

# General Terms and Conditions of Purchase of AMG Lithium GmbH

## Preamble

The subject of the following General Terms and Conditions of Purchase (hereinafter referred to as "**GTCP**") is the purchase of raw materials and other components (hereinafter referred to as "**Goods**") by AMG Lithium GmbH (hereinafter referred to as "**Buyer**").

## § 1 Scope

- 1.1 These GTCP shall apply to all business relations with business partners and suppliers (hereinafter referred to as "**Seller**"), in particular to contracts for the purchase of goods (movable items), irrespective of whether the Seller manufactures the goods itself or purchases them from suppliers (§§ 433, 650 BGB). Unless otherwise agreed, the GTCP in the version valid at the time of the Buyer's order shall also apply as a framework agreement for similar future contracts without the Buyer having to refer to them again in each individual case.
- 1.2 The GTCP shall only apply if the Seller is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
- 1.3 These GTCP shall apply exclusively. Deviating, conflicting or supplementary General Terms and Conditions of the Seller shall only become part of the contract if and to the extent that we have expressly consented to their application in writing. This requirement of consent shall apply in any case, for example even if we accept the Seller's deliveries without reservation in the knowledge of the Seller's General Terms and Conditions.
- 1.4 Individual agreements made with the Seller in individual cases, including collateral agreements, supplements and amendments, shall in any case take precedence over these GTCP. For the content of such agreements, a written contract or the written confirmation of the Seller shall generally be authoritative. Alternative evidence of the content is admissible.
- 1.5 Legally relevant declarations and notifications of the Seller with regard to the contract (e.g. setting of a deadline, reminder, withdrawal) shall be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further proof, in particular in the event of doubts about the legitimacy of the declarant, shall remain unaffected.

## § 2 Offer and order

- 2.1 Offers are to be submitted by the Seller free of charge. The seller is bound to his offer for four weeks after submission.
- 2.2 The contract shall be concluded by written acceptance of the offer by the Buyer. All orders, supplements and amendments made by the Buyer must be in writing in order to be valid. An order placed by telephone or otherwise by the Buyer shall require a subsequent written confirmation of the order by the Buyer or a written order confirmation by the Seller in order to be legally effective. The Seller shall notify the Buyer of obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the

order documents for the purpose of correction or completion prior to acceptance; otherwise the contract shall be deemed not to have been concluded.

- 2.3 The Seller is obliged to confirm the order in writing (acceptance). The acceptance shall be declared within 3 business days (Monday to Friday, hereinafter "**Business Days**"). If the Seller does not respond within the aforementioned period, the offer shall be deemed accepted. Until the receipt of the order confirmation, the Buyer may revoke her order at any time. Changes and additions to an order of the Buyer made in an order confirmation of the Seller by the Seller shall be deemed not to have been made unless they are confirmed in writing by the Buyer within one (1) week after receipt of the order confirmation.
- 2.4 The Purchaser may request changes to the object of performance even after conclusion of the contract, provided that this is reasonable for the Seller. Effects on delivery dates, additional or reduced costs shall be reasonably taken into account by both contracting parties. The Buyer may demand additional or reduced deliveries or services with a deviation of up to 5 percent of the total order amount at the agreed contractual conditions without changing the unit price.
- 2.5 Upon the Buyer's request, an appropriate number of original samples (with corresponding individual packaging and test certificate) shall be provided by the Seller free of charge upon delivery of new items or upon initial order. Likewise, samples requested by the Buyer for further testing purposes shall be provided by the Seller free of charge.

## § 3 Delivery, delay in delivery

- 3.1 Delivery shall be made "free domicile" within Germany to the place specified in the order ("DDP" according to Incoterms 2020). If the place of destination is not specified and nothing else has been agreed, the delivery shall be made to the production site in Bitterfeld-Wolfen. The respective place of destination shall also be the place of performance for the delivery and any subsequent performance (obligation to deliver).
- 3.2 The delivery shall be accompanied by a delivery bill stating the date (issue and dispatch), the content of the delivery (article number and quantity) and the Buyer's order identifier (date and number). If the delivery bill is missing, incomplete or not clearly identifiable as such, the Buyer shall not be responsible for any delays in processing and payment resulting therefrom. The Buyer also reserves the right to refuse acceptance. Separately from the delivery bill, a dispatch note with the same content shall be sent to the Buyer.
- 3.3 The delivery time specified by the Buyer in the order is binding. If the delivery time is not specified in the order and has not been agreed otherwise, it shall be two (2) weeks from the conclusion of the contract. The Seller shall be obliged to notify the Buyer in writing without undue delay if it is likely that it will not be able to meet agreed delivery times - for whatever reason.
- 3.4 If the Seller does not deliver the goods by the end of the day on which the delivery is to be made at the latest, the Seller shall be in default at the end of this day without the need for a reminder.

- 3.5 If the Seller is in default, the Buyer may - in addition to further statutory claims - demand lump-sum compensation for its default damages in the amount of 1% of the net price per completed calendar week, but in total not more than 5% of the net price of the goods delivered late. The Buyer reserves the right to prove that higher damages have been incurred. The Seller reserves the right to prove that no damage at all or only a significantly lower damage has been incurred.
- 3.6 Partial deliveries shall only be permitted with the express written consent of the Buyer.
- 3.7 Individual packaging or packaging units are to be carried out by the seller as agreed. In this context, all items or their individual packaging shall be provided by the Seller with the usual consumer EAN code free of charge, insofar as this is technically possible due to the characteristics of the goods.
- 3.8 Outer cartons shall be packed by the Seller as agreed, but the outer cartons shall be marked at least on one side with the following: Article name, content (piece, set), EAN code and manufacturer's name or other designations that indicate the manufacturer. Indications of origin are to be avoided on the outer cartons.
- 3.9 Palletizing is carried out exclusively on Euro or one-way pallets, whereby the goods may not protrude at the sides. The maximum gross height of a pallet may not exceed 220 cm. Any change to these shipping instructions after the order has been placed shall require written information from the Seller and the express written consent of the Buyer. If separately requested by the Buyer, a pallet frame shall be attached in the lower area as collision protection for the containers.
- 3.10 Violation of the aforementioned shipping instructions may result in refusal of acceptance or repackaging or re-marking (e.g. EAN code) by the Buyer. Expenses incurred as a result are to be reimbursed by the seller.
- 3.11 In the context of customs and/or export procedures, the Seller shall provide the Buyer with comprehensive support (e.g. by notifying customs tariff number, stating ECCN, country of origin, etc.).

#### **§ 4 Transfer of risk**

The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer upon hand-over at the place of performance (cf. Section 3.1). Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk.

#### **§ 5 Prices and terms of payment**

- 5.1 The price stated in the order is binding. All prices are inclusive of the applicable statutory value added tax if this is not shown separately.
- 5.2 Unless otherwise agreed in the individual case, the price shall include all services and ancillary services of the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).

- 5.3 Invoices are sent to the buyer by e-mail.
- 5.4 The invoices must contain the full names and addresses of the Buyer and the Seller, the Seller's tax number or VAT identification number, the date of issue of the invoice, the consecutive invoice number, the quantity and customary designation of the delivered goods, the date of delivery, the supplier number, the order number, the article number, the EAN number and the delivery note number. If at least one of these details is missing, the Buyer shall not be responsible for any delay in payment caused thereby. The same shall apply if the contents of the invoice do not match those of the order.
- 5.5 The agreed price shall be due for payment within 30 calendar days of complete delivery and performance (including any acceptance to be carried out) and receipt of a proper invoice. If the Buyer makes payment within 14 calendar days, the Seller shall grant the Buyer a 3% discount on the net amount of the invoice. In the case of bank transfer, payment shall be deemed to have been made in due time if the Buyer's transfer order is received by its bank before expiry of the payment deadline; the Buyer shall not be responsible for any delays caused by the banks involved in the payment process.
- 5.6 In the event of default in payment, the Buyer shall owe default interest in the amount of five percentage points above the base interest rate.
- 5.7 Partial deliveries shall only be invoiced separately if this has been contractually agreed.
- 5.8 The Buyer shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent provided by law. In particular, it shall be entitled to withhold payments due as long as it still has claims against the Seller arising from incomplete or defective performance. The Seller shall have a right of set-off or retention only in respect of counterclaims which have been finally determined by a court of law or which are undisputed.

#### **§ 6 Retention of title and property rights**

- 6.1 The transfer of ownership of the goods to the Buyer shall be unconditional and without regard to the payment of the price. However, if the Buyer accepts an offer of the Seller to transfer title conditional on payment of the purchase price in an individual case, the Seller's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. The Buyer shall remain authorized to resell the goods in the ordinary course of business even prior to payment of the purchase price with advance assignment of the claim arising therefrom (alternatively, the simple reservation of title extended to the resale shall apply). In any case, all other forms of retention of title are excluded, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.
- 6.2 Any processing, mixing or combination (further processing) by the Seller of the items provided by the Buyer shall be carried out for the Buyer. The same shall apply in the event of further processing of the delivered goods by the Buyer, so that the Buyer shall be deemed to be the manufacturer and shall acquire ownership of the goods at the latest upon further processing in accordance with the statutory provisions.

## § 7 Duty to examine and to give notice of defects

The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial duty to inspect and give notice of defects with the following proviso: The Buyer's duty to inspect shall be limited to defects which become apparent during its incoming goods inspection under external examination including the delivery documents (e.g. transport damage, wrong and short delivery) or which are recognizable during the Buyer's quality control in the random sampling procedure. Insofar as acceptance has been agreed, there shall be no obligation to inspect. In all other respects, it shall depend on the extent to which an inspection is feasible in the ordinary course of business, taking into account the circumstances of the individual case. The Buyer's obligation to give notice of defects discovered later shall remain unaffected. Notwithstanding the Buyer's duty to inspect, its complaint (notice of defect) shall be deemed to have been made without undue delay and in good time if it is sent within 10 working days of discovery or, in the case of obvious defects, of delivery.

## § 8 REACH clause

- 8.1 The Seller warrants that it will not deliver to the Buyer any goods containing or releasing substances that require registration or authorization pursuant to Regulation EC No. 1907/2006 of December 18, 2006 (hereinafter "**REACH Regulation**"), including any future amendments and modifications, at the time of their delivery to the Buyer, but are not registered or authorized.
- 8.2 The Seller warrants that for substances contained in or released from goods delivered to the Buyer, will maintain a registration or authorization required under the REACH Regulation and carried out by it for the duration of the supply relationship. If the Seller has not itself registered or authorized the respective substance, it warrants that it has ensured that it will be informed without delay of any lapse in registration or authorization. The Seller further warrants that it will inform the Buyer without undue delay upon its knowledge of the date of discontinuation of a required registration or authorization of a substance delivered to the Buyer and that it will not deliver any goods to the Buyer containing or releasing such substances as of such date of discontinuation.
- 8.3 The Seller warrants that it will provide the Buyer with an up-to-date, complete safety data sheet that complies with the requirements of the REACH Regulation with each delivery, irrespective of whether the provision of such a safety data sheet is mandatory under the REACH Regulation or only required upon request. If the seller has to carry out a chemical safety assessment, he further warrants that he has checked the safety data sheet for compliance with the chemical safety assessment and has adapted it if necessary. If the provision of a safety data sheet is neither mandatory nor to be provided on request according to the requirements of the REACH Regulation, the Seller warrants to provide in writing or electronically information on registration number (if available), any obligation to obtain an authorization and information on authorizations granted or refused, information on restrictions and other available and relevant information necessary to identify and apply appropriate risk management measures (safety information).

- 8.4 If the Seller is obliged to carry out a chemical safety assessment and to prepare a chemical safety report for a substance contained in or releasing a product delivered to the Buyer, in particular on the basis of a use of a substance disclosed by the Buyer, the Seller warrants that it has carried out this assessment and included conclusions therefrom in the safety data sheet or the safety information.
- 8.5 The Seller warrants that, in the event that Articles are supplied to the Buyer that contain, in a concentration greater than 0.1% by mass (w/w), one or more substances that meet the criteria of Article 57 of REACH (i.e., may be included in the list of substances subject to authorization) and have been identified in accordance with Article 59(1) of REACH (i.e., have been included on the "Candidate List"), the Seller will provide information sufficient for the safe use of the Article.
- 8.6 The Seller warrants that the delivered goods or individual components do not originally originate from conflict regions in the Democratic Republic of the Congo or neighboring countries. Product components include in particular gold, coltan, cassiterite, wolframite and their derivatives such as tantalum, tin or tungsten (Dodd-Frank Act - Section 1502).
- 8.7 In the event of any planned changes in manufacturing processes, in subcontracted parts or materials for the goods to be purchased, in the event of any relocation of manufacturing sites, in the event of any changes in procedures or equipment for testing the goods or in the event of any other measures which may affect the safety or quality of the goods, Seller shall notify Buyer in due time prior to delivery. No changes shall be made to written specifications or manufacturing procedures without Buyer's consent. All changes, whether subject to approval or not, shall be documented and disclosed upon request.

## § 9 Warranty

- 9.1 The statutory provisions shall apply to the Buyer's rights in the event of material defects and defects of title of the goods (including wrong and short delivery as well as improper or defective assembly, operating or operating instructions) and in the event of other breaches of duty by the Seller, unless otherwise stipulated below.
- 9.2 The Seller shall be liable in particular for ensuring that the goods have the agreed quality at the time of transfer of risk to the Buyer. The product descriptions included in the contract by designation or reference in the Buyer's order or in any other way shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from the buyer, the seller or the manufacturer.
- 9.3 In this respect, the Seller is also obliged to deliver the goods in execution and quality in accordance with the offer, the offer samples available to the Buyer, the purchase specifications or a specification sheet.

The Seller warrants that the goods comply with the current state of the art and all relevant statutory directives and regulations. This includes in particular all special regulations (e.g. TÜV/GS, CE, DLMBG, VDE, TKG) as well as the standards valid in the European Union.

The aforementioned warranties also apply to goods of foreign origin.

9.4 The Seller's obligations of subsequent performance shall also include the removal of the defective goods and the reinstallation of defect-free goods, provided that the goods have been installed in another item or attached to another item in accordance with their type and intended use. The statutory claim of the Purchaser for reimbursement of corresponding expenses shall remain unaffected.

The expenses necessary for the purpose of inspection and subsequent performance shall be borne by the Seller even if it turns out that there was in fact no defect, unless the Buyer recognized or was grossly negligent in not recognizing that there was no defect.

9.5 If the Seller fails to deliver within the reasonable period of time specified by the Buyer for subsequent performance, the Buyer shall be entitled, after the expiry of such period, to commission a third party with the performance of the contract and to claim reimbursement of the necessary expenses and additional costs from the Seller. In addition, the Buyer shall be entitled to claim damages instead of performance. The Seller's right to subsequent performance and the Buyer's obligation to accept the performance shall be excluded as soon as the Buyer procures a replacement by way of self-performance after expiry of the deadline or demands compensation instead of the performance.

9.6 Notwithstanding Section 438 (1) No. 3 BGB, the general limitation period for claims based on defects shall be three (3) years from the passing of risk. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.

The 3-year limitation period shall apply *mutatis mutandis* to claims arising from defects in title, whereby the statutory limitation period for third party claims in rem for surrender of possession (Section 438 (1) No. 1 of the German Civil Code) shall remain unaffected; in addition, claims arising from defects in title shall in no case become time-barred as long as third party rights can still be asserted against the Buyer.

9.7 In the event of withdrawal due to delay in delivery, the Purchaser may return partial deliveries already made or deliveries made after withdrawal at the Seller's expense and risk. However, the Buyer shall also be entitled to accept partial quantities already delivered and to declare withdrawal only for the outstanding deliveries.

9.8 If the Seller has breached its obligations under Clauses 9.2 and 9.3 of these GPC, the Buyer shall be entitled to rescind the contract (without setting a grace period) if the delivered goods do not or no longer comply with the requirements of the REACH Regulation.

In the event of a breach of the obligations under Clauses 9.4 and 9.5 of these GPC, the Buyer shall be entitled to rescind the contract if the Seller fails to remedy the breach within a reasonable period of time set by the Buyer.

## § 10 Liability

10.1 If a claim is made against the Buyer by a third party who has purchased goods delivered by the Buyer because the delivered goods do not comply with the requirements of the REACH Regulation, the Seller shall be obliged to indemnify the Buyer against such claims upon first written request. This shall not apply if the Seller is not responsible for the non-compliance with the REACH Regulation. The Seller's obligation to indemnify shall relate to all expenses necessarily incurred by it as a result of or in connection with the claim by the third party, in particular also to legal defense and administrative costs as well as all costs of a necessary replacement procurement.

10.2 If a claim is made against the Buyer by a third party because the goods delivered by the Seller are encumbered with third-party property rights, the Seller shall be obliged to indemnify the Buyer against such claims upon first written request. Clause 10.1 p. 3 of these GPC shall apply accordingly.

## § 11 Supplier recourse

11.1 The Buyer shall be entitled to the statutory rights of recourse within a supply chain (supplier's recourse pursuant to Sections 445a, 445b, 478 BGB) without limitation in addition to the claims for defects. In particular, the Buyer shall be entitled to demand exactly the type of subsequent performance (repair or replacement) from the Seller which it owes to its customer in the individual case. The statutory right of choice (§ 439 para. 1 BGB) shall not be restricted hereby.

11.2 Before the Buyer acknowledges or fulfills a claim for defects asserted by its customer (including reimbursement of expenses pursuant to Sections 445a (1), 439 (2) and (3) of the German Civil Code [BGB]), it shall generally notify the Seller and request a written statement, briefly setting out the facts of the case. If a substantiated statement is not made within a reasonable period of time and if no amicable solution is reached, the claim for defects actually granted by the Buyer shall be deemed to be owed to its customer. In this case, the Seller shall have the burden of proof to the contrary.

11.3 The claims from supplier recourse of the Buyer shall also apply if the defective goods have been further processed by the Buyer or another entrepreneur, e.g. by incorporation into another product.

## § 12 Producer liability

12.1 If the Seller is responsible for product damage, it shall indemnify the Buyer against third-party claims to the extent that the cause lies within its sphere of control and organization and it is liable itself in relation to third parties. Within the scope of its indemnification obligation, the Seller shall reimburse expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) arising from or in connection with a third party claim including recall actions carried out by the Buyer. The Buyer shall inform the Seller about the content and scope of recall measures - to the extent legally possible and reasonable - and give the Seller the opportunity to comment. Further legal claims shall remain unaffected.

12.2 The Seller undertakes to maintain product liability insurance with coverage of at least EUR 5,000,000.00 per personal injury or property damage. If the Seller

is entitled to further claims for damages, these shall remain unaffected.

12.3 The Seller shall immediately prove the existence of the insurances to the Buyer upon request. Any changes shall be notified to the Buyer in writing without delay.

12.4 Irrespective of the above conditions, the Seller undertakes to take out and maintain liability insurance customary in the industry for the duration of the performance of the contract.

### **§ 13 Minimum wage**

13.1 The Seller assures to pay its employees at least the applicable statutory minimum wage and to oblige its subcontractors accordingly. Upon Buyer's request, Seller shall provide evidence of the payment of the minimum wage by itself or its subcontractors.

13.2 In the event that claims are asserted against the Buyer by third parties due to an infringement, the Seller shall indemnify the Buyer against all claims including legal defense costs upon first request.

### **§ 14 Compliance**

14.1 The Seller undertakes to ensure that the legal provisions and internationally recognized standards for the protection of the environment and respect for human rights, in particular prohibitions of child and forced labor and discrimination, regulations on safety and basic rights of workers are observed throughout the supply chain of the goods.

14.2 At the Buyer's request, the Seller shall provide evidence of compliance with these obligations by submitting suitable documents.

### **15 Final provisions**

15.1 Any confidential information (whether written, electronic, oral, digitally embodied or in any other form), in particular business secrets, manufacturing processes or inventions, disclosed in the course of the business relationship between Buyer and Seller may not be exploited, used or disclosed to third parties by the Seller without the express written consent of the Buyer. Such documents shall be used exclusively for the contractual performance and shall be returned to the Buyer upon completion of the contract. The documents shall be kept secret from third parties, even after termination of the contract. The obligation to maintain secrecy shall only expire if and to the extent that the knowledge contained in the documents provided has become generally known.

15.2 Amendments to these GTPC must be made in writing. This shall also apply to the amendment of this written form clause itself.

15.3 Should any provision of these GTPC be or become void in whole or in part or should a gap in these GTPC become apparent, this shall not affect the validity of the remaining provisions. The contracting parties are aware of the case law of the Federal Court of Justice according to which a severability clause merely reverses the burden of proof. However, it is the express intention of the contracting parties to maintain the validity of the remaining contractual provisions under all circumstances and thus to waive Section 139 of the

German Civil Code in its entirety. In place of the void provision or to fill the gap, the valid and enforceable provision shall be agreed which comes closest in legal and economic terms to what the contracting parties intended or would have intended in accordance with the spirit and purpose of the GTPC if they had considered this point when concluding the contracts.

15.4 These GTPC and the contractual relationship between the Buyer and the Seller shall be governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

15.5 The exclusive - also international - place of jurisdiction for all disputes arising from the contractual relationship shall be Frankfurt am Main. However, the Buyer shall in all cases also be entitled to bring an action at the place of performance of the delivery obligation pursuant to these GTPC or a prior individual agreement or at the general place of jurisdiction of the Seller. Prior statutory provisions, in particular on exclusive jurisdiction, shall remain unaffected.