

General Terms and Conditions of Purchase of Accumulatorenwerke HOPPECKE Carl Zoellner & Sohn GmbH and its German affiliates* (as of July 2021)

1. General

1.1 These General Terms and Conditions of Purchase (referred to hereinafter as "GTC Purchase") apply to all business relationships with our business partners and suppliers (referred to hereinafter as "supplier"). The GTC Purchase only apply if the supplier is an entrepreneur (§ 14 BGB – German Civil Code), a legal entity under public law or a special fund under public law ("öffentlich-rechtliches Sondervermögen").

1.2 The GTC Purchase apply in their respective current version as a framework agreement also for future contracts for the sale and/or delivery of movables and for contracts for the provision of work ("Werkleistungen" in terms of German law¹) and services ("Dienstleistungen" in terms of German law) (referred to hereinafter as "products", "goods", "delivery", "service(s)", "service provision") entered into with the same supplier; we are not required to again make specific reference to our GTC Purchase in each individual case; we will inform the supplier of any changes to our GTC Purchase without undue delay ("unverzüglich").

1.3 Conflicting, deviating or supplementary terms and conditions of sale of the supplier are hereby explicitly rejected. We are not bound to such terms and conditions of sale even if we have not explicitly objected to their application again after receipt of the conflicting conditions or if we accept deliveries from the supplier without reservation even though we are aware of the supplier's conflicting conditions.

1.4 Our purchase orders must be in writing to be legally valid. Purchase orders placed orally or by phone are only valid if they are confirmed by us in writing. Unless otherwise agreed, the supplier's written order confirmation, which must state the binding delivery time, the price as well as any other applicable terms and conditions, must be received by us ("Zugang"²) within five working days ("Werktage") of receipt of our purchase order by the supplier. We are no longer bound to our purchase order after expiry of the aforesaid time limit. Our purchase orders as well as the supplier's order confirmations shall be deemed to satisfy the written form requirement even if they are sent by fax or email.

2. Prices, payment and setoff

2.1 The price stated in the purchase order is binding. All prices are exclusive of the statutory value-added tax unless the tax amount is stated as a separate item.

2.2 Unless otherwise agreed from time to time, the agreed price is due and payable within 30 calendar days from complete delivery and service provision (including approval ("Abnahme"), if so agreed), and receipt ("Zugang") of a properly issued invoice; the supplier's invoice must at least contain the following information: purchase order number, delivery note number and our contact person. If we pay the invoice within 14 calendar days, the supplier shall grant us a 3% discount on the net invoice amount. Unless otherwise agreed from time to time, the agreed price includes all work and services and ancillary services provided by the supplier (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, the costs of transport including transport insurance and third-party liability insurance, if any, customs duties and freights).

2.3 We are entitled to setoff and retention as well as to the defence of non-performance ("Einrede des nicht erfüllten Vertrages") within the limits and to the extent provided for by law. We are in particular entitled to withhold any payment due as long as we are entitled to claims against the supplier for incomplete or defective delivery or service provision. The supplier is only entitled to setoff or retention in the case of counterclaims that are undisputed or have been established by a final non-appealable decision (res judicata).

2.4 We are not liable to pay interest from the due date ("Fälligkeitsszinsen"). The default interest rate ("Verzugszins") is five percentage points above the base interest rate per year. We are deemed in default of payment ("Verzug") from the time prescribed by law but with a prior written reminder by the supplier being required in any case.

2.5 Payment of a default lump sum of EUR 40 (as provided for by § 288 subs. 5 BGB – German Civil Code) is excluded unless such an exclusion must be considered as grossly unfair with regard to the supplier's concerns.

¹ Note: "Werkleistung" in terms of German law pertains to work to be carried out by a contractor who undertakes to bring about a particular result (e.g. repair a car, transport goods to a specific destination etc.).

² Note: The order confirmation is deemed to have been received ("Zugang" in terms of German law) if and as soon as it has come into the sphere of the recipient in the way that the recipient can reasonably be expected to take note of it.

3. Assignment, reservation of title and subcontracting

3.1 The supplier may only assign its claims against us with our prior written consent. This does not apply to monetary claims.

3.2 Ownership of the goods is transferred to us unconditionally and regardless of whether or not the purchase price has already been paid. If, however, from time to time we accept an offer by the supplier for transfer of ownership subject to payment of the purchase price, the supplier's reservation of title shall expire upon payment of the purchase price for the delivered goods at the latest. We are entitled to resell the goods in the due course of business even before the purchase price is paid, subject to assignment in advance of our claims resulting from the resale (or, by way of subsidiary security, subject to simple reservation of title and, with regard to the resale, prolonged reservation of title ("verlängerter Eigentumsvorbehalt")). Any other forms of reservation of title are excluded, including, without limitation, any extended or transferred reservation of title ("erweiterter/weitergeleiteter Eigentumsvorbehalt") as well as any prolonged reservation of title in the case of further processing of the goods ("auf die Weiterverarbeitung verlängerter Eigentumsvorbehalt").

3.3 The supplier is not entitled without our prior written consent to have the work or service to be provided by the supplier carried out by third parties (e.g. subcontractors).

4. Delivery times and dates

4.1 The delivery times and dates stated in our purchase order are firm and binding. They pertain to the time of arrival or service provision at the destination.

4.2 Early deliveries and partial deliveries without our prior written consent are impermissible.

4.3 As soon as the supplier becomes aware of circumstances which may cause a delay in delivery, the supplier is obliged to inform us in writing without undue delay ("unverzüglich"), thereby stating the reasons and the duration of the expected delay. This is however without prejudice to the supplier's obligation to deliver on time.

4.4 If the supplier fails to perform or fails to perform within the agreed delivery time or if the supplier is in default of performance ("Verzug"), our rights – including but not limited to the right to withdraw from the contract and the right to claim damages – shall be governed by the statutory provisions. The provisions of sec. 4.5 remain unaffected.

4.5 If the supplier is in default ("Verzug"), we are entitled to claim contractual penalty amounting to 1% of the net price of the goods delivered late for each full calendar week of default, not exceeding however a maximum total of 5% of the net price of the goods delivered late. We are entitled to claim the contractual penalty in addition to proper performance and as a minimum amount of damages payable by the supplier according to the statutory provisions; this is without prejudice to our right to claim compensation of any further damage incurred by us. If we accept late delivery, we will claim the contractual penalty with the final payment at the latest.

4.6 The parties are aware of the current COVID 19 pandemic and the consequences and impact related thereto including, without limitation, the risk of (i) late supply or non-supply by the supplier's own suppliers, (ii) governmental or other regulatory measures (e.g. lockdown, curfew, quarantine, close-down and restrictions of movement such as border closures) and (iii) COVID 19-related diseases of the staff and staff quarantine. Any non-delivery or late delivery that is directly or indirectly due to the COVID 19 pandemic including, without limitation, the reasons stated under (i) to (iii) above shall not be deemed to constitute, on the part of the supplier, force majeure or non-attributable impossibility of performance ("nicht zu vertretende Unmöglichkeit") nor do such circumstances create any right of the supplier to contract adjustment. If the impediment lasts longer than 30 calendar days, the parties shall endeavour to reach a mutual agreement on the adjustment of the performance obligations within a maximum period of another 14 calendar days. If the parties are unable to reach an agreement within the said period, we shall be entitled to withdraw from the contract.

5. Shipment, packaging, other ancillary costs

5.1 All consignments must be accompanied by a delivery note in duplicate stating the purchase order number and purchase order date.

5.2 All shipping documents as well as all documents relating to the supply contract must contain, in addition to the designation of the item, our material number and purchase order number, the purchase order date, the quantities, the destination, the name of our contact person and the mode of packaging. The supplier is liable for the consequences of incorrect information in the bill of lading.

5.3 The supplier is liable for compliance with the shipping requirements

imposed on the supplier. We are entitled to refuse acceptance of delivery if no proper shipping documents have been made available to us by the date of receipt or if the purchase order data in the shipping documents are missing or incomplete. If we refuse acceptance of delivery for any of the aforesaid reasons, we shall not be deemed to be in default of acceptance ("Annahmeverzug"); any costs incurred by the refusal of acceptance shall be borne by the supplier.

5.4 Unless otherwise agreed from time to time, we accept no transport packaging other than:

- a) European wooden four-way flat pallets according to UIC 435 – 2 bearing the EUR marking,
- b) Euro mesh box pallets,
- c) as well as other reusable packaging and packaging made of recyclable material within the meaning of the Verpackungsverordnung (German Packaging Ordinance) which bears appropriate marking. The supplier is obliged to accept return, at its expense, of the entire consignment packaging at the destination during usual operating hours, no later than within one week from an appropriate written request, thereby complying with the applicable statutory provisions including but not limited to the respective current version of the Verpackungsverordnung (German Packaging Ordinance). The preceding obligations apply mutatis mutandis with regard to any other waste and residual material generated during production or delivery.

5.5 Subject to the provisions set out hereinafter, all deliveries are made for the supplier's account and at the supplier's expense, carriage paid to the destination stated in the purchase order (DDP Incoterms 2020). The destination stated in the purchase order is at the same time the place of performance ("Erfüllungsort") for all deliveries, services and subsequent performance ("Nacherfüllung"), if any (i.e. the supplier's obligations are to be fulfilled at our domicile or other destination indicated by us - "Bringschuld"). If delivery carriage forward has been agreed in any individual case, the supplier shall choose for us the cheapest mode of shipment. The supplier may only take out transport insurance upon our explicit instruction to do so.

6. Passing of risk

6.1 The supplier bears the risk of accidental loss or perishing and accidental deterioration until the goods arrive at the place of performance ("Erfüllungsort").

6.2 If the parties have agreed that the goods are subject to approval ("Abnahme"), the time of approval shall be decisive for the passing of risk. If the goods are subject to approval ("Abnahme"), the statutory provisions governing contracts for work ("Werkvertragsrecht"³) shall apply mutatis mutandis in all other respects, too. Default of acceptance ("Annahmeverzug") on our part shall have the same legal effect and consequences as if the goods were actually handed over or accepted.

7. Drawings, designs, sketches, samples, tools

7.1 Drawings, designs, sketches, samples, models, tools including but not limited to punching and cutting tools, injection moulds, die casting moulds, pressing moulds, coquilles, models and forging dies and other production tools (referred to hereinafter as "production equipment") which we make available to the supplier remain our property and must not be used for any purposes other than the execution of our purchase orders. Reproduction or provision of the production equipment for use by third parties is only permissible with our prior written consent. The production equipment must be returned to us without undue delay ("unverzüglich") after termination of the contract or other cancellation or discontinuation of the contract or without undue delay ("unverzüglich") upon request during the supplier's default ("Verzug").

7.2 Tools for which we pay tool costs according to our agreement with the supplier become our property upon purchase or production by the supplier. In this case, hand-over of the tools is replaced by the supplier keeping the tools in custody for us without charge. The tools must be returned to us without undue delay ("unverzüglich") after termination of the contract or other cancellation or discontinuation of the contract or without undue delay ("unverzüglich") upon request during the supplier's default ("Verzug"). In the case of early withdrawal of the tools, to which we are entitled at any time, we shall compensate the supplier for such portion of the agreed upon tool costs (subject to interest discounted at the conditions usual in the market) as, by the time of withdrawal, has not yet been paid or has not yet been amortised by the surcharges per delivered part as may be agreed from time to time.

7.3 The supplier is obliged to maintain and repair the production equipment and tools referred to in sec. 7.2 at its own expense.

7.4 The supplier is only entitled to retain and withhold the production equipment or tools referred to in sec. 7.2 if the supplier's counterclaims are undisputed or have been established by a final non-appealable decision (res judicata).

8. Defective delivery

8.1 Our rights in the case of defects in quality or title of the goods or any other breach of duty by the supplier are governed by the statutory provisions, unless stipulated otherwise hereinafter.

8.2 We are not obliged to inspect the goods or make specific enquiries about possible defects upon contract conclusion. Consequently, in partial derogation from § 442 subs. 1 sentence 2 BGB (German Civil Code), we are also entitled to warranty claims without restrictions if our failure to identify the defect upon contract conclusion was due to gross negligence.

8.3 As to the obligation to inspect the goods and give notice of defect according to the applicable commercial law provisions, the statutory provisions apply with the following proviso: Our obligation to inspect the goods is limited to defects that are apparent and easily recognisable in an outward inspection of the incoming goods including the shipping documents or when taking random samples in a quality control (e.g. transport damage, wrong delivery/ aliud delivery, short delivery). If the delivered goods are subject to approval ("Abnahme"), we are not obliged to inspect the goods beforehand. In all other cases, the question whether or not we are obliged to inspect the goods depends on whether an inspection must reasonably be considered necessary in the ordinary course of business with regard to the specific circumstances of the individual case in question. Our obligation to give notice of any defect which is detected later remains unaffected. In any case, our notice of defect ("Mängelanzeige") shall be deemed given without undue delay ("unverzüglich") and thus given in time if it is sent within 10 working days ("Werktage") of detection of the defect or, in the case of apparent defects, of delivery.

8.4 If the supplier fails to fulfil its obligation to render subsequent performance ("Nacherfüllung") – in our discretion either by rectification of the defect ("Nachbesserung") or by delivery of a non-defective substitute ("Ersatzlieferung") – within a reasonable period granted by us, we shall be entitled to rectify the defect ourselves and claim from the supplier reimbursement of the expenses required for the rectification or claim an appropriate advance payment. If subsequent performance ("Nacherfüllung") by the supplier has failed or is unreasonable for us (e.g. because of urgency, endangerment of operational safety or threatening occurrence of unreasonable damage), the grant of a period for defect rectification is dispensable; we will give appropriate – and, if possible, prior – notice of any such circumstances to the supplier without undue delay ("unverzüglich").

8.5 Subsequent performance ("Nacherfüllung") as described in the preceding sec. 8.4 also includes disassembly or removal of the defective item as well as reassembly if the item, according to its nature and regular purpose, was integrated into, or mounted onto, another item; our statutory right to reimbursement of the expenses incurred thereby remains unaffected. Any costs and expenses incurred by the supplier for the examination, verification and subsequent performance ("Nacherfüllung") shall be borne by the supplier even if the goods finally prove to be non-defective. This is without prejudice to our liability for damages in the case of an unjustified request for defect rectification; however, in this case, we may only be held liable if we were positively aware or unaware due to gross negligence that the goods were not defective.

8.6 The limitation period for warranty claims shall be suspended from the time of receipt ("Zugang") of our notice of defect until the supplier either rejects our claims or declares the defect rectified or otherwise refuses to continue negotiations on our claims. In the case of substitute delivery and defect rectification, the warranty period commences anew for any substituted or subsequently rectified parts, unless we can reasonably be expected to understand from the supplier's acts that the latter did not consider itself under any obligation to provide substitute delivery or defect rectification but only did so as a gesture of goodwill or obligingness or for similar reasons.

9. Product liability

9.1 The supplier is liable for any and all claims asserted by third parties for personal injury or damage to property which are due to a defective product delivered by the supplier, and the supplier is obliged to indemnify us from any liability claims resulting therefrom. If we are obliged to conduct a recall of products from third parties which is due to a defective product delivered by the supplier, the latter shall bear all costs associated with the recall.

9.2 The costs of a recall according to sec. 9.1 also include the costs of replacement of the defective product by a non-defective product.

9.3 The supplier is obliged to take out and maintain at its sole expense product liability insurance with a minimum cover of EUR 5 million which, unless otherwise agreed from time to time, need not cover the risk of recall or punitive damages or similar damages. The supplier shall provide us with a copy of the insurance policy at any time upon request.

³ Cf. foot note 1.

10. Proprietary / industrial property rights (“IP rights”)

10.1 The supplier warrants and is liable according to sec. 10.2 to ensure that the products delivered by it do not constitute or cause an infringement of IP rights of third parties in any country of the European Union or any other country where the supplier produces the products itself or through third parties.

10.2 The supplier is obliged to indemnify us from any and all claims asserted against us by third parties for an infringement of IP rights mentioned in sec. 10.1 and to reimburse us for all necessary expenses incurred by us in connection with these claims. This claim is excluded if and to the extent that the supplier proves that the infringement is not attributable to it (“nicht zu vertreten haben”).

10.3 Any further statutory claims for defects in title of the products delivered to us to which we may be entitled remain unaffected.

11. Spare parts

11.1 The supplier is obliged to keep spare parts for the products delivered to us available during a period of at least 10 years from delivery.

11.2 If the supplier intends to discontinue the production of spare parts for the products delivered to us, the supplier shall inform us thereof without undue delay (“unverzüglich”) after the decision for discontinuation has been taken. This decision must be taken at least 12 months before the production is actually discontinued, subject however to sec. 11.1.

12. Special provisions regarding work (“Werkleistungen”⁴) and services (“Dienstleistungen”)

For installations, assemblies, repair work and other work and services, the following applies in addition:

a) We will only accept charges for such work and services if they are properly documented on our form “performance report” which has been signed by both parties.

b) The supplier, when performing any work or service whatsoever, is obliged to comply with the regulations of the responsible „Berufsgenossenschaft“ (occupation cooperative), the accident prevention regulations as well as the regulations of the “Verband der Sachversicherer“ (property insurers’ association – “Vds”).

c) The regulations for environment protection and safety at work which are contained in the safety information sheet and are valid for the respective HOPPECKE location concerned are made available to the supplier by the responsible HOPPECKE coordinator (project manager). They must be observed and complied with by the supplier and passed on and communicated to all of the supplier’s employees and vicarious agents and other persons engaged by it in the fulfilment of its obligations (“Erfüllungsgehilfen”) who are – or will be – working on any of the HOPPECKE factory premises now or in the future. The supplier’s employees and vicarious agents and other persons engaged by it in the fulfilment of its obligations (“Erfüllungsgehilfen”) must be instructed by the supplier’s coordinator (project manager). After the supplier’s employees and vicarious agents and other persons engaged by it in the fulfilment of its obligations (“Erfüllungsgehilfen”) have been instructed by the responsible coordinator of the supplier, the so instructed employees must sign the “Instruction certificate for outside contractors – list of employees” (“Unterweisungsnachweis für Fremdfirmen - Mitarbeiterliste”) and the responsible coordinator of the supplier must sign the training certificate “Instruction certificate for outside contractors” and the said certificates must be presented and handed over to HOPPECKE before the said employees and agents of the supplier start working on the factory premises. The supplier is obliged to fill in, sign and return to the HOPPECKE coordinator without undue delay (“unverzüglich”) the form “Rules of conduct for Contractors” (“Anforderungen an das Verhalten von Auftragnehmern”) which is provided to the supplier together with the safety information sheet. The safety information sheet remains with the supplier. On the factory premises, only certified operating equipment compliant with the operating safety rules (e.g. ladders, steps, scaffolds, electrical operating equipment, load handling devices etc.) may be used. It is not allowed to engage for work on our factory premises employees other than lawfully employed personnel who are paid in accordance with the provisions of the “Gesetz zur Regelung eines allgemeinen Mindestlohns” (German Minimum Wage Act) and any other regulations that are binding for the supplier. The supplier is obliged upon request to sign an appropriate undertaking to confirm compliance with the minimum wage regulations and provide HOPPECKE with appropriate evidence to demonstrate compliance with the said regulations.

d) It is the sole responsibility of the supplier and its agents or vicarious agents and other persons engaged by it in the fulfilment of its obligations (“Erfüllungsgehilfen”) to ensure careful and safe keeping of their

own property brought onto our premises. We do not accept any liability for loss or theft.

13. Limitation

13.1 The limitation period for contractual warranty claims is 3 years from the passing of risk, unless the statutory limitation periods are longer or run from a later point in time; in this case, the longer limitation period applies. If the goods are subject to approval (“Abnahme”), the limitation period runs from the time of approval.

13.2 In all other cases, the mutual claims of the parties are subject to the statutory limitation periods.

14. Requirements under the Elektroggesetz (German Act on the putting into circulation, return and disposal of electrical and electronic equipment)

The supplier undertakes to check and verify, with regard to all goods delivered to us, compliance with the provisions of the Elektroggesetz (German Act on the putting into circulation, return and disposal of electrical and electronic equipment – referred to hereinafter as “ElektroG”) and to fulfil any obligations arising therefrom (including but not limited to the obligations under §§ 4 et seq. ElektroG). The supplier shall indemnify us from any and all claims asserted against us by third parties for non-compliance with the provisions of the ElektroG which is attributable to the supplier (“zu vertreten haben”).

15. Compliance

15.1 We expect all our suppliers to act and behave with integrity and in conformity with ethical values and all applicable statutory requirements. Consequently, the supplier undertakes to observe and comply with the standards laid down in the purchase policy of the HOPPECKE group (<https://www.hoppecke.com/en/hoppecke-world/company/purchasing>). The supplier shall also commit any subcontractors engaged by it in the fulfilment of its obligations under the contract concluded with us to comply with the aforesaid standards. The supplier shall provide us with proof of the subcontractors’ commitment at our request.

15.2 The supplier undertakes to support the principles of the UN Global Compact in terms of human rights, labour rights, environment protection and fight against corruption (www.unglobalcompact.org) and to comply with the rules established therein. At our request, the supplier shall sign an appropriate undertaking regarding compliance with the principles of the UN Global Compact.

15.3 The supplier is further obliged to ensure by appropriate processes that only original products conforming to specifications and no counterfeit products are delivered to us. In addition, the supplier shall comply with the principles of the NCFSI (Non-conforming, Counterfeit, Fraudulent and Suspect Items) Policy and incorporate them into its standards and regularly train its employees on these principles. The implementation of the NCFSI Policy is the subject of supplier audits. The NCFSI Policy is available at (<https://www.hoppecke.com/en/hoppecke-world/company/purchasing>).

16. Damages for breach of cartel/antitrust law

If, with respect to the products or services directly delivered or provided to us, a court or competitive authority made a decision which has become res judicata whereby the supplier is found guilty of a breach of the ban on anticompetitive practices, the supplier shall pay to us liquidated damages which, in the case of price-fixing and/or quota agreements or market and/or customer allocation, shall amount to 10% or, in the case of any other breach of cartel/antitrust law, 3% of the net prices we have paid to the supplier for the products and/or services concerned by the breach of cartel/ antitrust law. The supplier shall however have the right to prove that we did not incur any damage at all or less damage than the said liquidated damages. This clause is without prejudice to any further statutory or contractual rights and claims beyond the liquidated damages to which we may be entitled.

17. Place of jurisdiction, applicable law

17.1 If the seller is a merchant (“Kaufmann”) in terms of the Handelsgesetzbuch (German Commercial Code), a legal entity under public law or a special fund under public law (“öffentlich-rechtliches Sondervermögen”), the exclusive - also international - place of jurisdiction for all disputes arising out of the contractual relationship is our corporate domicile in Brilon.

17.2 All legal relationships between us and the supplier are subject to the law of the Federal Republic of Germany which governs the legal relationships between domestic parties. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 is excluded.

⁴ Cf. foot note 1.

* To be applied for the following affiliates:

HOPPECKE Batterien GmbH & Co. KG
HOPPECKE Industriebatterien GmbH & Co. KG
HOPPECKE Batterie Systeme GmbH
HOPPECKE Service GmbH & Co. KG
HOPPECKE Industriedienstleistungen GmbH & Co. KG
HOPPECKE Holding GmbH
Metallhütte HOPPECKE GmbH & Co. KG