves ownership. Extended or prolonged retention of title is excluded.

## **F Warranty**

1. In the event of defects, be it material or legal defects, MOSOLF shall be entitled to the statutory claims without restriction. However, in derogation of the foregoing, the warranty period shall be 36 months, unless expressly agreed otherwise.
2. Any quality and quantity deviations (material defects) shall be deemed to have been raised in good time so long as MOSOLF informs the supplier within 7 working days of MOSOLF receiving the goods. In any case, hidden material defects shall be deemed to have been raised in good time so long as the notification to the supplier is made within 5 working days of their discovery.
3. Acceptance or approval of specimens or samples provided by the supplier does not constitute a waiver of warranty claims by MOSOLF.
4. Upon receipt of the written notice of defects by the supplier, the limitation period of warranty claims shall be suspended until such time as the supplier rejects the claims or declares to MOSOLF that the defect has been corrected, or otherwise refuses to continue negotiations regarding the claims. In the case of replacement deliveries and correction of defects, the warranty period for the replaced and repaired parts shall begin again, unless, based on the supplier's actions, MOSOLF must assume that the supplier did not consider itself obliged to perform such a replacement delivery or correct such defects, but only did so as a gesture of goodwill or for similar reasons.
5. MOSOLF shall be entitled to retain an amount of at least 5% of the agreed remuneration as collateral for the warranty claims until the expiry of the warranty period,

unless the supplier provides any other collateral as defined in Sections 232 et seq. of the German Civil Code [BGB] in the corresponding amount.

6. In the case of fraudulent concealment or simulation of defects and in the case of warranties and guarantees regarding product properties, further claims of MOSOLF due to defects remain unaffected.

## **G Liability, product liability, insurance**

1. The supplier shall be liable for the reason and the amount as specified in legal provisions, unless otherwise stipulated in the above Section F for warranty and in this section G below for product liability.
2. The supplier shall be fully responsible for all claims asserted by third parties as a result of personal injury or property damage, of whatever kind and for whatever legal reason, that is attributable to a faulty product delivered by the supplier. The supplier shall also be required to fully exempt MOSOLF from the resulting liability. Should MOSOLF be required to carry out a product recall involving third parties due to a defect in a product delivered by the supplier, the supplier shall bear all costs associated with the recall.
3. At its own expense, the supplier is required to conclude and maintain industrial liability insurance with a coverage amount of at least € 10 million covering at least the conventional product liability risk. Should MOSOLF have a legitimate interest in doing so, MOSOLF may also demand additional coverage (e.g. extended product liability, recall costs cover, liability for pecuniary loss). Upon request and at any time, the supplier shall provide MOSOLF with a certificate of insurance not older 3 months.

## **H Property rights**

1. The supplier warrants that no third-party property rights in the countries of the European Union or other countries

in which it manufactures or distributes products, or commissions others to manufacture or distribute products, are infringed in connection with its delivery.

2. The supplier shall be required to exempt MOSOLF from all claims that third parties make against MOSOLF due to the infringement of property rights referred to in Section H Point 1 of these GTCPs, as well as all necessary costs incurred by MOSOLF in connection with such claims being asserted. This claim shall be independent of the fault of the supplier, unless the supplier proves that it is not responsible for the infringement of property rights and, despite exercising due diligence, it cannot reasonably be expected to have been aware of this infringement at the time of the delivery.

#### **I Spare parts**

1. The supplier shall be required to provide spare parts for the products supplied to MOSOLF for a period of at least 10 years after delivery, unless otherwise agreed.
2. If the supplier intends to discontinue the production of spare parts for the products supplied to MOSOLF, or to sell the production, relinquish it to third parties or otherwise relocate it, the supplier shall inform MOSOLF immediately after the corresponding decision, insofar as this is legally permissible. In the case of discontinuation of production, such a decision must be made at least 6 months before the discontinuation of production.

#### **J Contract duration, termination**

1. Unless the parties have agreed a specific contract period within the contract, the contract is concluded for an indefinite period.
2. MOSOLF shall be entitled to extraordinary termination of the contract without notice providing that there is good cause. Good cause shall be deemed to exist, in

particular, if:

- the supplier does not render due deliveries or is otherwise in debtor's default or discontinues its deliveries, or an application for insolvency proceedings or comparable legal proceedings has been filed against it, or such proceedings have been opened or the opening thereof is dismissed for lack of assets;
- the supplier continues to breach a contractual or statutory duty after unsuccessful expiry of a reasonable period for remedy or after unsuccessful reminder;
- the ownership and shareholding structure of the supplier changes and MOSOLF cannot reasonably be expected to continue the cooperation in view of the creditworthiness or reliability of the supplier, or for reasons of competition, in particular, if shares in the supplier's company are acquired by a competitor of MOSOLF.

3. Should MOSOLF exercise its rights of termination, any other claims or rights of MOSOLF shall remain unaffected.
4. Any termination must be announced in writing. Notice of termination shall be deemed to have been given when it is received by the other party to the contract.

#### **K Confidentiality**

1. For a period of 5 years after conclusion of the contract, the supplier shall be required to maintain strict confidentiality in relation to the terms of the order as well as all information and documents provided for this purpose, with the exception of any publicly available information, to use the above only for the execution of the order. Upon request, the supplier shall return this information and documents to MOSOLF immediately

after the completion of quotation inquiries or the execution of purchase orders. They remain the property of MOSOLF. The information and documents may not be given or made accessible to third parties and may only be used for deliveries to third parties with the written consent of MOSOLF.

2. The supplier may not make any reference to the business relationship with MOSOLF in its advertising material, brochures, the Internet or other media without the express prior consent of MOSOLF, and may not display any goods manufactured for MOSOLF.
3. The supplier must ensure that any subcontractors are required to comply with this Section K of these GTCPs.

#### **L Partial invalidity, regulatory loopholes**

Should a provision of these GTCPs or a provision set out in other agreements be or become invalid or unenforceable, this shall not affect the validity of all other provisions or agreements. In place of the invalid or unenforceable provision, the legally permissible provision that corresponds as far as possible to the economic purpose of the invalid or unenforceable provision shall be deemed to apply. To the extent that these GTCPs contain loopholes, the effective provisions which the contracting parties would have agreed according to the economic objectives of the contract and the purpose of these GTCPs had they been aware of the loophole shall be deemed to have been agreed and shall be applied in order to rectify the same.

#### **M Place of performance, jurisdiction**

The place of performance for both parties and the exclusive place of jurisdiction for all disputes arising from the contractual relationship between MOSOLF and the supplier, insofar as the latter is a merchant, a legal entity under public law or a special fund under public law or has no general place of jurisdiction in the Federal Republic, shall be the respective registered office of the company of the MOSOLF Corporate

Groupe which bought or ordered the goods which are the subject of such disputes. Mandatory legal provisions on exclusive jurisdictions remain unaffected by this provision.

#### **Note:**

The supplier acknowledges that MOSOLF collects, uses, stores and processes data originating from the contractual relationship in accordance with the European General Data Protection Regulation (GDPR) for the purposes of data processing required for the initiation, execution, processing and termination of the contractual relationship. MOSOLF reserves the right to transmit the data to third parties (for example, insurance companies) insofar as this is necessary for the fulfilment of the contract.

**Version: May 2018**

