

General Purchasing Conditions 2013

## General Purchasing Conditions

The following general Purchasing Conditions apply between ECKELT GLAS GmbH [abbr: „ECKELT“] and its contracted partners, named „Contractor“ in the following.

### General

Unless otherwise agreed, the following Purchasing Conditions will apply exclusively as contractual conditions. In accepting an order or contract, it is assumed that the Contractor agrees exclusively to the Purchasing Conditions of ECKELT.

Exceptions or addendums to these Purchasing Conditions will only apply if they have been agreed to in writing by ECKELT. This also applies in the case, should contrary exist in the General Terms and Conditions of ECKELT and is not explicitly refuted.

Offers provided to ECKELT are not considered contractually binding. Only written authorized orders or contracts from ECKELT will be considered as binding agreements. The ECKELT Order Number must be indicated in all contractual documents. Failure to do so will render the document invalid.

ECKELT clearly informs that the amounts in the order call-offs are approximate and that ECKELT has no liability to accept any given amounts.

### Responsible development

The supplier is aware that the Saint-Gobain Group adheres to the United Nations Global Compact and has notably adopted a policy of responsible purchasing, an integral part of the Group's Responsible Development policy.

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The Saint-Gobain Group notably expects its suppliers:

- to participate as much as possible in the development of the country they operate in;
- to comply with the legal rules and regulations applicable in the countries where they operate as well as the norms set out by the International Labor Organization concerning workers' rights, especially in the area of social security, working hours, conditions and compensation; to refrain from resorting to any forced or compulsory labor or to any child labor, either directly or indirectly or through sub-contractors;
- to take the necessary steps to ensure occupational health and safety; for their own activities they implement a policy aimed at identifying and preventing health and safety risks; to inform the Saint-Gobain Group of any hazards or risks associated with their products or interventions on Saint-Gobain sites; to implement policies on managing and improving their manufacturing processes, which are designed to limit their environmental footprint throughout the life cycle of the products they supply.
- to carry on their activities in strict compliance with applicable domestic and international legal standards.

The approach and expectations of the Saint-Gobain Group with regard to its suppliers are formalized in the "Suppliers Charter" appended to the Agreement.

The supplier declares that he has read this Charter and complies with its principles. As a consequence, the supplier agrees that Saint-Gobain can conduct audits in order to verify compliance with the Charter.

The Supplier is aware that the Saint-Gobain Group has notably adopted a Timber Policy, which defines the responsible conduct with which Saint-Gobain subsidiaries are required to comply when buying and/or selling timber products. This Policy is part of the response of the Saint-Gobain Group to the major challenges of sustainable development. To do so, the Saint-Gobain Group has decided to invite its suppliers to take part in their process within their own sphere of action or influence.

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The Supplier is mindful and commits to allow the Saint-Gobain Group to apply its Timber Policy attached.

### **Supply**

All or part of the contract may not be allowed to be sub-let to any party without the prior written consent of ECKELT. All contracts and/or orders are deemed as direct business unless otherwise in written agreement.

Should delivery dates be exceeded, ECKELT has the right without notice and without compensation to the Contractor, to cancel the contract, whereby complete costs of damage may be claimed by ECKELT. ECKELT also has the right [exclusive of damage costs] to insist on fulfillment, should the Contractor be instructed to do so within one week.

For orders accepted as direct or indirect business, it is explicitly agreed that the duties stated in § 918 of our General terms & Conditions with respect to extension of time are not applicable. Should the exception exist that business has not been accepted as direct business, and the Contractor cannot fulfill his obligations within the time frame, or at the expected location or not in the agreed manner, then ECKELT has the immediate right, and without compensation to the Contractor, to cancel the contract or at their choice request damages, whereby the duties in accordance with § 918 of our General terms & Conditions with respect to extension of time do not apply.

### **Dispatch**

Should deliveries arrive without suitable dispatch documentation, the delivery will be deemed as incomplete and not accepted, rather will be stored at the Contractors risk and cost.

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The Contractor declares knowledge of the ECKELT dispatch requirements and agrees to them. In particular, the Contractor obliges himself to ensure that packing and means of transport are suitable and in accordance with ECKELT requirements.

The Contractor declares that all of his one-way packaging can be disposed of, through his association with ARA, by and at no cost to ECKELT within the Austrian packaging guidelines [BGBl Nr. 648/1996 version of BGBl II Nr. 364/2006] or should no association with ARA exist, that these can be returned to the Contractor at no cost to ECKELT. ECKELT reserves the right to charge for returning of packaging.

The Contractor is obliged to comply with the Guidelines relating to minimizing waste in packaging.

The Contractor is responsible for any costs in neglecting his obligations in this respect.

Goods will only be received on work days, Monday to Friday, in accordance with the times given on the front page of the order.

Should the exception exist that the Contractor cannot fulfill his obligations within the time frame, then ECKELT has the immediate right, and without compensation to the Contractor, to cancel the contract and request damages, whereby the duties in accordance with § 918 of our General terms & Conditions with respect to extension of time do not apply.

### **Compliance with statutory Environmental and Health guidelines**

Protection of the environment and the adherence to Health and Safety in the work environment are part of the „Principles of Conduct and Action“ of ECKELT.

Should the goods to be delivered, the packaging or other components contain or deemed to have been produced with dangerous elements – regardless of their

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characteristics – these must be identified as such and ECKELT must be informed in written form and be provided with a Safety Data Sheet in accordance with DIN 52.900.

The Contractor is obliged to comply with all statutory requirements which directly or indirectly affect the environment and will indemnify ECKELT against any damages or costs from any Third Party - particular the authorities – should non-compliance with these requirements occur.

The contractor is obliged, in particular, to comply with the REACH ordinance [EU-VO Nr. 1907/2006] with respect to the registration, evaluation, permission and restriction of chemical substances.

Should materials supplied as part of the contract need to be registered at the European bureau for chemical substances, the contractor must guarantee to ECKELT that the substances are pre-registered and/or will be registered within the given periods of the REACH ordinance. The aforementioned registration must cover all uses of the materials by ECKELT.

Should all or part of the materials supplied to ECKELT require a permit or be restricted in any manner, the contractor is obliged to:

- Only supply to ECKELT the materials which are necessary and which have been suitably permitted.
- Fulfill any measures required by the REACH ordinance for any materials supplied which have restrictions.
- Inform ECKELT about any change associated with the material [in particular any materials that are forbidden] and advise about possible alternatives.

The materials must, regardless of whether they are used alone or in combination with other materials, be supplied as follows:

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- In packaging which complies with any regulations with regards to packing of chemicals such as those from the UN or prescribed in „Globally Harmonized System of Classification and Labeling of Chemicals [GHS]“
- With sufficient accompanying documents which will allow ECKELT to use the materials in complete safety. Should it be necessary in the guidelines, the contractor is obliged to provide Safety Data Sheets. These sheets should comply with the applicable guidelines regardless of their language or country of origin of materials. The contractor must regularly update the safety data sheets and inform ECKELT about their status. In addition, the contractor is obliged to inform ECKELT should the supplied products contain any potentially harmful substances, as defined in the REACH ordinance, with a weight percentage over 0.1%.

The contractor is obliged to provide ECKELT with a cancellation period of at least six [6] months, should in the course of the supply any contents or technical characteristics of the materials change or require them to be discontinued. In such a case, the contractor will be liable to ECKELT for all financial consequences which the modification or discontinuation may cause.

### Prices

Prices are as per in our order and are deemed as fixed prices which cannot be increased for any reason. Prices are inclusive of all packing which is the suppliers' responsibility and inclusive of delivery to a specified location.

Should we be obliged to pay in foreign currency which fluctuates against the Euro after contract whereby an increase of greater than 3% occurs, we have the right to cancel the complete order without any costs payable to the Contractor regardless of what they might be.

### Invoicing

Invoices are to be sent, following completion of supply [service] in accordance with the prevalent tax regulations, in duplicate to the ECKELT factory in Steyr.

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Payment will be made by cheque or Bank transfer to an account which is to be advised in writing, within the time frame given on the order. Payment does not constitute acknowledgement of a satisfactory supply [service] nor does it relieve the Contractor of obligations to ECKELT with regards to fulfillment of contract, warranty and compensation against damage.

On-account payments remain of value in proportion to the complete contract amount.

For invoices of a value greater than Euro 2.100,- ECKELT reserves the right to make payment in the form of a bank draft whereby the costs of the draft will be paid by ECKELT.

Claims against ECKELT may not be ceded without strict agreement from ECKELT. Claims change the date of invoice to the date on which ECKELT considers the defect as remedied.

Payment terms are those which have been given by ECKELT on their orders unless otherwise agreed in writing.

**Warranty and Guarantee**

The Contractor is responsible for providing the ordered materials [services] in accordance with all relevant statutory standards [ÖNORM and DIN], and will provide a complete Warranty and Guarantee [24 Months] unless otherwise agreed. The Contractor is also liable for materials and services in his contract even when not self-manufactured or provided.

Acceptance by ECKELT will be done through checking/testing at the location of use and/or by use of the goods [latest 6 Months following receipt thereof]; only after this date does the warranty and Guarantee period begin.

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Defects will be determined within 14 days. ECKELT does not have to comply with examination and complaint clauses in terms of § 377 UGB and Art. 39 CISG. ECKELT has the right in liability situations to remain free of penalties, even when the defect is insignificant or repairable, and may choose to have a free replacement; alteration; free repair of the defect or a suitable discount in price, or to have the defect repaired at the cost of the Contractor. Once the defect has been completely made good will the Warranty and Guarantee period begin. Should statute dictate that a defect repair period is necessary, then that period shall be set at 3 weeks. Should any defect, also when it occurs during delivery, ECKELT has the right to request recall at no cost and for a free-of-charge replacement from the Contractor. Subsequent deliveries from the Contractor may be unacceptable until such times that the defect has been corrected.

ECKELT may, without prejudice, make claims also for damages. The Contractor is also liable for materials and services in his contract even when not self-manufactured or provided even when he has dealt in a correct and business-like manner.

The Contractor must, without request, provide ECKELT with all documentation for storage and processing in German language, otherwise it will be deemed that costs associated thereto will be borne by the Contractor.

Should ECKELT be required to provide a Warranty to a Third Party, the Contractor is liable in accordance with § 933b ABGB.

### **Health, Safety and Employee protection Guidelines**

The Contractor has complete responsibility to ensure that his employees and sub-contractors are aware of the prevailing laws and regulations for Health and Safety; the Guidelines from Eckelt [e.g. „Regulations for Contractors operating on company property“] and the Saint-Gobain EHS Charter, and obliges himself to carry out all operation in accordance with said laws, guidelines and rules.



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ECKELT reserves the right to check the Health and Safety policies of the Contractor. The Contractor must provide ECKELT [and consultants] freedom to inspect these policies at any location and at any time.

Should the Health and Safety policies comply with the above mentioned laws, guidelines and regulations, then ECKELT will carry the costs of any such inspections. Should however, contravention thereto exist, then all costs will be borne by the Contractor.

Should the Contractor and/or his Sub-contractors not fulfill one or the other of these conditions nor resolve them immediately, ECKELT has the right to stop all due payments and/or to cancel the contract in full or in part and to declare the contract as unfulfilled. In this case, ECKELT is not responsible to accept any undelivered materials or services. ECKELT reserves all rights and means of right in case of non-fulfillment of the above conditions; neither negotiation nor attempt at negotiation relieves the Contractor of ECKELT'S rights.

The Contractor is liable for all damages which are a result of non-compliance with the above conditions as well as any from employee associations.

For all other damages which occur to the Contractor and/or his employees, ECKELT will only be held liable for deliberate and gross negligence.

This liability is also applicable when the damage is caused by employees of ECKELT. The Contractor is obliged to employ personnel on ECKELT property which are in agreement with this policy or hold ECKELT free from any liability.

### **Product liability**

The Contractor declares knowledge of the finished product in which his component or material is being used for.

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The Contractor is liable for the full requirements of his supply in the finished product. Should ECKELT be liable as a result of defective supply by the Contractor, the Contractor not only assumes liability for the component but also for all costs associated with the claim against ECKELT.

The Contractor is responsible that he will inform ECKELT and immediately provide ECKELT with any information about any possible or newly discovered defects in the supplied product.

Should the delivered material or component, through discovery of a new defect, no longer be suitable for further use by ECKELT then the Contractor accepts that all stored material will be accepted back at the same price as invoiced.

The contracting parties assume that the contracted goods or materials are a product of the Contractor for which liability as producer is accepted. Should it be determined that the Contractor is not the manufacturer or the products supplied then the Contractor will still be responsible to ECKELT for the goods and/or services supplied.

It is agreed that the Contractor is responsible for any damages suffered by ECKELT. All other conditions or notices are not acceptable.

Should ECKELT be seen as importer, then the Contractor is responsible, should ECKELT make a claim within the law of product liability to provide ECKELT with complete recourse i.e. ECKELT will be reimbursed for all costs associated with the importation of a defective product, even when Austrian or other law does not allow recourse. The Contractor has knowledge of the extensions of Austrian product liability law which deals with the importer as a manufacturer. The Contractor also acknowledges that it is not only personal damage but also asset damages which must be paid, regardless of who suffers.

### Equipment and machines

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The supplied goods must be suitable in accordance with all prevalent safety conditions [law, regulations, standard etc.], in particular the „General Guidelines for Employee protection“, the „Guideline for protection of machine-equipment “and the regulations applicable in Austria for electrical work. These conditions as well as a detailed German description of the equipment and installation/operating instructions are basis for every delivery.

### **Services, Installation and personnel**

Should the contracted services include personnel services [direct or leasing personnel]; the Contractor is responsible for all legally required remuneration [wages/salary/hourly costs, overtime etc.] as well as all expenses and welfare contributions. Should the Contractor be responsible for the supply of temporary personnel, he is also responsible for all payments for the temporary worker, employer and employee contributions to social security. ECKELT cannot be held liable should the Contractor not uphold his duties and is protected against claims in accordance with Austrian § 14 AÜG.

In addition, the Contractor is liable within the contract to comply with all legal conditions with regards to employees, in particular the employment of foreign nationals per the Austrian AusIBG.

Should the Contractor fail to uphold these duties then he will be responsible for all resulting damages, costs etc. in particular also any penalties or fines.

For installation contracts as sub-contractor, the Contractor assumes responsibility for disposing of all packing materials in accordance with legal requirements. This service is included in the agreed prices.

### **Manufacturing information**

Any samples, models, drawings, descriptions etc. provided by ECKELT remain the intellectual property of ECKELT and which is to be marked as such. This supporting material may only be used for the completion of the contracted works and may not be

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made available in any form to any third parties. They must be returned to ECKELT at no cost [unless otherwise agreed] once the contracted works have been completed.

### **Patents, Copyright, intellectual property rights**

The Contractor must protect ECKELT from any claims which might result from patent infringement, copyright or intellectual property rights with regards to all materials and services provided as part of the contract. The Contractor must guarantee ECKELT unlimited use of the supplied materials and or services. In addition, the Contractor assures ECKELT that all such rights and protection are included in the agreed price.

### **Advertising**

Should the Contractor wish to use the end product or building where the end product is installed for advertising or marketing purposes, it will be necessary to obtain written authority to do so from ECKELT as it may be our intention to include the project in our reference list which has a particular marketing value.

Should ECKELT give permission to use the end product for marketing purposes [publication of any kind e.g. literature, Internet, Photos, exhibition materials etc.], then ECKELT GLAS GMBH must be noted as the client.

Should the Contractor not comply with this condition, a penalty of 10 % of the contract value will be levied against the Contractor. This will be notified in written form from ECKELT to the Contractor and is in accordance with the judicial right of reduction [§ 1336 Austrian ABGB]. ECKELT may choose to use outstanding payments to the Contractor for this purpose.

### **Place of fulfillment**

The legal place of fulfillment is in all cases ECKELT GLAS GMBH, Resthofstraße 18, A-4403 Steyr, unless otherwise agreed in writing. Provision of goods and services is always at the suppliers risk and expense. This also applies should ECKELT determine that the goods be supplied to an alternate location other than the place of fulfillment.

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Should parts of these purchasing conditions become, for whatever reason, legally ineffective, the remainder will continue to be legally effective. At the point where the ineffectiveness occurs, ECKELT will determine a suitable business-like solution.

**Jurisdiction, Law**

The place of jurisdiction for both parties is the applicable Court in Steyr. Austrian Law will apply.

Should any claims arise, the Contractor is not permitted to withhold or stop any due deliveries or services.

# TIMBER POLICY

## SAINT-GOBAIN GROUP

MEMO, V1.0

09/2013



*Saint-Gobain's timber policy defines the responsible conduct with which Saint-Gobain subsidiaries are required to comply when buying and/or selling timber products. It specifies a set of common operating rules.*

This policy is part of the **response of the Saint-Gobain Group to the major challenges of sustainable development.**

It reflects our determination to set an exemplary standard for all our products throughout their life-cycle. Moreover it contributes to our objective of maximum possible reduction of the impact of our activities.

We have defined three areas of action directly inspired by the Group's Principles of Conduct & Action.

## RESPECT FOR OTHERS

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### Ensuring respect for fundamental rights of local populations

We are committed to:

- ensuring that we buy and sell timber harvested in countries or concessions that comply with international conventions.
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## CARING FOR THE ENVIRONMENT

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### Using timber harvested in responsibly managed concessions in order to preserve natural resources

We are committed to:

- giving priority to recycled products first in our purchasing and sales policies, then either PEFC/FSC certified products or timber from responsibly managed forests.

### Contributing to biodiversity preservation

We are committed to:

- adapting our sales and purchasing policy depending on the level of species vulnerability.
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## RESPECT FOR THE LAW

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### Ensuring the legality of the timber we import, use and sell

*In particular in compliance with the European Timber Regulation (EUTR) under the FLEGT action plan in Europe and with the Lacey Act in the US.*

We are committed to:

- gradually developing a traceability system for all the timber products we buy and sell,
- implementing a system to evaluate and control risks linked to the timber trade.