

General Purchase Terms and Conditions of Waelzholz New Material Co. Ltd.

The following Terms and Conditions are applicable to our purchase orders unless agreed otherwise. Deviating or additional terms and conditions of the supplier do not become part of any agreement with us even if we do not expressly disagree with such terms and conditions.

1. Placing an Order

Orders are only considered binding by us if they are issued on our order templates and are signed with legally binding effect. Documents not signed by us are marked accordingly. Oral arrangements need to be confirmed in writing. The execution of the order is considered acknowledgement of our Terms and Conditions.

Orders that are not confirmed by the supplier, either in writing or by executing the order without reservations, within the stated deadline or until two (2) weeks after receiving the order at the latest, may be withdrawn by us, without prejudice to any further or other rights.

2. Prices / VAT

Prices are valid according to agreement. The price indicated in the order is binding. Prices which are based on obvious errors, typos or calculation errors are not binding for us. Should in exceptional cases no prices be agreed upon in advance, they have to be indicated in the confirmation of the order. The VAT has to be indicated separately in the invoice. The part of travel expenses which are deductible input VAT amounts have to be disclosed.

In case advance payments are requested which are subject to VAT, such VAT amount has to be indicated separately. Services not subject to VAT have to be indicated in the invoice likewise.

3. Shipment

Shipments have to be sent to our delivery address as well as on the date as indicated in the orders, free of charges for all relevant costs including, but not limited to shipping, packaging, loading, unloading, insurance and any duties, imposts. Deviations therefrom have to be agreed by us in writing. Agreed delivery dates and deadlines are binding. The date, on which we receive the shipment, is decisive for determining the delivery date.

The transportation risk lies with the supplier until acceptance of shipment by us, regardless of the mode of transport. The shipping documents have to be sent together with the shipment, only in exceptional circumstances may they be sent to our main administration.

The shipping documents must indicate our order number. Documents not indicating our order number will be returned for revision.

4. Invoice Issuing / Payments

Invoices have to be sent after shipment without delay to our main administration, indicating our order number and the further information as requested by us; they must not be included in the shipment under any circumstances. Shipments in part must be identified as such in the shipping documents. The payment deadline is considered to start running from the day on which we receive the invoice. We may set off any counterclaims against the invoices received from the supplier.

In the event of defective delivery, we shall be entitled to retain proportionate payment until duly delivery, without prejudice to any further or other rights.

5. Notice of Defects / Defects Liability

The supplier warrants the goods and/or services to be free from defects. The supplier shall deliver goods and/or services in such a way that we may only inspect for apparent defects, transport damages and non-conformities in identity and amount visible from the outside, which shall be notified within the inspection period agreed between the parties or within a reasonable period if no inspection period is stipulated. We reserve the right to claim for non-obvious defects immediately after they have been detected.

In urgent cases or in case of supplier's default we may eliminate defects at supplier's costs by ourselves or third parties. The return of defect material shall be at the costs and risk of supplier.

Unless stated otherwise in respect of defects liabilities, the supplier bear the defect liability in accordance with the law. The defects liability shall come into effect with the acceptance of the shipment and executed delivery to the place of delivery. Should the rectification of defects be unfruitful or should such rectification, at our sole discretion, be unreasonable, we have the right to request replacement of the shipment without prejudice to any further or other rights. **If the replaced goods are defective, we shall be entitled to rescind the agreement/order with respect to the as yet undelivered part thereof and also to that extent to demand compensation for non-performance. This will not affect assertion of further claims for damages.**

In case of a defect, the deadline of the defects liability shall be extended according to the time between notice of defect and elimination of the defect. In case of replacement, the new deadline for the defects liability shall begin as of the delivery of the replacement. Claims for defects liability shall fall under the statute of limitation not before as set forth by law.

6. Transfer of Perils / Acceptance

The transfer of perils takes effect when we accept the shipment at the place of delivery. Up to this time, the supplier bears the risk for the shipment and its integrity. In case of the provision of services, the result (i.e. acceptance or non-acceptance) of the performance of such services shall be put into a mutual protocol.

7. Compliance / Third Parties' Rights / Property Material

The supplier warrants that its shipments and services delivered are suitable for our intended purpose/use and shall be new, merchantable, of good quality and free from all defects in design, material, construction and workmanship. The supplier promises that its shipments and services at the time of the performance or shipment and thereafter comply with the best demonstrated available technology, all the relevant laws and regulations..

The supplier warrants that the shipment and its use does not infringe upon third parties intellectual property rights. The supplier promises to hold us harmless against any of the aforementioned claims of third parties against us, without prejudice to any further or other claims for damages.

Property material, such as models, prototypes, drawings, etc. which we produced or the supplier

produced upon our instruction, may not be forwarded or disclosed to third parties or be allowed to be used by third parties without our permission. Such property material is our property. After the use of the property material it shall be returned to us free of charge.

8. Liability

The supplier is liable for damages resulting out of defects or default in accordance with the law.

Furthermore, the supplier is liable for all damages caused in our workshops or in our administration which are attributable to the supplier or its auxiliary person.

To the extent permitted by law, in no event shall we be liable for any indirect, incidental, especial, consequential or punitive damages, which includes without limitation to damages for lost profits or revenues, lost business opportunities, loss of images or lost data, and in no event shall we be liable to supplier, its successors or assigns for damages in excess of the amount due to supplier for complete performance under the respective agreement/order, less any amounts already paid to supplier by us.

9. Assignment / Setting Off / Right of Retention

Claims based on the agreement with us may not be assigned to third parties without our express consent.

The supplier may only set off its own claims against our claims provided that its own claims are uncontested by us or have been recognized in a valid arbitral award or court judgment.

The supplier may not claim any right of retention.

10. Termination

The agreement in respect of a shipment or the provision of a service may be terminated by us at any time. In such case, the supplier shall receive - with view to saved expenses - such part of the compensation that correlates with the shipment/service delivered/rendered. Shipments/services not suitable for our use shall be returned at the supplier's costs.

11. Data Storage / Confidentiality

We will store and process data necessary for the performance of the agreement in accordance with the laws and regulations on data protection of the People's Republic of China. The supplier expressly agrees to this. We assure to treat such data with the diligence of a prudent businessman.

The supplier promises to treat all data and information revealed in course of the performance of the agreement confidential. Such data and information may not be disclosed to third parties. The supplier is liable for all damages resulting out of its violation of this confidentiality obligation.

12. Place of Delivery / Forum / Applicable Law

The place of delivery and provision of services by the supplier shall be place of delivery as indicated in the order.

Any dispute arising from or in connection with these Terms and Conditions shall be submitted to China International Economic and Trade Arbitration Commission Shanghai Commission (CIETAC-Shanghai) for arbitration which shall be conducted in accordance with the CIETAC Shanghai Rules in effect at the time of applying for arbitration. The arbitration proceedings shall be in English. The arbitral award is final and binding upon both parties. The law of the People's Republic of China is exclusively applicable.

13. Written Form / Severability Clause

Any alteration or amendment of the agreement shall only be made in writing. This is also true for the abolishment of the requirement of the written form. Oral arrangements are only binding when confirmed in writing.

If any of these Terms and Conditions are determined to be or become invalid or otherwise unenforceable, the remaining terms and conditions shall survive, remain in full force and effect and continue to be binding and enforceable. An invalid or otherwise unenforceable provision shall be replaced with a provision which comes closest to the intended purpose of the invalid or unenforceable provision.

14. These general purchase terms and conditions are written in English and Chinese. In case of any discrepancy, the English version shall prevail.

15. Please carefully review the terms and conditions as stated above, particularly the parts highlighted in bold. If the supplier has any questions about the terms and conditions stated herein, he shall request us to elaborate on the relevant parts, about which he has questions, in a timely manner. The acceptance of these terms and conditions by the supplier shall mean that we have provided sufficient elaboration on and explanation about the terms and conditions and the supplier has clearly and fully understood all of the terms and conditions and agreed to be bound by them.