General Terms and Conditions of Purchase of ROHAL GmbH

Version 1.1

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This document is a translation of the German "Allgemeine Einkaufsbedingungen" (AEB). In the event of any discrepancy, the German version shall prevail.

If you have any questions, please contact us by e-mail or telephone.

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§ 1 Scope of Application

1. The following General Terms and Conditions of Purchase (GTCP) apply to the contractual and business relationships between the Seller and ROHAL GmbH (hereinafter "ROHAL") in the context of purchasing, provided that the GTCP are used vis-à-vis an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), a legal entity under public law or a special fund under public law.

2. These GTCP apply in particular to the purchase and/or delivery of the goods specified in the purchase contract, irrespective of whether the Seller produces the goods itself or purchases them from sub-suppliers. Unless otherwise agreed, the GTCP also apply as a framework agreement to similar future contracts without ROHAL having to refer to them again in each individual case.

3. Deviating, conflicting or supplementary general terms and conditions of the Seller shall only become part of the contract if and to the extent that ROHAL has expressly agreed to their application in writing. This also applies if the Seller refers to its general terms and conditions in the order confirmation and ROHAL does not expressly object.

§ 2 Conclusion of Contract and Form

1. An order placed by ROHAL becomes binding upon written confirmation by the Seller. The Seller shall confirm acceptance within a period of 2 working days, stating the order number. Late acceptance by the Seller is deemed to be a new offer. Offers made by the Seller are deemed accepted only upon written declaration by ROHAL. The Seller shall point out obvious errors (e.g. typing and calculation errors) and omissions in the order, including the order documents, before acceptance so that they can be corrected or completed; otherwise the contract is deemed not to have been concluded.

2. Legally relevant declarations and notifications relating to the contract (e.g. setting of deadlines, reminders, withdrawal) must be made in text form.

3. Individual agreements taking precedence, collateral agreements and subsequent amendments to the contract must be made in writing. No oral collateral agreements have been made.

§ 3 Delivery

1. Unless otherwise agreed, ROHAL shall designate the place of receipt for the delivery. If ROHAL makes no express designation, delivery shall be made to ROHAL's registered office. The Seller shall obtain written confirmation of delivery to the designated place of receipt and of the date of delivery. The respective place of destination is the place of performance for the delivery and for any subsequent performance (obligation to deliver to the place of destination – "Bringschuld").

2. The Seller shall notify ROHAL in advance of the delivery, stating the contract number, the quantity and the exact material designation, and shall provide all accompanying documents required for official handling. In particular, the exact grade designation, the order number, the delivery weight and the place of receipt must be stated in all shipping documents.

3. The agreed delivery periods and dates are binding. Compliance with the delivery date or delivery period is determined by the receipt of the material at the place of receipt. This also applies to all shipping documents and certificates required to fulfil the delivery obligations. ROHAL is not obliged to accept partial deliveries or deliveries before the delivery date. If no delivery period is specified in the order or otherwise agreed, the delivery period shall be 4 weeks from conclusion of the contract. The Seller shall notify ROHAL immediately in writing if it is unlikely to be able to meet agreed delivery times.

4. The Seller shall accept delivery suspensions ("Sistierungen") ordered by ROHAL. Delivery suspensions may be communicated by ROHAL in writing, by telephone or in any other suitable form (e.g. by e-mail).

§ 4 Material Quality, Cologne Agreement, Exclusion from Delivery

1. The goods must be delivered in accordance with customary commercial practice and in compliance with the statutory provisions, must be properly declared and must have the agreed quality. The agreement on quality is deemed to include in particular those product descriptions which have become part of the respective contract by designation or reference in the order or which have been incorporated into the contract in the same way as these GTCP.

2. Different grades of raw materials, scrap, recyclable materials, downgraded steel products, waste and similar materials must not be mixed.

3. If the Seller makes a declaration regarding the origin of the goods, it is obliged to enable the competent authorities to verify the proofs of origin and to provide both the information necessary for this purpose and any confirmations that may be required.

4. When commencing new deliveries, and otherwise at the beginning of each calendar year, the Seller shall issue a written declaration in which it guarantees that the goods in all deliveries have been checked for the presence of explosive devices, objects suspected of being explosive, closed hollow bodies and radioactive substances, and that they are free of other substances hazardous to the environment and to health, in particular lithium-ion batteries, and of ionising radiation exceeding natural background radiation. Checks must be carried out in accordance with the applicable statutory provisions and with measuring equipment that corresponds to the state of the art. At ROHAL's request, the results of the checks carried out, demonstrating that the delivered goods are free of the substances referred to above, must be submitted. Scrap from demilitarised ammunition may only be delivered by prior agreement with ROHAL, even if the corresponding certificate of harmlessness is available.

5. Excluded from delivery are "hazardous substances" (in particular explosive, flammable, oxidising, corrosive, toxic, carcinogenic, toxic to reproduction, mutagenic, harmful to health, irritant, sensitising and hazardous to the environment), used catalytic converters, batteries, in particular lithium-ion batteries, hollow bodies and free liquids (e.g. oil and water). "Respirable" and inhalable dusts may only be delivered if this has been expressly agreed in writing between the parties in advance.

6. Notwithstanding § 4 No. 5 of these GTCP, hazardous waste, hazardous substances and dangerous goods may be delivered if this has been expressly agreed in writing between the parties in advance. When hazardous waste, hazardous substances or dangerous goods are delivered, the documents required for this purpose must be prepared and the required markings affixed. Delivered material (e.g. scrap) must be suitable for further processing and must not contain any harmful components. Only the agreed material is to be delivered. Admixtures of other grades or any other deviations must be coordinated with ROHAL and ROHAL's consent must be obtained in writing.

7. Within ROHAL's premises, hazardous substances may only be used after coordination with ROHAL and must be properly labelled. Persons working on ROHAL's premises in fulfilment of the Seller's obligations must comply with ROHAL's instructions and with the provisions of ROHAL's site regulations.

8. ROHAL is entitled to refuse acceptance of deliveries in which the contaminants or radiation contamination referred to above are detected, or to return deliveries already accepted at the Seller's expense. To the extent that the Seller is responsible for the contamination – which is to be assumed if the Seller has not carried out, or cannot demonstrate that it has carried out, the checks owed under § 4 No. 4 – the Seller shall compensate ROHAL for the resulting damage; this includes in particular the costs of inspection, segregation, securing, storage, treatment and disposal of the non-conforming material as well as additional transport costs.

§ 5 Prices, Terms of Payment

1. The prices and/or price formulas stated in the order or in the purchase contract are binding and, unless otherwise agreed, apply to delivery "free place of receipt". The stated prices include all services and ancillary services of the Seller as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance, customs duties and other charges).

2. Whether invoicing is carried out by the Seller or a credit note is issued by ROHAL is reserved for agreement in the purchase contract. If no agreement is made in the contract, settlement shall be carried out by way of the credit note (self-billing) procedure, taking into account any refusal costs and other costs.

3. Changes to bank details must be communicated immediately.

4. At ROHAL's request, the Seller is obliged to submit a current bank confirmation for its account.

5. Unless otherwise agreed, invoicing by the Seller or the issuing of a credit note by ROHAL shall be based on the received weight as determined on a calibrated weighbridge at the place of receipt.

6. Unless otherwise agreed, payments are due 30 days after delivery has been made. The receipt of the goods at the place of receipt is decisive. Deliveries made before the agreed delivery dates or delivery periods do not change a payment due date linked to the originally agreed delivery dates or delivery periods. If invoicing is carried out by the Seller, the existence of a verifiable invoice is, in addition to the receipt of the goods, a prerequisite for the payment becoming due.

7. A payment is deemed to have been made on time if the transfer order has been received by ROHAL's bank before expiry of the payment period. ROHAL is not liable for delays caused by banks involved in the payment process. If payment is made within 10 working days of receipt of the goods, a discount of 2 % shall be granted unless otherwise agreed. ROHAL does not owe any interest from the due date (Section 353 of the German Commercial Code, HGB). The statutory provisions apply to default in payment.

8. Statutory value added tax shall be shown separately in the invoice or credit note at the applicable statutory rate. Exceptions to the obligation to show VAT are only possible if the Seller expressly demonstrates that it does not have the status of an entrepreneur.

9. In the case of settlement by way of the credit note procedure, the Seller shall demonstrate its status as an entrepreneur entitled to deduct input tax by submitting a suitable certificate from the tax office to ROHAL in advance. Follow-up certificates must be submitted annually.

10. If invoicing is carried out by the Seller, all documents (e.g. weighing note, acceptance report, etc.) required to verify that the delivery has been performed in accordance with the contract must be attached to the invoice.

§ 6 Indemnification and Reimbursement of Additional Costs

1. The Seller shall indemnify ROHAL against all third-party claims asserted against ROHAL to the extent that the Seller is responsible for the cause underlying such claims. This applies in particular to claims
   a. which are based on an incorrect, incomplete or omitted declaration of the goods,
   b. which are based on incorrect information provided by the Seller regarding its status as an entrepreneur,
   c. which arise in connection with material that does not conform to the quality agreed under § 4,
   d. which are based on product damage the cause of which lies within the Seller's sphere of control and organisation.

   The indemnification includes the costs of a reasonable legal defence.

2. Within the scope of its indemnification obligation, the Seller shall reimburse expenses arising from or in connection with claims asserted by third parties or measures carried out by ROHAL.

3. To the extent that the Seller is responsible for the cause, ROHAL is entitled to charge the Seller in particular for the following costs:
   a. costs incurred by ROHAL due to an incorrect, incomplete or omitted declaration,
   b. costs incurred by ROHAL due to complaints arising from quality or other defects (in particular demurrage or detention charges),
   c. costs resulting from the Seller having submitted false or incorrect certificates of origin or having failed to make verification possible,
   d. costs arising from the discovery of explosive devices, objects suspected of being explosive, closed hollow bodies or radioactive contamination in the delivered goods, or from other deviations from the quality agreed under § 4. This includes in particular inspection, segregation, securing, storage, treatment and disposal costs as well as additional transport costs and any administrative fines, to the extent that passing them on is legally permissible.

§ 7 Retention of Title

1. Title to the goods passes to ROHAL upon handover at the place of receipt. A simple retention of title by the Seller, which expires upon full payment of the price for the respective delivery, is accepted.

2. Expanded, forwarded and extended forms of retention of title, in particular advance assignments of receivables from resale and processing clauses of the Seller, are not accepted and are excluded. This also applies if ROHAL does not separately object to them.

3. Even before full payment, ROHAL is entitled to process, mix, combine and resell the goods in the ordinary course of business, including through third parties engaged by ROHAL (in particular storage, handling and processing facilities). Processing, mixing and combining are always carried out for ROHAL as manufacturer within the meaning of Section 950 BGB, irrespective of who carries them out and where the goods are stored; ROHAL acquires title to the new item. Any retention of title by the Seller expires upon processing, mixing, combining or resale.

§ 8 Assignment, Set-off, Rights of Retention

1. The Seller is entitled to assign its claims against ROHAL or to have the performance owed by it rendered by third parties only with ROHAL's prior written consent.

2. The Seller has a right of set-off or retention only on the basis of counterclaims that have been finally established by a court or are undisputed. ROHAL may withhold payments that have become due for as long as it has claims against the Seller arising from incomplete or defective performance.

§ 9 Duty to Give Notice of Defects and Right of Self-Remedy

1. The commercial duty of ROHAL or of a third party engaged by it to inspect the goods and to give notice of defects is limited to obvious defects that are detectable during a quality inspection by random sampling. The duty to give notice of defects discovered later remains unaffected. Where a defect is found, notice is deemed to have been given in good time if it is received by the Seller within a period of 10 working days, calculated from delivery to the place of receipt or, in the case of hidden defects, from discovery by ROHAL or by ROHAL's customer.

2. If the Seller fails to fulfil its obligation to render subsequent performance within a reasonable period set by ROHAL, ROHAL may remedy the defect itself and demand from the Seller reimbursement of the expenses required for this purpose or a corresponding advance payment. If subsequent performance by the Seller has failed or is unreasonable for ROHAL, no deadline needs to be set.

§ 10 Termination and Withdrawal

1. Where a continuing obligation has been agreed, the parties are entitled to extraordinary termination for good cause. Good cause exists in particular if
   a. the performance of the services described in the contract is no longer permitted or is prohibited by statutory or regulatory provisions or by order of an authority. This also applies if an official permit is subject to conditions with which one of the parties can comply only at unreasonably high expense,
   b. an application is filed for the opening of insolvency proceedings against the Seller's assets and grounds for opening insolvency proceedings exist, and as a result the proper performance of further deliveries in accordance with the contract, in particular their freedom from contaminants and their compliance with waste legislation, no longer appears to be assured to ROHAL.

2. In the case of a one-off performance owed, ROHAL may withdraw from the contract without setting a deadline if the Seller is in default of delivery, provided that the default is due to a recognisable deterioration of the Seller's financial situation.

§ 11 Liability

ROHAL is liable only for damage resulting from injury to life, body or health and for damage resulting from intentional or grossly negligent breaches of contract. In the event of slight negligence, ROHAL is liable only for the breach of material contractual obligations. Liability is limited to compensation for foreseeable damage typical of the contract. The above limitation of liability applies to the same extent to the personal liability of ROHAL's legal representatives, employees and vicarious agents.

§ 12 Limitation Period

Unless otherwise agreed, the limitation period for claims based on defects is 3 years from the transfer of risk, unless longer periods are provided for by law. Where acceptance has been agreed, the limitation period commences upon acceptance. For defects of title consisting in a right of a third party on the basis of which surrender of the goods may be demanded, the limitation period under Section 438 (1) No. 1 BGB applies. In all other respects, the statutory limitation provisions apply.

§ 13 Insurance in the Case of Services

If the Seller provides services for ROHAL, in particular toll processing, the Seller is obliged to insure the goods at its own expense against fire, water, theft and damage, to submit proper proof of the existence of the insurance cover within 10 working days of conclusion of the contract, and to maintain the insurance cover for the term of the contract.

§ 14 Reservation of the Right to Amend

1. For continuing obligations and framework agreements with a remaining term of more than six months, ROHAL may amend these GTCP to the extent that the amendment is necessary to take account of changes in statutory provisions, supreme court case law or official requirements, or to the extent that the amendment does not place the Seller at a disadvantage. Amendments to prices, terms of payment, liability and warranty are excluded from this.

2. ROHAL shall notify the Seller of the amendments in text form and shall, in doing so, draw attention to the objection period and to the consequences of remaining silent. The amendments are deemed approved if the Seller does not object in text form within six weeks of receipt of the notification.

3. If the Seller objects in due time, the previous GTCP continue to apply to the contract concerned. In this case, ROHAL is entitled to terminate the contract with three months' notice to the end of a month.

4. All other contracts are governed by the version of the GTCP incorporated at the time of conclusion of the contract. New contracts are governed by the current version designated in the order.

§ 15 Data Protection

ROHAL is entitled to store, process and use personal data within the scope of this business relationship, as well as data received about the Seller in this context, within the limits of the statutory provisions.

§ 16 Confidentiality

The contracting parties undertake to maintain unrestricted confidentiality with regard to all business and trade secrets of the respective other party. This obligation extends beyond the term of the contract and includes refraining from any disclosure, use or publication of confidential information to or vis-à-vis third parties without prior written consent. In particular, the Seller may advertise the joint business relationship only with ROHAL's prior written consent. Special confidentiality agreements and statutory provisions on the protection of trade secrets remain unaffected.

§ 17 Applicable Law and Place of Jurisdiction

1. These GTCP and the contractual relationship between the Seller and ROHAL are governed by the law of the Federal Republic of Germany, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG).

2. The contracting parties agree that the place of jurisdiction for all disputes arising from or in connection with the contractual relationship shall be ROHAL's registered office. ROHAL is also entitled to bring an action at the place of performance.

§ 18 Final Provisions

Should one or more provisions of these GTCP be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of these GTCP. In place of the invalid or unenforceable provision, the parties undertake to agree a valid provision that comes as close as legally and economically possible to the meaning and purpose of the invalid or unenforceable provision. The same applies accordingly if these GTCP contain a gap. These GTCP have been drawn up in German and English; in the event of any discrepancy between the two versions, the German version shall prevail.