

General Conditions of Purchase

1. General

1.1 The following General Conditions of Purchase ("Conditions of Purchase") are applicable for all purchase orders for the purchase of goods and/or services made by Momentive Performance Materials GmbH or any of its affiliated group companies according to sec. 15 German Stock Corporation Act (*AktG*) ("Purchaser") to the respective supplier being addressed in the purchase order ("Supplier") (Purchaser and Supplier hereinafter also each "Party" and together "Parties").

Any confirmation or implementation of a purchase order is deemed to be an acknowledgment of these Conditions of Purchase by Supplier. Deviating or supplementary conditions by Supplier are subject to the explicit written consent of Purchaser. These Conditions of Purchase are also valid if Purchaser unreservedly takes delivery or accepts performance in spite of having knowledge of conflicting or deviating conditions.

1.2 These Conditions of Purchase only apply to parties within the framework of their commercial or professional activities, public-law corporations and public-law special funds.

1.3 These Conditions of Purchase also apply to future business transactions between Purchaser and Supplier as a consequence of current business relations.

2. Orders, Order Confirmations

2.1 Purchaser's orders are only valid if made in writing. Verbal orders require written confirmation. Any ancillary agreements have to be agreed in writing between the Parties. Individual measures and values provided by Purchaser including tolerances shall be binding for Supplier. By accepting Purchaser's purchase order, Supplier acknowledges that it has inspected any available plans and information and that it was informed about the implementation and scope of performance of the respective goods and/or services.

2.2 All Purchaser's orders require prompt confirmation by Supplier, including a reference to the respective order number mentioned in the purchase order.

2.3 All confirmations and offers by Supplier have to contain the following: complete order number, date of order and purchaser's reference number. Any deviations in quantity and quality from the text and content of the order shall only be deemed agreed between the Parties, if Purchaser explicitly confirms these deviations in writing.

2.4 All information and/or documentation provided by Purchaser, shall remain Purchaser's property and shall be always treated by Supplier in compliance with the confidentiality obligations set out in these Conditions of Purchase.

2.5 Purchaser may, prior to delivery of any ordered goods or performance of any ordered services, require changes, including without limitation changes with regard to the scope of delivery or performance, place of delivery or performance, type of transport and transport packaging, to the extent such changes are reasonably acceptable for Supplier. Supplier shall inform Purchaser immediately if such requested changes result in price changes for the goods or services. The Parties will then agree on an appropriate adaptation of the price by mutual consent before implementing the change.

3. Incoterms; Delivery Dates, Contractual Penalties

3.1 Unless the Parties explicitly agree otherwise, all deliveries by Supplier to Purchaser will be made DAP (Incoterms 2020).

3.2 All delivery dates and delivery deadlines are binding and must be complied with. The date of delivery or performance is defined exclusively as the date on which the delivery arrives or the services are performed at the delivery address stated by Purchaser. Delivery deadlines commence on the date on which Purchaser has issued the purchase order. Purchaser is not obliged to accept delivery before the delivery date.

3.3 If Supplier is in delay of the delivery or performance, then Purchaser is entitled to claim lump-sum damages, amounting to 1% of the delivery value for each week of delay, however, up to a maximum of 7.5% of the total purchase order value. Such contractual penalty payment will be credited against any claim for damages associated with the same matter, but shall not limit Purchaser in claiming such damages or asserting any further claims or rights, such as withdrawal from the contract.

3.4 In case Supplier becomes aware of circumstances that will make it wholly or partially impossible to comply with an agreed delivery or performance date, then Supplier is required to promptly inform Purchaser hereof in writing. The information to Purchaser has to also include a description of the reason probable duration of such delay.

4. Packaging, Shipping Instructions, Shipping Notes

4.1 Supplier shall always ensure that the ordered goods are packed, safeguarded and, if Supplier provides transport, transported in such a manner that upon transportation it will reach the place of delivery in a good and defect-free status and can safely be unloaded. Supplier shall be liable for compliance with any existing transport regulations, including for compliance by the transporters contracted by it, to national, international and/or supranational regulations applicable to packaging, safety, and transport. At the Purchaser's first request, Supplier shall take back for its own account and risk the packaging material used by Supplier and dispose of this material in a responsible manner.

4.2 Supplier will provide Purchaser with a detailed shipping note for each shipment of goods in compliance with Purchaser's purchase order. Where transport services are conducted by Supplier, Supplier will also provide Purchaser with documentation evidencing the delivery of goods, immediately following such delivery.

4.3 Every shipment of goods from Supplier to Purchaser has to be accompanied by a delivery note and a packing slip. If shipment is effected by vessel, the shipping documents and the invoice have to quote the name of the ship owner and the ship.

4.4 Unless Purchaser gives specified requests, Supplier will select the most appropriate mode and route of transportation at its own reasonable discretion.

4.5 Supplier has to package, label and ship Hazardous Goods always in accordance with the applicable regulations. Besides the category of risks, the enclosed documents also have to contain all further information required by the respective forwarding instructions. Supplier is liable and bears all costs relating to the non-adherence to

such regulations. Supplier is also responsible that its sub-suppliers adhere to these regulations.

4.6 If required shipping documents for the ordered goods are missing or contain errors, all costs incurred by Purchaser as a result thereof shall be borne by Supplier. Supplier has to make sure that all shipping notes, delivery notes, packing slips, bills of lading, invoices and the outside packaging are labeled with the respective order number and the full information regarding the destination specified by Purchaser.

5. Risk of loss

Any risk of accidental loss or deterioration up until the time of making or taking delivery of the goods, shall be borne by Supplier.

6. Delivery; Acceptance; Inspection of the Goods; Quality

6.1 Delivery takes place upon full acceptance of the ordered goods to Purchaser or upon full performance of the services ordered to Purchaser. In case Supplier delivers additional volumes or services, which exceed the ordered scope and/or quantity, then Purchaser reserves the right to return or reject any such excess quantities or scope at the Supplier's expense.

6.2 Purchaser will inspect the goods upon their full delivery for visible defects and obvious transport damages only and will notify Supplier within seven (7) working days, should any such defect be detected. In case Purchaser detects any hidden defects of the goods during the warranty period, Purchaser will also notify Supplier hereof within seven (7) working days after the discovery of the defect.

6.3 Supplier is obliged to install and maintain a quality assurance system in accordance with ISO 9001:2015 and which is appropriate in the light of the quality requirements for the goods and/or services delivered. Supplier will retain any documentation relating to any inspections, analytical data and, in the case of a delivery of chemical products, replacement samples of each delivery, for a period of two years as of the delivery date. Save where otherwise agreed between the parties, Supplier shall enclose with each delivery of chemical products a certificate of analysis relating to the specifications approved by Purchaser.

6.4 Supplier shall permit Purchaser to perform audits at Supplier's premises, following appropriate prior notice so as to ascertain whether the measures taken to assure quality, and observance of statutory provisions on site, comply with legal requirements and mutual agreements as well as Purchaser's Code of Conduct for Suppliers. In this context, Supplier shall, during customary operating and business hours, grant Purchaser unrestricted access to all production facilities, testing stations, storage rooms and adjoining areas and the right to inspect all relevant documentation.

7. Invoicing; Payment

7.1 Unless otherwise agreed between the Parties in writing, payment of the purchase price will be made in the currency specified in the purchase order within sixty (60) days after either the invoice date or the date on which delivery of the entire goods and/or services takes place, whichever is later.

7.2 Payment shall be made at Purchaser's discretion by transfer to an account of Supplier's, by mailing of crossed checks, in cash or by bill of exchange with charges for bills of exchange and tax on bills of exchange to be borne by purchaser.

7.3 The date of receipt of invoice will be the date on which the invoice is delivered to purchaser's address specified on the order.

7.4 Payments on account or interim payments, if any, cannot be construed as an acknowledgment of the conformity of the performance with the contract or the correctness of pricing.

7.5 Invoices have to be verifiable and in an auditable format. Descriptions, sequence of text, and prices should correspond to the data in the purchase order. Excess or short shipments have to be listed separately on the invoice.

8. Compliance with Laws; Momentive's Code of Conduct for Suppliers; Trade Compliance

8.1 Supplier undertakes to comply with all applicable laws, regulations and directives of legislature or of regulatory authorities, including without limitation such as relate to environmental protection, health and safety regulations, including directives and regulations issued by trade associations and the VDE (*Association of Electrical Engineers*) with regard to safety at work and accident prevention.

8.2 Supplier herewith acknowledges that it will comply with Purchaser's "Code of Conduct for Suppliers", which is available via www.momentive.com and will also ensure its employees, agents and representatives to comply with it.

8.3 Supplier warrants that deliveries and services will not be provided using child labor, forced labor or convict labor and that the delivered goods shall not, save where otherwise agreed, contain arsenic, asbestos, benzene, carbon tetrachloride, lead, cadmium or any other chemicals designated in the Montreal Protocol.

8.4 Supplier warrants that, in derogation from applicable law including the laws of the United States of America (such as the Foreign Corrupt Practices Act) and the law of the country in which Supplier is rendering the services forming the object of the contract, it shall not, in performing its duties, make, offer or authorize any payments, directly or indirectly, to any persons or organizations (whether in the form of a consideration, gift, contribution or otherwise) in order to further in such manner the closing of any deals or to achieve any other advantages in business.

8.5 Purchaser is subject to applicable laws of the United States, EU and national trade compliance and export control laws. In this capacity, Purchaser is prohibited from directly or indirectly importing or purchasing products from certain embargoed countries and certain denied suppliers under the trade compliance laws of the United States, the EU and/or the UN. Prohibited transactions include any transaction in which products are source from or through the embargoed countries or which involve the restricted or denied customer.

8.6 Supplier warrants not to directly or indirectly purchase or import the products sold and delivered to Purchase from any of these embargoed, restricted or denied persons, entities or countries, nor to source or otherwise procure any such product from a supplier under circumstances where Supplier has knowledge or reason to believe that the product will be sold from or imported from any such embargoed, restricted or denied person, entity or country.

9. Warranties

9.1 Supplier warrants that the products and/or services delivered and performed to Purchaser will always comply with the agreed product specifications and descriptions of services and that Supplier will produce the goods or services in compliance with the recognized rules of technology. Also, Supplier warrants complying with any safety regulations and rules applicable on Purchaser's premises to outside contractors, should any assembly, maintenance, inspection, repair or similar work have to be performed on Purchaser's premises. Supplier shall request copies of the standards and regulations of Purchaser unless these have already been made available in advance.

9.2 Supplier shall provide the agreed deliveries and services with the due care of a prudent businessman and those deliveries and services shall be free from any defects and any third party rights, and must be fit for the contractually agreed purpose.

9.3 Purchaser shall be entitled to full statutory warranty claims and other rights. The foregoing notwithstanding, Purchaser shall have the right to either demand the subsequent fulfillment by removal of defects or a substitute delivery, at its sole discretion and at Supplier's costs, to the extent such costs are not increased by having to transport the delivery item to a location other than the agreed place of delivery or performance.

9.4 If Supplier fails to remove any defect of the goods and/or services within a reasonable time limit, Purchaser shall, in particular, be entitled to claim damages in lieu of performance. Such damages shall include, in particular, Purchaser's costs of removing such defect itself through its own staff or any third parties and any other damages which have occurred as a direct or indirect result of the defect. The same shall apply in cases of urgency or imminent danger, which make it unreasonable to await Supplier's actions to remove the defect.

9.5 Barring any explicit written agreement to the contrary, the period of limitation for warranty claims shall be 24 months from the date of the transfer of risk. The agreed limitation period for repaired or replaced parts shall newly commence from the date of subsequent fulfillment. In case of resale by Purchaser, the limitation of warranty claims shall begin not earlier than two (2) months after removal of the defect at the end-customer (consumer). Such suspension of the time shall end at the latest after five (5) years from the delivery to Purchaser. Unless otherwise agreed above, the consequences of defective delivery shall be ruled by statutory regulations.

9.6 Any products giving rise to complaint shall remain at Purchaser's disposal until such time as they are replaced and shall at the time of replacement become the property of Supplier.

10. Product liability

Supplier shall release and indemnify Purchaser upon first demand from any damages or claims asserted against Purchaser with respect to a defective product made or delivered by Supplier, to the extent such defect was caused within Supplier's domain or organizational area.

11. Insurance

11.1 Supplier will, at its own expense, contract and maintain adequate third-party liability insurance coverage for any damages caused by Supplier, its personnel or agents through services rendered, work performed or objects delivered. Supplier will provide Purchaser with a certificate evidencing the insurance and its scope upon Purchaser's request.

11.2 In case Supplier leases out any machinery, apparatuses or other assets to Purchaser, those will be adequately insured by Purchaser with a reasonable coverage. Purchaser will not bear any liability for damages of the machinery, apparatuses or assets, exceeding such insurance coverage, except in cases the damage was caused intentionally or grossly negligent by Purchaser.

12. Force Majeure

12.1 The performance of any contractual obligations between the Parties shall be excused by the Party so affected without liability to the extent and for the period of time necessitated by the occurrence of an Act of God; war; fire; flood; other natural disaster; strike; breakdown of machinery or plant, labor dispute; cyber-attack; direct act or intervention of any government or subdivision thereof; or other similar events beyond the reasonable control of the affected Party and which could not have been avoided by the exercise of reasonable diligence ("Force Majeure").

12.2 If either Party is unable to, or as soon as either Party has reason to assume that it is likely to become unable to, perform any of its obligations under this agreement by reason of Force Majeure, it shall as soon as reasonably possible notify the other Party in writing of the nature, extent and the estimated duration of the suspension of the Party's performance. Such Party shall use reasonable endeavors to overcome the Force Majeure and resume performance, and shall take all commercially reasonable steps and precautions to alleviate the effects thereof. Both Parties agree that they will work in good faith to minimize the disruption and impact of such event for the other Party. The Party invoking Force Majeure must give prompt notice to the other when it is able to resume performance.

12.3 If Supplier claims a Force Majeure situation, Purchaser shall not receive a less favorable treatment than Supplier grants to other customers, its customers within Supplier's group or its other internal supplies. Supplier shall use reasonable efforts to acquire, by purchase or otherwise, additional quantities of Product from other suppliers or from any of its affiliates, or otherwise supplement its available supply of Product.

13. Industrial Property Rights

13.1 Supplier warrants that the delivery object is unencumbered with third-party property rights. In the event of an industrial property right infringement, Supplier shall be obligated to compensate Purchaser for any damages arising directly or indirectly related thereto. In such a case Purchaser shall also be entitled, at the Supplier's expense, to secure from the owner of such property rights the consent required for the delivery, initial operation, use, resale etc. of the goods delivered.

13.2 Supplier warrants that no third-party patents, licenses or property rights will be infringed by the delivery and use of the goods and/or services. Any license fees shall be borne by Supplier.

13.3 Any know-how or findings made or developed by Supplier in the framework of an order, and any rights therein, including copyrights, patents, utility models and others, shall be due to Purchaser and Supplier jointly. Patents, utility models and the like shall be registered in the name of both Parties, each with the right of sole use not requiring a license.

13.4 Any reference made by Supplier in its information or promotional material to the existing business relationship

with Purchaser shall require Purchaser's explicit written consent.

14. Confidentiality; Drawings; required documents

14.1 Supplier shall consider all business with Purchaser as secret and shall therefore maintain confidentiality to any communication or order exchanged between the Parties, unless such information is evidence to be already lawfully available in the public domain. Any data supplied by Purchaser, drawings etc. prepared by it or by Supplier based on such data, may only be used for purposes other than the performance of the contract between the Parties with the prior written consent of Purchaser. All drawings, standards, regulations, methods of analysis, recipes and other documentation provided by Purchaser to Supplier, as well as all documents prepared by Supplier upon special instructions by Purchaser shall remain Purchaser's property and must not be used by Supplier for other purposes, copied or made available to third parties. Purchaser reserves all industrial property rights to the documents handed over to Supplier. Supplier shall be liable for any damages incurred by Purchaser due to a negligent or fraudulent violation of any of these obligations.

14.2 Supplier has to obtain Purchaser's prior written consent, if it wishes to use any reference to the contractual relationship with Purchaser, any photos, project names or other information of specific relation to Purchaser for internal or external communication purposes.

14.3 Documents of any kind required by Purchaser for the use, installation, assembly, processing, warehousing, operation, upkeep, inspection, repair and maintenance of the delivered goods or services, shall be made available free of charge by Supplier in time and without having to be requested to do so.

15. Personal data protection

15.1 Supplier shall be obliged to,

- keep personal data obtained by Supplier from Purchaser or obtained from a data subject directly during the performance of this Agreement strictly confidential and to not disclose such personal data to any third party without having first received express written approval from Purchaser or the data subject;
- inform the data subject, when collecting personal data, about any intended use of such data and to obtain his/her written approval before using them;
- use personal data obtained from Purchaser for the sole purpose of performing this Agreement and to only copy such personal data if necessary for the purpose of this Agreement;
- implement technical and organizational measures to ensure the security and confidentiality of personal data;
- inform Purchaser on each incident that could possibly harm the security and confidentiality of personal data;
- ensure that employees, consultants or representatives who have access to personal data are bound to the terms of this Agreement regarding the use of personal data.

15.2 If personal data are submitted to a country outside of the European Union for which a positive decision of the European Commission is not given regarding an adequate national personal data protection, then Supplier must immediately inform Purchaser on such missing data protection and shall take all measures to ensure that such data is protected in the same manner as within the European Union.

15.3 In case that the data subject did not approve the further processing of his/her personal data, Supplier shall be obliged to immediately discontinue any further use of the personal data after termination of this Agreement. In any such case, Supplier shall return personal data to Purchaser and, if requested, delete the data.

15.4 Compliance of the data protection obligation is an essential contractual obligation and any continuous breach of this obligation despite of warning notices gives reason for terminating the Agreement.

15.5 Purchaser shall use any personal data obtained from Supplier within the scope of this Agreement for the sole purpose of performing this Agreement and shall observe all relevant regulations regarding data protection.

16. Assignment; Restriction to setoff

16.1 The assignment of any rights to third parties hereunder shall be always subject to mutual agreement between the Parties, except for the assignment of rights and obligations to Purchaser's affiliated group companies according to sec. 15 ff German Stock Corporation Act (*AktG*), which shall be permitted at any time.

16.2 Any offsetting vis-à-vis claims of the respective other Party, shall be inadmissible save where such claims are undisputed, have been recognized or are non-appealable.

17. Subcontractors; vicarious agents

17.1 Supplier is not permitted to use any subcontractors/third parties other than for necessary raw material supplies or with Purchaser's prior written consent. Where subcontractors are used without Purchaser's written consent, Purchaser is entitled to cancel the respective order immediately (termination for cause). Any costs arising or having arisen in connection with such inadmissible subcontracting shall be borne by Supplier.

17.2 Supplier shall be liable for the deliveries and performance by its suppliers or subcontractors as well as for its own deliveries and performance; the Supplier's suppliers and subcontractors are consequently considered its vicarious agents.

18. Termination for Cause

18.1 The contract between the Parties may be terminated for cause, with immediate effect. Purchaser's right to terminate as stipulated in Secs. 621 and 649 German Civil Code (*BGB*) shall not be affected.

18.2 Such cause shall be, in particular, the ongoing violation of material contractual obligations of the respective other Party and if Supplier suffers a pecuniary deterioration, becomes insolvent or files a petition in insolvency.

18.3 In case of a continuing contractual supply relationship between the Parties, such cause shall furthermore exist, if the deliveries or services provided therein by Supplier have been offered to Purchaser on more favorable conditions by a third party and if Purchaser has notified Supplier of the existence of such more favorable offer. Purchaser is obliged to grant Supplier the opportunity to improve its contractual conditions within 14 days from receipt of such notification, however without Supplier knowing the conditions of the competing offer. If Supplier fails to improve its conditions accordingly, or its improvement is not more favorable than the third party offer, then Purchaser shall be entitled to terminate the contract with Supplier for cause.

18.4 In the event of a termination under Secs. 621 and 649 German Civil Code, Supplier is entitled only to a partial compensation for the services that have been rendered until the time of termination. In the event of a termination of a contract for work and services, such claim to partial compensation shall be increased by an appropriate share of the overhead for such part of the delivery or service which was not performed, as well as any reasonable proven cost of ceasing the execution of the order. Any further claims shall be then excluded.

19. Place of performance; Applicable law and place of Jurisdiction

19.1 Place of performance for any deliveries from Supplier to Purchaser is the delivery location agreed between the Parties.

19.2 These Conditions of Purchase and any additional agreement between the Parties is governed by German law, excluding its provisions on International Private Laws (*Internationales Privatrecht*) and its provisions on the UN Convention on the International Sale of Goods (CISG).

19.3 Sole place of jurisdiction for all disputes directly or indirectly arising out of this contract shall be Cologne.

19.4 Should any provisions of these Conditions of Purchase or additional agreements between the Parties be or become invalid and/or unenforceable, then this shall not affect the validity and enforceability of the remaining provisions. The Parties will agree on a valid and enforceable provision to replace the invalid and/or unenforceable provision, which will come as close as possible to their original economic intent. The same applies in case of any unintentional gaps.

20. Additional Terms and Conditions for Services on Purchaser's sites ("Services")

20.1 Supplier has been advised by Purchaser and acknowledges that flammable materials may be present in equipment and work areas involved in performance of the Services. Supplier agrees to exercise extreme care and caution in performance of such Services.

20.2 Supplier shall perform all work diligently, carefully and in a good and workmanlike manner; shall furnish all labor, supervision, machinery equipment, services and supplies necessary therefore; shall obtain, maintain, and pay for all building and other permits and licenses required by public authorities in connection with performance of the Services, and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors. Supplier shall conduct all operations in Supplier's own name and as an independent contractor, and not in the name of, or as agent for, Purchaser.

20.3 Supplier shall perform all work so as to cause minimum interference with the operations of Purchaser and of other contractors, and shall take all necessary precautions, including those required by Purchaser's safety regulations, to protect Purchaser's and third party's premises and all persons and property thereon from damage or injury. Upon completion of the Services, Supplier shall leave the premises clean and free of all equipment, waste, and rubbish.

20.4 Supplier shall be solely responsible for all materials, subcontracts, and equipment until the Services are completed to Purchaser's satisfaction. Supplier shall be solely responsible for tools, equipment and other property owned, rented or leased by Supplier or any subcontractor or employee of either which are not to be incorporated in the work. Supplier shall be solely responsible for loss or damage of the Services until they are accepted by Purchaser.

20.5 Supplier shall pay promptly all due invoices and payment obligations for labor, services, and equipment used in performance of the Services. Supplier shall not be entitled to receive final payment for the Services from Purchaser until Supplier furnishes evidence satisfactory to Purchaser of full payment of such indebtedness. Supplier shall not permit any lien or charge to attach to the object of the Services or the premises; but if any does so attach, Supplier shall promptly procure its release and indemnify Purchaser against all damage and expense.

20.6 If Supplier performs any services on Purchaser's premises, Contractor shall maintain at all times the following insurance, at Contractor's expense, with a reputable and financially sound insurance carrier acceptable to Purchaser: (a) Workers Compensation Insurance as required by applicable law; (b) Employer's Liability Insurance with limits not less than €1,000,000 per occurrence; (c) General Liability Insurance, including products and completed operations coverage, with a minimum combined single limit of €1,000,000 per occurrence; (d) Excess Liability Insurance with limits not less than €5,000,000; and (e) Automobile Liability Insurance with limits not less than €1,000,000 per occurrence. Upon request, Supplier will provide Purchaser with an insurance certificate from its insurance carriers for each of the required foregoing insurance coverage. Insurance shall name Purchaser as an additional insured, provide waiver of subrogation in favor of Purchaser, provide severability of interests and cross liability clause, and provide for at least thirty (30) days' notice of cancellation to Purchaser.

20.7 In addition to the provisions of the above Section 19, upon written notice to Supplier terminating this Order: (a) Purchaser shall be relieved of all further obligation hereunder, except to pay the reasonable value of Supplier's prior performance, but not more than the price set forth in this Order; (b) Title to any product of Supplier's work whether fully or partially completed, as well as all materials and subcontracts prepared, procured or set aside by Supplier for use in the work, shall, at Purchaser's option, vest in Purchaser and Purchaser may enter Supplier's premises and remove the same; and (c) Purchaser may complete performance of the Services and Supplier shall be liable to Purchaser for all cost incurred by Purchaser in completing such performance in excess of the Order price.

20.8 Supplier shall comply with applicable health, environmental, and safety regulations of Purchaser and agencies having jurisdiction over the Services. Supplier shall at all times maintain a clean and safe work site and take all necessary precautions to protect persons and property from damage or injury arising out of performance of the Services. Supplier personnel working at Purchaser sites must adhere to all applicable safety regulations.
