

## General Terms and Conditions of Purchase

**Johns Manville Europe GmbH**  
Max-Fischer-Str. 11  
86399 Bobingen

**Johns Manville Sales GmbH**  
Max-Fischer-Str. 11  
86399 Bobingen

**Johns Manville GmbH**  
Max-Fischer-Str. 11  
86399 Bobingen

**Schuller GmbH**  
Werner-Schuller-Str. 1  
97877 Wertheim

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### 1. General

- 1.1 These General Terms of Purchase apply to all our present and future inquiries and purchase orders as well as to all present and future delivery contracts and other agreements relating to purchase orders concluded with the supplier. We herewith object to any terms of the supplier, even in the event that they are conveyed to us by a letter of confirmation or by other means or that we accept the Supplier's delivery or services without again objecting to such supplier's terms.
- 1.2 Verbal ancillary agreements, deviations from these Terms of Purchase as well as supplements to or exclusions of these Terms of Purchase must be expressly confirmed in writing by our purchasing department. This shall also apply for waivers of this written form requirement. The written form requirement shall also be deemed to be observed in case of transmittal by way of telecommunications (including e-mail).

### 2. Inquiries, Quotes, Documents accompanying Quotes and Visits of the Supplier, Orders

- 2.1 Our inquiries and demand forecasts are not binding. Our orders shall be binding upon us only where and to the extent we have made them in writing or confirmed them in writing. Order number and date must always be stated in any and all correspondence.
- 2.2 Quotes submitted by the supplier are free of charge to us and not considered binding for us.
- 2.3 Visits and the preparation of plans, drawings, expert opinions and the like shall not be reimbursed without express written agreement to that effect.
- 2.4 Where the supplier in his offer, order confirmation or acceptance diverges from our enquiry or order, the supplier shall explicitly draw attention to such fact.

### 3. Inspections, Using Sub-Contractors for machinery and equipment

- 3.1 When ordering machinery or equipment, which must be manufactured, we are entitled to inspect the execution of the order at the supplier and his sub-contractors at any time after prior announcement. The supplier must commit his sub-contractors to that effect. The supplier shall furnish necessary assistance and services at no cost to us.
- 3.2 If the supplier does not manufacture the significant part of the order at his own plant, he must communicate this to us immediately prior to start of manufacture to obtain our agreement.

### 4. Delivery Time, Contract Penalty

- 4.1 Agreed dates and time periods for deliveries and services shall be binding. Upon exceeding the agreed delivery or service time the supplier shall be in default irrespective of any reminder from us, unless delivery or performance is delayed for reasons for which the supplier is not responsible.
- 4.2 If circumstances arise which might endanger timely delivery of some or all of the order by the agreed upon date, the supplier must inform us immediately, stating reasons and estimated time of delay. This announcement does not negate late delivery.
- 4.3 Unconditional acceptance of goods or performances delivered too late does not represent a waiver of our rights to be exercised in case of late delivery.
- 4.4 If a contract penalty has been agreed upon, we are entitled to demand payment of the forfeited contract penalty even if we have not reserved this entitlement at the time of acceptance; however, the claim for payment of contract penalty must be submitted no later than at the time of final payment.

### 5. Price

If not expressly agreed otherwise in writing, prices are considered fixed prices, DAP place of destination named by us pursuant to Incoterms 2010 including packaging. In case a place is not named, prices are considered DAP address of the respective plant issuing the purchase order.

## **6. Shipping**

- 6.1 Our shipping instructions must be carefully followed by the supplier.
- 6.2 Part shipments are allowed following our express consent only. Our right to demand part shipments, however, remains unchanged.
- 6.3 The supplier is liable for the suitability of the packing materials used as well as complying with legal identification regulations.

## **7. Place of Performance, Exclusion of Supplier's Performance Obligation**

- 7.1 Place of performance for deliveries and performances of both parties with the exception of our payments is the receiving place specified by us; in lack of such specification, the place of performance is the address of the respective plant issuing the purchase order. Place of performance for our payments shall be Wertheim am Main.
- 7.2 Should the fulfillment of the supplier's obligations be affected by a circumstance excluding the supplier's performance obligation under German law, we shall be entitled to withdraw from the Contract if such circumstance should last for more than three months. Supplier shall not be entitled to compensation for losses resulting from such a situation.

## **8. Defects, Release from Liabilities arising from Producer and Product Liability, Liability Insurance**

- 8.1 The supplier is responsible in particular for compliance with communicated performance and consumption values, emission and immission values as well as any agreed upon specifications, as well as that the deliveries and performances are state-of-the-art and in compliance with the applicable job safety and accident prevention regulations and European Guidelines (e.g. CE). On request, we shall furnish the supplier with the job safety and accident prevention standards applicable to us. Approvals of supplier drawings and calculations granted by us do not limit the supplier's defect warranty.
- 8.2 Notice of defects which are detectable following a correct inspection of the materials after delivery must be submitted within one month after delivery; other defects must be submitted by us within 2 weeks after detection.
- 8.3 Warranty rights for defects, which are known at acceptance, are still not excluded, even if we do not declare a respective reservation upon acceptance.
- 8.4 If a quality defect becomes apparent within six months after the transfer of risk, it shall be assumed that the defect already existed at risk transfer unless this assumption cannot be reconciled with the nature of the object or the defect in question.
- 8.5 Should the supplier not resolve the defect or deliver defect-free goods within a reasonable time period set by us, we are entitled to remedy the defect ourselves or have it remedied by a third party at the supplier's costs. Any and all legal rights regarding defects including the right of recourse remain untouched.
- 8.6 Statute of limitations for defects is 3 (three) years except where statutory limitation periods are longer. Statutory provisions regarding suspension, suspension of expiry and recommencement of limitation periods remain untouched.
- 8.7 The supplier must release us from possible producer's or product liabilities towards third parties insofar as the supplier is responsible for the product fault initiating the liability.
- 8.8 The supplier shall conclude a product liability insurance policy and a business liability insurance policy with suitable coverage for both personal and property damage case.
- 8.9 Johns Manville has introduced an Energy Management System acc. to ISO 50001. The supplier ensures state of the art energy efficiency of the products delivered. Manufacturing of the products supplied ought to be as energy efficient as possible. Energy consumption performance will be considered in the supplier selection process.

## **9. Industrial Property Rights**

The supplier has the sole liability to ensure that patents or other rights of third parties are not infringed by the supply, use or operation of the quoted equipment, material and performances.

## **10. Invoices, Payment**

- 10.1 The invoice must not accompany the shipments but must be mailed to us immediately following the shipment's dispatch. A separate invoice must be prepared for each purchase order, and two copies must be sent. These invoices must include a complete statement of purchase order data. The invoice duplicate must be clearly identified as such.
- 10.2 Payments shall become due within 60 days after receipt of invoice and goods; if we initiate payment within 21 days after receipt of invoice and material, we are entitled to a 3% discount.
- 10.3 Interest from the due date (*Fälligkeitsszinsen*) shall be excluded.

## **11. Secrecy**

All statements, drawings, designs, samples, models, etc. which we provided to the supplier for the manufacture of an object of delivery remain our intellectual property and may not be used, copied or made available to third parties. Same

applies to drawings prepared by the supplier according to our instructions. The supplier must consider the purchase order and related tasks as trade secrets and treat them accordingly. He is liable for any and all damages arising from any infringements of our property and industrial property rights. All documents made available to the supplier to include duplicates and/or copies must be returned to us without prompting within 14 days after order completion. A supplier's right of retainment is consequently excluded.

## **12. Promotion/Advertisement**

Promoting or advertising our mutual business relations is permitted with our written consent only.

## **13. Molds, Tools, Devices**

Molds, tools and the like which were partly or completely manufactured at our expense become our property. These must be carefully maintained by the supplier, ready for use at any time, and ready to be released to us should it become necessary. They shall be sent to us upon our demand. The supplier must clearly identify that such objects are our property. Scrapping of such objects is subject to our prior consent.

## **14. Supplier's Set-Off and Retention Right, Assignment**

14.1 The supplier has the right to offset only in the case of claims which are undisputed, non-appealable or ready for decision. The supplier has the right of retention only for these demands, which are undisputed, non-appealable or ready for decision resulting from the same contract with us.

14.2 Assignments of supplier demands towards us are expressly excluded; §354a Commercial Code remains untouched.

## **15. Liability**

15.1 We shall be liable pursuant to the legal provisions for any damages arising from intent (*Vorsatz*) or gross negligence as well as for personal injury. In the case of simple negligence leading to an infringement of significant contractual commitments which are indispensable to achieve the contract subject and on the strict compliance with which the supplier must place complete trust, we shall be liable in accordance with relevant legal provisions and limited to such damages the type and scope of which were foreseeable to us at contract conclusion. In case of payment default the aforementioned sentence applies provided that we shall also be responsible for payment default to the extent German statutory law provides for a responsibility without fault. Regarding payment default the foreseeable damage shall also include the legal default interest rate. This set aside, damages claims of the supplier for direct or indirect damages regardless of the legal nature to include possible damages claims because of infringement of pre-contract commitments and tortious claims are excluded.

15.2 The liability limits stated in this clause 15 also apply to any possible liability of our legal representatives, senior staff and our other agents employed in our performance (*Erfüllungsgehilfen*) towards the supplier.

15.3 If the supplier is entitled to demand reimbursement of expenses instead of damages in lieu of performance pursuant to the statutory provisions, the liability limits as per clauses 15.1 and 15.2, above, shall also apply to such claim for reimbursement.

## **16. Termination**

16.1 We are entitled to terminate the agreement with immediate effect at any time without any reason.

16.2 In case of a termination pursuant to clause 16.1, supplier is entitled to a payment for the work performed in accordance with the agreement through the effective date of the termination.

16.3 Further statutory termination rights remain unaffected.

## **17. Compliance with Laws, Conflict Minerals**

17.1 Supplier warrants that it will comply with all applicable laws and regulations in relation to the performance of its obligations. Supplier confirms that its products have not been produced with slave labor, child labor or labor that has resulted from human trafficking. Supplier shall not act or take any action that will cause liability on our side or on the side of a related entity for a violation of the U.S. Foreign Corrupt Practices Act (FCPA). The Foreign Corrupt Practices Act is a United States Federal Law which prohibits the offering, giving or promising to offer or give, directly or indirectly, money or anything of value to any official of a government, political party or instrumentality to assist the Supplier or us in obtaining or retaining business or in carrying out the Supplier's deliveries and services under the agreement.

17.2 The Supplier warrants that its products do not contain any conflict minerals (as defined in Section 1502(e)(4) of the Dodd-Frank Wall Street Reform and Consumer Protection Act) originating in the Democratic Republic of Congo or any adjoining country that directly or indirectly finance or benefit armed groups in the Democratic Republic of Congo or any adjoining country. Conflict minerals comprise columbite-tantalite, cassiterite, gold, wolframite and their derivatives, as well as any other mineral or its derivative determined by the US Secretary of State to be financing conflict in the Democratic Republic of Congo or an adjoining country. The Supplier has to inform us in case its products contain conflict minerals. Should the products contain conflict minerals, the Supplier has to provide evidence about the origin of the conflict minerals. In case the conflict minerals origin from the Democratic Republic of Congo or any adjoining

country, the Supplier has to provide evidence to us that the minerals in no way finance or benefit armed groups in the Democratic Republic of Congo or any adjoining country. The Supplier has to conduct certain inquiries as well as due diligence and auditing processes related to the origin and supply chain of its products, as provided for in Section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the rules adopted by the SEC in this connection. Under such rules, we and/or our related entities may be obligated to publicly disclose such information. At your request, we will be happy to provide you with the relevant legislation documents.

**18. Applicable Law, Venue of Jurisdiction**

18.1 Applicable law shall be the law of the Federal Republic of Germany excluding the provisions of the United Nations Convention on the International Sale of Goods.

18.2 In case the supplier is a merchant (*Kaufmann*), a legal entity of public law (*juristische Person des öffentlichen Rechts*) or a public-sector special fund (*öffentlich-rechtliches Sondervermögen*), the domicile of the respective purchasing company shall be the exclusive venue of jurisdiction for all direct or indirect disputes resulting from the contractual relationship, however, we may elect instead to bring any such dispute before any other court that has jurisdiction pursuant to the law.

**19. Data Protection**

Data pertaining to our suppliers will be stored and processed by way of automated procedures in accordance with applicable data protection regulations in force at the relevant time, insofar as this is necessary for the correct processing of contractual relations. We point out that we will transfer the stored data stemming from the relevant business case to other entities of the Johns Manville group of companies for information purposes and within the scope of the across the group reporting obligations. Johns Manville employees who have access to the stored data have given an undertaking to maintain confidentiality corresponding with Section 5 of the Federal Data Protection Act.