

General Purchasing Conditions

(Last update: July, 1st 2023)

1. General terms, scope

1.1 The present General Purchasing Conditions (hereinafter referred to as "GPC") shall apply to all business relations with business partners and suppliers of Bohle AG (hereinafter referred to as "Supplier") with respect to the delivery of movable goods and/or services, regardless of whether the Supplier itself provides the service or whether it buys from subcontractors.

1.2 These conditions shall apply only to companies, legal persons under public law and special funds under public law as per § 310 BGB (German Civil Code). They are applicable in the respective current version also to all future transactions with the Supplier, without Bohle AG having to refer to them in every individual case.

1.3 These GPC shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the Supplier shall only become part of the contract insofar as Bohle AG has expressly agreed to their validity in writing. The unconditional acceptance of deliveries and services or their payment shall not be construed as an approval of the Supplier's General Terms and Conditions.

1.4 Individual agreements reached with the Supplier in individual cases (including collateral agreements, additions and modifications) shall in any event take precedence over the present GPC. A written contract or a written confirmation from Bohle AG shall be decisive, subject to counterevidence, for the contents of such an agreement. Legally relevant declarations and notifications which are made by the Supplier towards Bohle AG (e.g. deadlines, reminders, notices of cancellation) must be made in writing to be effective.

1.5 References to the validity of statutory regulations shall only serve clarifying purposes. For this reason, statutory regulations shall apply even without such clarification, unless they have been directly modified or expressly excluded in these GPC.

2. Conclusion of contract, quote, order

2.1 Orders by Bohle AG shall only be valid and binding if placed in writing, by e-mail or by fax. The Supplier shall be obliged to accept the order in the same way or in another agreed way of acceptance within a period of one week. Upon the expiry of this period, Bohle AG shall no longer be bound to the order. Any of the Supplier's order confirmations which deviates from the order or is delayed, shall be deemed a new quote and must be accepted by Bohle AG in writing, by e-mail or fax.

2.2 Cost estimates, templates, samples, etc. of the Supplier are binding and shall not be paid, unless expressly agreed otherwise.

3. Modifications of the delivery item

After order confirmation by the Supplier, Bohle AG shall be entitled to demand changes of the products (also with respect to construction and layout) at all times. In this case, the Supplier shall immediately inform Bohle AG about possible additional or reduced costs or changes of the deadline.

4. Delivery time, default in delivery

4.1 Agreed delivery dates and deadlines shall be binding. If these deadlines are exceeded, the Supplier shall come into default without reminder. If agreed delivery times cannot foreseeably be met, the Supplier shall undertake to inform Bohle AG immediately about the expected delay and its reasons. Partial deliveries or deliveries before the agreed deadline must only take place subject to prior written consent by e-mail or by fax.

4.2 If the Supplier defaults in a delivery, it shall forfeit a contractual penalty of 1% of the purchase price of the delayed products, however, a maximum of 5% of that purchase price for each commenced week of delay. The right to raise claims for damages shall remain unaffected. A payable contractual penalty shall be deducted from raised claims for compensation. In case of default in delivery, Bohle AG shall moreover be entitled to statutory damages. Additional costs, in particular in the event of required covering purchases, shall be borne by the Supplier. The unconditional acceptance of a delayed delivery shall not be construed as waiver of compensation claims.

5. Delivery, transfer of risk, packaging

5.1 Unless agreed otherwise in individual cases, Delivered Duty Paid (DDP) to Haan shall be performed according to Incoterms 2020.

5.2 The risk of accidental loss or accidental deterioration of the goods shall be transferred to Bohle AG upon handover at the place of performance. If acceptance has been agreed upon, it shall be decisive for the transfer of risk.

5.3 Bohle AG shall not cover packaging expenses. Insofar as the Supplier is obliged to take back used packaging material as per Packaging Ordinance, it shall bear the costs for return transport and recycling.

5.4 A delivery note shall be included with each delivery containing the order number, article number, name of the person who placed the order and number of packaging items.

5.5 The values determined during the receiving inspection at Bohle AG shall be deemed decisive for the number of units, weights and dimensions, unless proven otherwise.

6. Quality Assurance, Product Safety

The Supplier shall inform Bohle AG in due time before delivery about changes of production procedures, materials or vendor parts for the delivery items, as well as changes of processes or facilities for the inspection of delivery items or other measures which could affect the quality and/or safety of the delivery items. Modifications of the agreed specifications shall be subject to prior approval. Any and all modifications of the delivery items and product-related modifications in the process chain shall be documented. These documents shall be presented to Bohle AG upon request.

7. Prices, invoice, payment terms, set-off, right of retention, assignment

7.1 The prices indicated in the order are binding. All prices shall be considered as excluding the legally required value added tax, even if it is not indicated separately.

7.2 Invoices must be duly issued in line with §§ 14 14a UStG (German Value Added Tax Act). For deliveries from territories outside the EU, an original invoice must be added to the delivered goods. An invoice shall only be modified by means of an invoice correction.

7.3 Payments shall be effected either within 30 days with a 3% discount or net after 60 days (at the choice of Bohle AG). The deadline starts upon receipt of the contractual performance and a duly issued and verifiable invoice. In the event of premature acceptance of the delivery goods, the payment term shall start from the date of delivery as per the order or from the date of invoice, whichever is the later. In case of service contracts or contractually agreed acceptance conditions, the payment term shall not start before acceptance.

7.4 Bohle AG shall be entitled to set-off rights and rights of retention, as well as the defence of non-performance of the contract to the statutory extent. If the delivery is faulty or incomplete, Bohle AG shall be especially entitled to withhold the payment until proper fulfilment, without losing rebates, discounts and similar price reductions.

7.5 The Supplier shall only be entitled to set-off rights if its counterclaims have been legally ascertained, undisputed or accepted by Bohle AG. It is moreover entitled to exercise its right of retention insofar as its counterclaim derives from the same contractual relationship.

8. Provision and joint ownership, tools, retention of title

8.1 The tools, materials, parts, containers and special packaging made available by Bohle AG shall remain their property. They shall only be used according to their intended use. The processing, mixing or combination of materials provided by Bohle AG shall be carried out on their behalf by the Supplier. Both parties agree that Bohle AG shall become co-owner of the products manufactured by using the provided materials, which are stored by the Supplier on behalf of Bohle AG, in the ratio of the value of the provided materials to the value of the finished products.

8.2 Regardless of other agreements, Bohle AG shall obtain the full or co-ownership to the extent to which they share the confirmed costs for the tools for producing the delivery item. Bohle AG shall acquire the (co-)ownership of the tools upon payment. They shall remain on loan to the supplier. The Supplier shall only be entitled to actually or legally dispose of the tools, to relocate them or render them permanently non-functional with the approval of Bohle AG. The Supplier shall label the tools as the (co-)property of Bohle AG. Replacement tools shall be owned by Bohle AG according to their share in the original tool. In case of co-ownership, Bohle AG shall be entitled to a pre-emptive right of the Supplier's co-ownership share. The Supplier shall use the tools which are (co-)owned by Bohle AG exclusively for manufacturing the delivery items. After termination of the supply relationship, the Supplier shall hand over the tools to Bohle AG immediately upon request. With regard to tools in co-ownership, Bohle AG shall compensate the Supplier at the current fair value of the Supplier's co-ownership shares. The Supplier's obligation to surrender shall remain valid even if insolvency proceedings are initiated.

8.3 Upon request of the Supplier, Bohle AG acknowledges a simple retention of title. Any prolonged or extended retention of title of the Supplier shall be excluded.

9. Secrecy, information

9.1 All business or technical information made available by Bohle AG shall be kept secret to third parties, as long as they are not demonstrably known to the general public, and shall be made available only to such persons within the Supplier's company who must be necessarily familiar with such information for the purpose of carrying out the delivery to Bohle AG and who have been likewise committed to maintaining secrecy. The duty of confidentiality shall remain valid beyond the termination of the supply relationship for a period of five years. The Supplier shall be liable to hand over all received confidential information to Bohle AG, insofar as they are embodied or saved to electronic storage media.

9.2 The Supplier shall undertake to commit subcontractors to secrecy to the same extent.

9.3 Bohle AG shall reserve the title and all and any rights (including copyrights and the right to registration of industrial property rights) to the information made available to the Supplier. Reproductions are subject to prior written approval by Bohle AG and become the property of Bohle AG upon their creation.

10. Warranty

10.1 Unless otherwise agreed in the following, statutory regulations shall apply for the rights of Bohle AG in case of material defects and defects of title of the delivered item and other breaches of duty of the Supplier.

10.2 If the Supplier fails to fulfil its obligation of supplementary performance, at Bohle AG's option either by removing the defect or by delivering a faultless delivery item (including withdrawal of the defective performance at the Supplier's expenses) within a reasonable period of time set by Bohle AG or if he has definitely and unjustifiably denied supplementary performance, Bohle AG shall be entitled to remedy the defect themselves or have it remedied by a third party on their behalf and demand a compensation for the incurred expenses. If the Supplier's subsequent performance failed or is unacceptable to Bohle AG, e.g. due to a risk to operational safety, imminent disproportionate damages or in other cases of a particular urgency, no deadline needs to be set. Whenever possible, Bohle AG shall immediately inform the Supplier of such circumstances, as well as type and scope of any emergency measures required or taken.

10.3 The claims for liability for defects of Bohle AG shall become time-barred after expiry of 36 months upon transfer of risk.

10.4 §§ 377, 278 HGB (German Commercial Code) shall apply to the obligation to inspect and report defects, subject to the following condition: The inspection obligation of Bohle AG shall be limited to defects which are obviously identifiable in the course of an incoming goods inspection by Bohle AG, by an external examination including delivery documents and within the scope of a quality control of Bohle AG by way of random sample test procedure. Insofar as acceptance has been agreed upon, there shall be no inspection obligation. Apart from that it depends on the extent to which an inspection is feasible in the proper course of business, taking into account the circumstances of the individual case. Bohle AG shall be deemed to have satisfied the obligation to notify defects if, in case of obvious defects, notice is given within 10 days upon receipt of the goods. For all other defects, Bohle AG shall be deemed to have satisfied the obligation to notify defects if notice is given within 10 days upon detection of the defect.

10.5 If products labelled with the Bohle trademark are justifiably returned or not accepted by Bohle AG, the Supplier shall destroy these products and must not resell them to third parties. For each case of non-compliance, a contractual penalty amounting to twice the value of the goods, however at least 10,000 EUR, shall be deemed agreed.

11. Product liability, product recall

11.1 In the event that a customer or a third party places product liability claims against Bohle AG, the Supplier shall be obliged to indemnify Bohle AG for such claims, if and insofar as the damage was caused by a defect of the delivery item. In cases of fault-based liability this only applies where fault lies with the Supplier. If the cause of damage lies within the Supplier's area of responsibility, it shall prove that it is not at fault. In this case, the Supplier shall bear all resulting costs and expenses, including litigation costs.

11.2 If a safety-relevant defect of the delivery items makes a product recall necessary or if it is ordered officially, the Supplier shall bear all and any costs and expenses resulting from such recall campaign. Bohle AG shall agree upon the content and scope of such a recall campaign with the Supplier – if possible and reasonably to be expected.

11.3 Apart from that, statutory provisions shall apply.

12. Official permits, export control, customs

The Supplier shall be obliged to inform Bohle AG in writing as soon as possible before the delivery deadline about possible licensing requirements of its goods according to the respectively applicable German, European, US export, customs and foreign trade law of the country of origin. For this purpose, the Supplier shall make available the following information and data: Export list number according to Annex AL of the German Foreign Trade and Payments Regulation or equivalent list items of applicable export lists, the Export Control Classification Number as per US Commerce Control List if the good is subject to US Export Administration Regulations, however, in any case the statistical goods number; the country of origin; (long-term) supplier's declarations of preferential origin (for EU suppliers) or certificates of preferences (for non-EU suppliers), all other information and data which Bohle AG needs for import and export and in case of resale upon re-export of the goods. The Supplier shall be obliged to inform Bohle AG immediately and in writing about any and all modifications of the above mentioned information and data.

13. Conformity of regulations; Supplier Code of Conduct; substances in products

13.1 The Supplier shall undertake to comply with the accepted engineering standards, the statutory regulations about product safety, and the internationally applicable minimum labour standards.

13.2 The Bohle Supplier Code of Conduct forms part of the contracts concluded between Bohle AG and the Supplier and must be complied with in its entirety. (The applicable version of the Bohle Supplier Code of Conduct can be found on the Bohle AG website.) If there is a suspicion of non-compliance of the described principles and requirements, the Supplier shall support the clarification of the facts. Bohle AG is entitled to extraordinarily terminate the contractual relationships with a Supplier who demonstrably fails to comply with the Bohle Supplier Code of Conduct or does not embrace or implement improvement measures after having been granted a reasonable period of time for this purpose by Bohle AG.

13.3 The Supplier shall ensure that it adheres to all valid EU regulations, however, in particular the provisions of the EU REACH Chemicals Regulation (Regulation EC No. 1907/2006 in its respective applicable version, hereinafter referred to as REACH Regulation).

13.4 The Supplier shall acknowledge that Bohle AG, as producer of goods/articles, is a so-called Downstream User according to the European Chemicals Regulation No. 1907/2006 ("REACH"), and shall guarantee that all REACH provisions and especially those which are necessary in order to process, sell or market goods within the EU, in particular the following ones, are met: (a) To pre-register, register or approve chemical substances or preparations to the legally required extent, (b) to implement internal organisational measures for documenting the compliance with REACH, (c) to make sure that all chemical substances or preparations used in goods (including packaging material) which have been indicated/announced to the Supplier by Bohle AG or their customers, are covered by the corresponding (pre-)registration or approval, (d) to inform immediately if a substance or a preparation which has been pre-registered shall not or cannot be finally registered within the applicable transition period ((a) to (d) together are "REACH conformity").

13.5 The Supplier shall make sure that Bohle AG receives all required information if Substances of Very High Concern (SVHC) are used, so that Bohle AG can meet their obligation to inform as per article 33 of the REACH Regulation.

13.6 The Supplier shall moreover undertake to comply with all restrictions regarding the use of dangerous substances, preparations and articles as per Annex XVII of the REACH Regulation.

13.7 The Supplier shall acknowledge that basically any violation of the REACH conformity leads to a defect of material, preparation or other goods/articles in line with applicable law, it shall hold Bohle AG harmless from any claims, liabilities, expenses and damages caused by the Supplier due to a breach of the above mentioned REACH conformity, and shall support their enforcement at its own expense.

13.8 The supplier undertakes to comply with the conflict minerals regulations laid down in Section 1502 of the Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). If conflict minerals are required for the production or the functioning of the products delivered by the supplier, their origins shall be disclosed. Upon request, the supplier shall make available without undue delay the complete documentation as required according to the Dodd-Frank Act about the use and the origin of the conflict minerals to Bohle AG.

14. Third-party property rights

The Supplier shall guarantee that no third-party property rights are violated in connection with its delivery. If Bohle AG is confronted with any such claim by a third party, the Supplier shall hold Bohle AG harmless against all claims and shall bear all costs and expenses in relation with this claim.

15. Data protection

If personal data arising from or in connection with the agreement are saved by Bohle AG and/or the Supplier for data processing purposes, the applicable legal provisions regarding data protection shall be complied with. The data shall not be passed on to third parties.

16. Place of jurisdiction, place of performance, applicable law, severability clause

16.1 All disputes arising from or in connection with this contract shall be exclusively subject to the jurisdiction of the Wuppertal district court.

16.2 Unless otherwise stated in the order, the place of performance shall be the registered office of Bohle AG.

16.3 The relevant law of the Federal Republic of Germany shall apply. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

16.4 This contract shall remain valid, even if individual provisions are found to be void. In case of the invalidity of a provision, the contracting parties shall undertake to replace the void provision by a valid one which in its economic effect complies most with the void provision.