

## General Purchasing Conditions

### I. General

- These general purchasing conditions (GPCs) are the exclusive terms that govern the purchase of goods ("goods") and services ("services") by Mühlbauer Inc. ("Mühlbauer," "we," "our" or "us") from the supplier named in the purchase order ("Purchase Order") accompanying these GPCs ("Supplier"). A current version of the GPC is available online at [www.muehlbauer.com/general-terms](http://www.muehlbauer.com/general-terms).
- These GPCs apply exclusively. The Purchase Order and these GPCs (collectively, the "Agreement") comprise the entire agreement between Mühlbauer and Supplier, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. These GPCs prevail over any of Supplier's general terms and conditions of sale regardless whether or when Supplier has submitted its sales confirmation or such terms. Fulfillment of the Purchase Order constitutes acceptance of these GPCs. Divergent, contrary or supplementary terms and conditions of Supplier shall become a part of the Agreement between the parties only if and insofar as Mühlbauer has explicitly accepted such terms in writing. Such acceptance only applies to a specific purchase by Mühlbauer and shall not apply to each and every purchase of goods and/or services by Mühlbauer from Supplier.
- Orders only become binding upon Mühlbauer if we have produced the Purchase Order in written form. We do not recognize verbal agreements. In particular, changes to Purchase Orders made via telephone shall only become binding upon Mühlbauer if we have confirmed such changes in writing.
- Notwithstanding anything contained herein to the contrary, if a written contract signed by both parties is in existence covering the sale of goods and services covered hereby, the terms and conditions of such contract prevail to the extent they are inconsistent with these GPCs.
- Legally relevant declarations and notifications of the supplier regarding the contract (e.g. deadlines, warning, withdrawal) must be submitted in writing (e.g. letter, e-mail, fax). Legal formal regulations and further evidence, especially in case of doubts regarding the legitimation of the declarant, remain unaffected.

### II. Offers, conclusion of contracts, extent of orders and prices

- Supplier will provide offers and cost estimates free of charge, unless a contrary written agreement has been made by Mühlbauer and Supplier.
- Supplier must inform us about obvious errors (e.g. typing or calculating errors) and any incomplete information in our Purchase Order, including, but not limited to, the order documents before accepting the Purchase Order, so we can correct or complete it. If Supplier fails to notify Mühlbauer in writing of any such errors, the Purchase Order is not binding upon Mühlbauer.
- Within 4 business days after receipt of a Purchase Order by Supplier, Supplier agrees to provide Mühlbauer with written confirmation of receipt of such Purchase Order. Such written confirmation must include Mühlbauer's order number, article number, and such other information as Mühlbauer may reasonably request from time to time. Shipment of goods or the provision of services by Supplier within 4 days after receipt of the Purchase Order in accordance with the terms of the Agreement also constitutes confirmation of receipt of such Purchase Order. Failure of Supplier to confirm receipt or failure to confirm shipment within such 4 day period is deemed a rejection by Supplier of Mühlbauer's Purchase Order and Mühlbauer may issue a new Purchase Order to Supplier for the provision of the requested goods and/or services.
- We reserve the right to reduce or increase the amount of goods and/or services specified in the Purchase Order or to make changes, modifications or adaptations to the model, type or other specification of the goods or services, in particular in respect to new technical developments as long as this means an improvement for us, as well as to require a certain time and place of delivery or set up. If, as a result of such changes, Supplier has an actual cost increase and/or delivery is or will be delayed as a direct result of such changes (and for no other reason), then Mühlbauer and Supplier will negotiate an appropriate adjustment to the compensation paid by Mühlbauer to Supplier.
- The prices listed in our Purchase Order are maximum prices and remain binding even if Supplier experiences an increase in prices. However, in the event Supplier reduces the prices for goods and/or services ordered by Mühlbauer, Supplier must provide Mühlbauer with the same reduction in prices for such goods and services.
- Unless otherwise agreed to in writing by the parties, the prices listed in the Purchase Order include all packaging, transportation costs to the delivery location, assembly and installation costs, insurance, customs duties and fees and applicable taxes, including, but not limited to all sales, use and excise taxes.
- No increase in prices is effective, whether due to increased material, labor, transportation costs or otherwise, without the prior written consent of Mühlbauer.
- If the ordered goods fall under export control or other restrictions relating to marketability or salability according to U.S. law, Supplier must inform us in writing prior to entering into the Agreement. If this information is not provided, we reserve the right to withdraw from the Agreement without penalty or compensation to Supplier.
- For goods that are ordered by Mühlbauer for the first time, Supplier shall provide to Mühlbauer, without further request, a long-term Supplier

declaration or information on the country of origin and customs code for such goods.

### III. Deliveries and terms of delivery

- Supplier shall deliver the goods in the quantities on the date(s) specified in the Purchase Order or as otherwise agreed in writing by the parties ("Delivery Date"). Supplier shall inform us immediately and in writing if any situation occurs (or if Supplier becomes aware of reason or factor) that causes or may cause to a delivery delay and provide Mühlbauer with a new proposed Delivery Date that, if accepted by Mühlbauer, is binding upon Supplier.
- Supplier shall provide the services to Mühlbauer as described and in accordance with the schedule and terms set forth in the Purchase Order and these GPCs.
- If Supplier fails to deliver the goods in full on the Delivery Date or if the services ordered by Mühlbauer, including, but not limited to the manufacture, installation, set up, testing and placing into operation of immovable objects, such as machines to be permanently fixed, complete machinery and industrial facilities, and other devices, are not completed on the Delivery Date, then Mühlbauer may terminate this Agreement immediately by providing written notice to Supplier. In lieu of termination, Mühlbauer may elect to allow Supplier to continue performance, in which case Supplier shall provide a 1% discount to Mühlbauer, per full calendar week of delay, on the net Purchase Order amount, with a maximum 5% discount on the net Purchase Order amount. Regardless of whether Mühlbauer elects to terminate the Agreement, Supplier is liable for, and shall pay to Mühlbauer, any and all damages, losses, claims, and reasonable costs and expenses directly attributable to Supplier's failure to deliver the goods and/or services on the Delivery Date, including, but not limited to, production shortfall, refused orders, and a loss of wages incurred by Mühlbauer.
- Supplier acknowledges and agrees that time is of the essence with respect to Supplier's obligations hereunder and the timely delivery of goods and services, including all performance dates, timetables, project milestones and other requirements in this Agreement.
- Acceptance by Mühlbauer of goods or services delivered after the specified Delivery Date does not constitute a waiver of any rights or claims by Mühlbauer.
- If Supplier delivers any partial, short- or excess quantity of the goods ordered, Mühlbauer may reject all or any excess goods. Any such rejected goods shall be returned to Supplier at Supplier's sole risk and expenses. If Mühlbauer does not reject the goods and instead accepts the delivery of goods at the increased or reduced quantity, the price for the goods shall be adjusted on a pro-rata basis.
- Supplier shall include shipping documents with every delivery of goods. Such shipping documents must contain Mühlbauer's order number and article number for each item, the material designation and the weight of the shipment. In addition, every delivery must also contain such other documents, such as test reports and material quality certificates, as agreed upon by the parties.
- In the event express transport is necessary to meet the Delivery Date, Supplier shall be solely responsible for the additional costs of such excess transport, unless express transport is necessary as a result of any delay by Mühlbauer.
- Supplier shall not assign, transfer, delegate or subcontract any or its rights or obligations under this Agreement without the prior written consent of Mühlbauer. Any purported assignment or delegation in violation of this provision shall be null and void. No assignment or delegation shall relieve the Supplier of any of its obligations hereunder and Supplier shall be solely responsible for the performance of any third party.

### IV. Risk of loss

- Supplier shall strictly comply with the delivery instructions provided by Mühlbauer. Supplier shall deliver all goods to the address specified in the Purchase Order ("Delivery Point"). Deliveries to Mühlbauer must be made during normal business hours or as otherwise instructed by Mühlbauer. We retain the right to refuse to accept deliveries, if we have not received proper dispatch and shipping documents on the day of delivery and we shall not be in default of acceptance, or this Agreement, as a result of such refusal. If Mühlbauer incurs any damages, losses, costs or expenses as a result of Mühlbauer's refusal to accept goods as a result of Supplier's failure to meet its obligations under this Agreement, Supplier shall be solely responsible for, and shall pay to Mühlbauer the amount of such damages, losses, costs and expenses.
- Supplier shall pack all goods for shipment according to Mühlbauer's instructions or, if there are no instructions, in a manner sufficient to ensure that the goods are delivered in undamaged condition.
- Delivery shall be made DDP Delivery Point. The Purchase Order number must appear on all documents, shipping labels, bills of lading, air waybills, invoices, correspondence and any other documents pertaining to the Purchase Order.
- Supplier shall bear all costs associated with packaging and transportation, except as otherwise agreed in writing by the parties. Supplier must provide Mühlbauer prior written notice if it requires Mühlbauer to return any packaging materials. Any return of such packaging material shall be made at Supplier's risk of loss and expense.

- The values determined at our particular site are authoritative for amounts and weights.

#### **V. Services provided at a Mühlbauer facility**

- Supplier is responsible, during the performance of all services and work carried out both by Supplier and its employees, agents and subcontractors, for compliance with all of Mühlbauer's rules, regulations and policies, including but not limited to, security procedures concerning systems and data and remote access thereto, building security procedures, and general health and safety practices and procedures.
- Supplier shall take all necessary precautions to prevent any injury to persons or damage to property, including following any rules, procedures or other requirements of Purchaser.
- Supplier and its employees, agents and subcontractors are responsible for the care of the safe storage of their equipment and property brought to any Mühlbauer facility. Mühlbauer does not assume, and shall not be liable for, any damage, destruction, theft of loss with respect to such equipment and property.

#### **VI. Intellectual property**

- Supplier represents and warrants that all goods will not infringe or misappropriate any patent rights or other industrial or intellectual property rights of any third party.
- Supplier shall, at its expense, defend, indemnify and hold harmless Mühlbauer and its parents, affiliates, subsidiaries, successors or assigns and its and their respective directors, managers, officers, shareholders, members and employees (collectively, the "Mühlbauer Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost or expense, including attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers (collectively, "Losses") arising out of or in connection with any claim that any Mühlbauer or Mühlbauer Indemnitee's use or possession of the goods or use of the services infringes or misappropriates the patent, copyright, trade secret or other intellectual property right of any third party. In no event shall Supplier enter into any settlement without Mühlbauer's or Mühlbauer Indemnitee's prior written consent.

#### **VII. Works made for hire**

- Sketches, models, drawings, documentation, software, dies, and other materials (collectively, "Works") designed, created or produced by Supplier for Mühlbauer are considered "works made for hire" specifically commissioned by Mühlbauer and are, and shall, remain the sole property of Mühlbauer. To the extent that rights, title and interest in and to such Works do not automatically vest in Mühlbauer, Supplier hereby irrevocably assigns all such right, title and interest in and to the Works to Mühlbauer and agrees to execute and deliver any documents that Mühlbauer may reasonably request to transfer and/or confirm such ownership.
- Supplier shall be solely responsible for any loss, damage, destruction or misuse of any Work until such Work is duly and completely returned to Mühlbauer.
- Supplier shall return all Works to Supplier, without further request by Mühlbauer, upon completion of any work or services relating to, or requiring use of, such Works.

#### **VIII. Billing and payment**

- Supplier shall issue an invoice to Mühlbauer after conforming delivery of goods or performance of services. Invoices shall contain the Purchase Order number, item number, description of goods or services, unit prices and total purchase price. Incomplete or incorrect invoices will not be processed for payment by Mühlbauer.
- Mühlbauer shall pay all properly invoiced amounts due to Supplier after acceptance of the goods and/or services by Mühlbauer and receipt by Mühlbauer of a correct invoice. Mühlbauer reserves the right to withhold or delay payment in the event of an incorrect or incomplete invoice, and in such event any discounts or other price reductions shall remain unaffected and continue to be applicable.
- Subject to the foregoing, unless otherwise agreed in writing by the parties, payment shall be made on the terms of 3% 14 days, net 30 days. Cash discount periods shall be computed from either the date of acceptance of the goods or the date an acceptable invoice is received, whichever is later. In the event payment is made by bank transfer, payment is considered timely received by Supplier if Mühlbauer's bank receives the transfer order before expiry of the payment deadline. Mühlbauer is not responsible for any delays caused by the financial institutions involved in the payment procedure.
- Mühlbauer will not pay any interest.
- Without prejudice to any other right or remedy we may have, we reserve the right to withhold any amounts disputed by us in good faith and will not be deemed in default of this Agreement.
- Supplier shall not have the right to offset against our claims, except for counterclaims that we have acknowledged in writing we do not dispute or that have been established against us as final and absolute.

#### **IX. Non-disclosure and reservation of title**

- Supplier will keep confidential all non-public, confidential or proprietary information of Mühlbauer, including, but not limited to, specifications, samples, designs, images, plans, drawings, calculations, documents, data, business operations, customer lists, pricing, discounts, rebates, software, source code, tools, models, technical, process, economic and other items, information and materials (collectively, "Confidential Information") disclosed or provided by, or on behalf of, Mühlbauer, to Supplier in connection with a Purchase Order or this Agreement, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," and will not divulge, export, disclose, disseminate, or use, directly or indirectly, any such Confidential Information without first obtaining Mühlbauer prior written consent. If any reproduction of Confidential Information is made with prior consent, Supplier shall provide this notice to the party receiving the Confidential Information. Upon completion or termination of a Purchase Order, or upon the request of Mühlbauer, Supplier will promptly return to Mühlbauer all Confidential Information and any and all copies thereof. Mühlbauer shall be entitled to injunctive relief for any violation of this Section IX.
- Supplier shall protect the Confidential Information using at least the same degree of care it takes to protect its own confidential or proprietary information.
- In no way limiting the foregoing, until returned to us, Supplier must keep all tangible Confidential Information and other materials provided to Supplier safe, separate and insured to an appropriate extent against destruction and loss at the expense of the supplier.

#### **X. Warranty**

- Supplier represents and warrants to Mühlbauer that all goods: (i) will be free from defects in workmanship, material and design; (ii) will conform to applicable specifications, drawings, designs, samples and other requirements specified by Mühlbauer; (iii) will be fit for their intended purpose and operate as intended; (iv) will be merchantable; (v) will be free and clear of all liens, security interests or other encumbrances; and (vi) will not infringe or misappropriate any third party's patent or other intellectual property or proprietary rights. These warranties survive any delivery, inspection, acceptance and payment of or for the goods by Mühlbauer.
- Supplier represents and warrants to Mühlbauer that all services will be performed in a professional and workmanlike manner and using personnel of required skill, experience and qualifications.
- The warranties set forth in Sections X.1 and X.2 above are cumulative and in addition to any other warranty provided by law or equity. Any applicable statute of limitations runs from the date of Mühlbauer's discovery of the noncompliance of the goods or services with the foregoing warranties. Supplier shall, at Mühlbauer's election, but at Supplier's own cost and expense, (i) repair or replace the defective or nonconforming goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective nonconforming goods to Supplier and the delivery of repaired or replacement goods to Mühlbauer, (ii) repair or re-perform the applicable services, or (iii) refund to Mühlbauer the amount paid for such defective or non-conforming goods or services.
- There is no limitation in the statutory liability and/or warranty obligations of Supplier.
- The scope of warranty to be provided by Supplier includes any and all parts and other items or materials produced or provided by its suppliers and the deliveries of the suppliers respectively.
- Mühlbauer has the right to inspect the goods on or after the date the goods are actually delivered to Mühlbauer. Mühlbauer's right of inspection extends for a period of 30 days after receipt of the goods by Mühlbauer, and any notice of defect or nonconforming goods shall be considered timely made if sent by Mühlbauer within 14 calendar days after the end of such 30-day inspection period. Mühlbauer, at its sole option, may inspect all or a sample of the goods, and may reject all or any portion of the goods if it determines the goods are nonconforming or defective. If Mühlbauer rejects any portion of the goods, Mühlbauer has the right, effective upon notice to Supplier, to (i) rescind the Agreement in its entirety; (ii) accept the goods at a reasonably reduced price; or (iii) reject the goods and require replacement of the rejected goods. If Mühlbauer requires replacement of the goods, Supplier shall, at its expense replace the nonconforming or defective goods and pay for all related expenses, including, but not limited to, removal and reinstallation of the nonconforming or defective good, transportation charges for the return of the defective goods and delivery of replacement goods. If Supplier fails to timely repair the goods or deliver the replacement goods, Mühlbauer may replace them with goods from a third party and charge Supplier the cost thereof (including, but not limited to the replacement cost of the goods and other costs and expenses incurred by Mühlbauer in removing and reinstalling or replacing the goods), demand a price reduction, and/or terminate this Agreement. Any inspection or other action by Mühlbauer under this Section X.6 shall not reduce or otherwise affect Supplier's obligations under this Agreement, and Mühlbauer shall have the right to conduct further inspections pursuant to the terms set forth above after Supplier has carried out its remedial actions.

7. In the case of immovable objects, such as permanently fixed machinery and equipment, Mühlbauer's official written acceptance is required. We are not obliged to accept the immovable object(s) until such object has been correctly installed, set up and tested, and is operational. Additional terms and conditions for installation, testing and operation may apply.
8. The foregoing remedies are in addition to, and not in lieu of, any other rights and remedies otherwise available to Mühlbauer, whether at law or in equity.

#### **XI. Indemnification; insurance**

1. Supplier shall indemnify and hold Mühlbauer, and its officers, directors, employees, agents and customers (collectively, the "Mühlbauer Indemnitees") harmless from and against any and all damages, claims, losses, expenses, costs, obligations, and liabilities, including attorney, expert and professional fees ("Loss and Expense"), suffered, directly or indirectly, by a Mühlbauer Indemnitee by reason of, or arising out of, (i) any breach of any representation or warranty made by the Supplier under this Agreement, (ii) any failure by Supplier to perform or fulfill any of its covenants or agreements under this Agreement, (iii) any injury to persons or damage to property during the progress of the work referred to in Section V, which may result in any way from any act or omission of Supplier, its agents, employees or subcontractors, except to the extent that any such injury or damage is due solely and directly to Mühlbauer's negligence, as the case may be, (iv) any litigation, proceeding or claim by any third party relating in any way to the obligations of Supplier under this Agreement, or (v) any recall campaign that includes any goods provided by Supplier. Without limiting the generality of the foregoing indemnities, Supplier hereby waives any immunity it may have as an employer or otherwise pursuant to any workers' compensation or other statute, law or regulation, whether Mühlbauer is seeking indemnity pursuant to this Agreement or in any other manner with respect to any claim.
2. Supplier shall obtain and maintain Comprehensive General Liability (including Contractual Liability coverage insuring the liabilities assumed above), Automobile Liability, Employers' Liability and Product Liability insurance with limits as reasonably required by Mühlbauer, as well as appropriate Workers' Compensation insurance as will protect Supplier from all claims under any applicable workers' compensation and occupational disease acts. At Mühlbauer's request, Supplier will furnish to Mühlbauer a certificate of insurance completed by its insurance carrier(s) certifying that the required insurance coverage's are in effect, with waiver of subrogation, naming Mühlbauer as an additional insured, and containing a covenant that such coverage and will not be canceled or materially changed until ten (10) days after prior written notice has been delivered to the Mühlbauer.
3. Nothing in this Agreement shall exclude or limit (i) Supplier's liability under Sections VI and IX hereof, or (ii) Supplier's liability for fraud, personal injury or death caused by its negligence or willful misconduct.

#### **XII. Governing law; dispute resolution**

1. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without giving effect to any choice of conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia.
2. With respect to any dispute, claim or controversy arising under, out of, in connection with or relating to the Agreement, or any course of conduct, course of dealing, statements (oral or written), or actions of Mühlbauer or Supplier relating to the Agreement, Supplier agrees that any action at law, suit in equity or other judicial proceeding for the enforcement of the Agreement or any provision hereof shall be instituted only in the United States federal or state courts located within the Commonwealth of Virginia, provided that Mühlbauer at its option may elect to sue Supplier at its principal place of business or in any jurisdiction in which the goods or other assets of Supplier may be found.
3. In the event of any suit, action or proceeding of any nature related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs, and expenses incurred in such dispute, including any appeal thereof.

#### **XIII. Other provisions**

1. Supplier can only assign claims against us to third parties with our written consent; this shall also apply to assignment of claims in the framework of a factoring contract. If claims are assigned without our consent, we may terminate this Agreement. The same applies if insolvency proceedings against the Supplier are initiated or moved for.
2. If any provision of this Agreement is invalid, illegal or unenforceable, the validity of the other provisions of this Agreement shall remain otherwise unaffected.
3. The place of performance is the Mühlbauer registered office where the delivery of goods and/or services are destined.
4. No waiver by Mühlbauer of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Mühlbauer. No failure to exercise or delay in exercising, any right, remedy, power or privilege arising from this Agreement operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy,

- power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
5. Neither party shall be liable to the other for any delay or failure in performing its obligations under this Agreement to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Force Majeure Event"). Supplier's economic hardship or changes in market conditions are not considered Force Majeure Events. Supplier shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Force Majeure Event are minimized and resume performance under this Agreement. If a Force Majeure Event prevents Supplier from carrying out its obligations under this Agreement for a continuous period of more than 30 days, Mühlbauer may terminate this Agreement immediately by giving written notice to Supplier.
6. The relationship of the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have the authority to contract for or bind the other party in any manner.
7. This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy or any nature whatsoever under or by reason of this Agreement.
8. All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and addressed to the parties at the address set forth on the face of the Purchase Order or such other address that may be designated by the receiving party in writing. All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a notice is effective upon receipt of the receipt party if delivered in person, the next business day if sent by nationally recognized overnight courier, or three business days after deposit in the U.S. mail if sent by registered or certified mail, and in each case provided that the sender has complied with the provisions of this Section XIII.8.
9. The provisions of these GPCs which by their nature should apply beyond their terms will remain in force after any termination or expiration of this Agreement, including but not limited to, the following provisions: Sections IV, IX, XI, XII, and XIII.
10. These GPCs may only be amended or modified in a writing stating specifically that it amends these GPCs and is signed by an authorized representative of each party.