

STANDARD TERMS AND CONDITIONS OF PURCHASE

OF SHANGHAI MANKIEWICZ INNOVATIVE COATING CO., LTD. REGARDING ACQUISITION OF PRODUCTION MATERIAL

I. Applicable Conditions

These Standard Terms and Conditions of Purchase (hereinafter referred to as "Terms and Conditions") set forth the terms under which the Purchaser (namely Shanghai Mankiewicz Innovative Coating Co., Ltd.) offers to purchase goods and/or services from the Supplier. When Supplier accepts the Purchaser's offer, either by acknowledgement, delivery of any goods and/or commencement of performance of any services, a binding contract shall be performed. In such case, solely these Terms and Conditions shall apply and the Purchaser is not bound by and explicitly rejects Supplier's general conditions of sale and any other dissenting terms and conditions or conditions to the contrary, unless the validity of these is expressly consented to in writing. These Terms and Conditions shall also apply if the Purchaser accepts the delivery in the knowledge of conflicting or deviating conditions of the Supplier. These Terms and Conditions are also applicable for all future business transactions between the contract partners.

II. Purchase Order / Conclusion of an Agreement

1. Delivery agreements (purchase order and acceptance) and delivery schedules are only valid if they have been agreed upon in writing; the same shall apply for amendments and supplements to the delivery agreements and delivery schedules. Verbal commitments by the Supplier's proxies or other persons whom it may use to perform its obligations need to be confirmed by the Supplier in writing.
2. The Purchaser is bound to its purchase order for one week. Individual delivery call-offs shall become binding at the latest when the Supplier does not object within five working days after receipt thereof.
3. Within reasonable limits, the Purchaser may demand modifications of the goods from the Supplier with regard to construction and design. Any consequences resulting thereof, in particular with regard to additional or reduced costs as well as delivery dates, shall be settled in an appropriately amicable manner.
4. The INCOTERMS are applicable in the version which is valid at the time the contract is concluded.
5. The Purchaser is entitled to terminate the contract, if the Supplier ceases or announces its intention to cease to carry on its business, or enters into liquidation or is declared insolvent or bankrupt or is deemed to be insolvent or unable to pay its debts, files a voluntary petition in bankruptcy or any voluntary proceeding relating to insolvency, receivership, liquidation, assignment for the benefit of creditors or similar proceedings, if it is obligated to submit a property status report in accordance with § 241 Civil Procedure Law of the People's Republic of China or if it becomes subject to a petition in bankruptcy, insolvency proceedings or any similar proceedings related to insolvency.

III. Prices and Conditions of Payment

1. The price indicated in the order by the Purchaser is binding.
2. Unless explicitly confirmed otherwise by Purchaser in the purchase

order and subject to the acceptance of the goods or services by the Purchaser, the invoice is to be settled within 30 days from the due date of the claim for payment and receipt of both the invoice and the goods resp. rendering of the service. The later date is decisive for the due date. Payment is to be made under restriction of invoice verification.

If early deliveries are accepted, the due date is based on the delivery date which has been agreed upon.

3. Unless otherwise agreed, the price includes delivery DDP (Incoterms 2010) to the delivery address agreed upon.

4. Payment will be made via bank transfer or cheque. Any Payment made does not constitute an acceptance of any conditions or prices and has no influence on the Purchaser's rights in case of deficiencies.

5. In case of a faulty delivery, the Purchaser is entitled to defer the proportionate share of payment until due fulfillment.

6. Without the Purchaser's prior written approval, the Supplier is not authorized to assign any claims it may have against the Purchaser or to have these claims collected by third parties.

7. Forwarding advice, Bills of Lading, invoices and any correspondence must contain the Purchaser's Order No.

8. Invoices can only be processed if these include the designated order no. and are issued to the correct invoice recipient – in accordance with the specifications in the order. The Supplier is responsible for any consequences which may arise due to non-compliance with this obligation, unless it can prove conclusively that it is not responsible for these consequences.

9. The Purchaser is entitled to the right of offsetting and the right for retention in accordance with the statutory scope.

10. Any retention of title on behalf of the Supplier shall be invalid.

IV. Forwarding Instructions

1. The delivery note – in duplicate – is to be enclosed in the consignment together with the packing slip; should this concern dutiable goods (duty unpaid goods) the Supplier must inform the Purchaser accordingly without explicit request and submit all relevant documents for customs clearance. Order no. gross and net weight, quantity and type of packing (disposable or reusable) as well as place of unloading and consignee must be noted on all shipping documents and on the outer packing. Individual containers shall be marked with the material description, material number, batch number, production date, shelf life and net weight. If the Supplier fails to provide the aforesaid information, the Purchaser shall not be responsible for any delays in processing.

2. The Supplier is responsible for dispatching the goods and selecting the most favourable and suitable method of transport unless otherwise agreed. The Supplier must pack, mark and dispatch hazardous products in accordance with any and all relevant national and international regulations.

3. The Supplier shall be liable for any damage caused by the non-compliance with these provisions and shall be responsible for any costs thereby

incurred.

V. Delivery Dates and Delivery Deadlines

1. The dates and deadlines agreed upon are binding. The date when the goods are received by the Purchaser is decisive for compliance with the delivery date or delivery deadline. Unless otherwise agreed, delivery „DDP“ (Incoterms 2010) shall apply, including packaging.
2. A delivery prior to the agreed delivery date is only permitted if the Purchaser has explicitly agreed thereto. In case of an unconfirmed early delivery, the Purchaser reserves the right to return the goods to the Supplier at the Supplier's risk of loss and expense. If the Purchaser does not agree to such early delivery and does not return the goods to the Supplier, the goods shall be stored by the Purchaser at the Supplier's risk of loss and expense until the delivery date originally agreed upon. For the adherence to the agreed term of payment only the agreed delivery date shall apply.
3. Should the Supplier anticipate any problems regarding production, material supply, compliance with the delivery date or any similar circumstances, which may hinder it from delivering on time or delivering the quality agreed upon, the Supplier shall immediately notify the Purchaser in writing.
4. The unconditional acceptance of the delayed delivery or services shall not be deemed as any waiver of the Purchaser's entitlements, rights and claims due to the delayed delivery or services.

VI. Delayed Delivery

1. The Supplier shall be liable without any restrictions whatsoever for the procurement of all supplies and services – even without fault – which are required for the delivery (full assumption of the procurement risk).
2. The Purchaser is entitled to any entitlements, rights and claims it may have under law in the case of delayed delivery. In particular, the Purchaser is entitled to claim damages – instead of accepting the service or requesting cancellation – following the expiration of a reasonable time frame for subsequent delivery. Furthermore, the Purchaser is by all means entitled to claim against the Supplier and the Supplier shall reimburse and hold the Purchaser harmless from any and all costs, expenses and damages of whatsoever kind or nature resulting from delay in delivery or services and/or resulting from non-fulfilment, including but not limited to indirect, incidental, consequential damages and loss of profit and losses arising from service interruption.
3. In the case of delayed delivery, the Purchaser is entitled to demand a lumpsum of 0.2% of the net order value per working day of delay for damages caused by delay, however no more than 10% of the net order value. All further statutory rights remain unaffected. The Supplier is entitled to provide evidence to the Purchaser that no damages or substantially lower damages have occurred due to the delay.
4. Partial deliveries are not permitted unless the Purchaser has previously agreed hereto in writing.

VII. Force Majeure

Force Majeure, i.e. any objective circumstances to the extent they are unforeseeable, unavoidable and unsurmountable, such as earth quake, storm, flood, fire or other acts of nature, epidemics, SARS, war, acts of terrorism, riot, public disturbance, government actions labour disputes, disturbances, official sanctions (including embargo and compulsory approvals) and other unforeseeable, unavoidable, unsurmountable and serious occurrences release the contract partners from their obligation to perform duties for the duration of the disruption and to the extent of the effects of such disruption and no contract partner shall be responsible for any damage, increased costs or losses which the other contract partner may sustain by reason of such failure or delay of performance.

The contract partners are obligated to provide the necessary information without delay and to adapt their duties to the modified circumstances in good faith and within just and reasonable bounds. If the consequences of such an event cannot be remedied within six (6) months from the occurrence, the contract partners shall through consultations decide whether to modify or terminate this contract according to the effects of the event of Force Majeure on the performance of the contract.

VIII. Warranty of the Supplier

The Supplier guarantees for a period of three years commencing from the date of delivery to the Purchaser or the Purchaser's customer, if shipped directly to such customer, that all deliveries, goods and services are free from any defects due to faulty materials or manufacturing, fit for use for their designated purpose and they fully comply with the specifications as well as the quality standards as provided by the Purchaser in writing, the purchase order and/or contract and these Terms and Conditions. Without limiting the generality of the foregoing, the Supplier further represents and warrants the following conditions with regard to the delivery items:

1. All deliveries and services as agreed upon in the specification shall be executed resp. rendered in strict accordance therewith and in the appropriate professional manner using the most suitable materials as well as in compliance with the latest and best available technology, the generally accepted technical and occupational health safety regulations of the authorities and trade associations and the relevant legislation.
2. If the objects delivered are machines, devices or installations, they must comply with the relevant GB requirements of the safety regulations for such machines, devices or installations which are applicable at the time of fulfillment of the contract and must have a CCC certification.
3. In case the Supplier becomes aware of any deviations of the deliveries or services from the conditions assured, the Supplier undertakes to inform the Purchaser immediately thereof, no matter if the delivery has already taken place, or not.

IX. Examination/Notice of Defects

An incoming goods inspection by the Purchaser is limited to the verifying of the shipping order, the quantity of units delivered and checking for transport damage clearly visible externally on the transport packaging, without carrying out an individual inspection (limited receiving inspection). The Purchaser shall notify the Supplier at the latest fourteen (14) days from the receipt of the goods of any defects identified during this limited receiving inspection. Further, the Purchaser shall notify the Supplier of other defects discovered during the normal course of business within fourteen (14) days of the discovery of the defects, however, in any case not after expiration of the warranty period set out under Section VIII above. To the extent described herein, the Supplier hereby waives all objections relating to commercial obligations to inspect and submit notification of defects.

X. Liability for Defects

1. The Purchaser is entitled to any and all warranty claims and entitlements it may have under law and/or due to these Terms and Conditions and the related contract or any other rights it may be entitled to under the law.
2. In case of delivery of defective or non-conforming goods, the Purchaser may demand the following, if nothing else has been agreed upon:
 - a) Before the start of production, the Purchaser has to give the Supplier the opportunity, at the Purchaser's discretion, (i) to promptly sort out and to remedy any defects or (ii) to replace the goods, unless this is unacceptable for the Purchaser. If the Supplier fails to fulfil either (i) or (ii) above or if it does not comply with (i) or (ii) immediately, the Purchaser may obtain replacement goods from another source and terminate the order and/or contract without any further grace period

whatsoever and return the goods at the Supplier's risk of loss. If the same goods are repeatedly delivered defectively, the Purchaser has the right to cancel the contract also with effect for the unfulfilled scope of delivery, if, after giving a written warning, it receives another defective delivery.

- b) If the defect is detected after start of production, the Purchaser may, at its sole discretion - demand supplementary performance and reimbursement of the transport costs necessary for such supplementary performance as well as assembly and disassembly costs (labour costs; material costs) or - reduce the purchase price. If the Supplier fails in either (i) or (ii) above or if it does not comply with (i) or (ii) immediately, the Purchaser may obtain replacement goods from another source and withdraw from the order and/or contract without any further deadline whatsoever and return the goods at the Supplier's risk. If the same goods are repeatedly delivered defectively, then the Purchaser has the right to cancel the contract after written notice, in case of another defective delivery for the unfulfilled delivery.
- c) Irrespective of when the defect is discovered, the Supplier shall be obliged to provide the Purchaser with a preliminary statement on the cause of the defect within 48 hours of receipt of the notice of defect. In order to ensure that future deliveries are free from defects, short-term corrective measures shall be implemented as soon as possible, at the latest within 7 calendar days. Permanent corrective action shall be taken no later than 21 calendar days after receipt of the notice of defect and shall be documented in writing in an 8D report.
- d) The right to claim damages, whether instead of or in addition to performance, remains reserved explicitly. Irrespective of the Supplier's fault, the Supplier shall be liable for the supplies and performances which it procures as well as for its own deliveries and performances in any case.

3. In case of defective deliveries, the Purchaser's claims with regard to the Product Quality Law, tort and management without obligation in order to avoid damages to interests of others remain unaffected by this clause.

XI. Product Liability – Indemnity – Third Party Insurance Cover

1. If claims are asserted against the Purchaser, the Supplier is obligated to hold the Purchaser harmless from damage claims of third parties upon first request, to the extent that the cause of damage is directly or indirectly attributable to the Supplier and/or that the Supplier would be directly liable if the claims would have been asserted against the Supplier.
2. Within the scope of its liability for claims in terms of Paragraph 1 above, the Supplier is also obligated to indemnify and hold harmless the Purchaser from and against all claims of customers and/or other third parties against the Purchaser by reason of defects and/or non-compliances in the goods or services under product liability law, tort law and other applicable laws and regulations as well as from and against all costs and expenses which may arise from or in connection with a product recall, field action or service campaign necessary, if and in as far as the recall, field action or service campaign has been caused by defects and/or non-compliances of the goods or services. The Purchaser will notify the Supplier – if possible and reasonable – of the contents and extent of the product recall, field action or service campaign procedure to be enforced and give him the opportunity to comment on this. Other legal claims of the Purchaser remain unaffected.
3. The Supplier undertakes to maintain a Product Liability Insurance (also covering recall costs) with a lump-sum coverage amount of EUR 5 million per bodily injury/property damage/material damage; any and all further claims for damages of the Purchaser remain unaffected.

XII. Intellectual Property Rights

1. The Supplier guarantees that the goods and services to be delivered and or provided by the Supplier are free of any claims regarding third-party rights and do not infringe any copyrights, trade secrets, patents, trademarks or other intellectual property rights and applications thereof of any third party. The Supplier is liable for any claims which result from the infringement of any third-party rights, including any copyrights, trade secrets, patents, trademarks or other intellectual property rights and applications thereof of any third party when using the goods as specified in the contract.
2. The Supplier indemnifies and holds the Purchaser and its customers harmless at first written request from any and all claims, liabilities, costs, losses and expenses (including court and legal costs as well as costs for settlement of such claims and lawsuits) incurred by the Purchaser or its customers in connection with any third-party claims and lawsuits against the Purchaser or its customers based on infringements of third party rights, including any copyrights, trade secrets, patents, trademarks or other intellectual property rights and applications thereof of any third party by the goods and services to be delivered and or provided by the Supplier or use thereof; the Supplier shall also defend the Purchaser and hold the Purchaser completely harmless in this respect.
3. The contract partners undertake to inform each other immediately of any risks of injury and alleged infringements which may become known and to give each other the opportunity to counteract corresponding claims amicably. The Supplier shall notify the Purchaser upon request of the use of published and unpublished own and licensed copyrights, trade secrets, patents, trademarks or other intellectual property rights and applications thereof or other rights of any third party for the delivery item.

XIII. Quality and Documentation

1. The Supplier must observe the engineering rules, the safety regulations and the stipulated technical data for its deliveries. Any modifications of the delivery item e.g. change in the source of supply for primary material, transfer to another production plant or substantial modifications in the production process require the prior written approval of the Purchaser. Regardless thereof, the Supplier must control the quality of the delivery items constantly. The contract partners shall inform each other of the possibilities of quality improvement.
2. A Certificate of Analysis is to be attached to the delivery in accordance with the valid Specification Agreement, if any. The Supplier must document and keep specific records of when and how and by whom the delivery items were checked with regard to the required parameters as well as of the results of the quality tests required. The test documents have to be retained for a period of 20 years and presented to the Purchaser upon request. Subsuppliers have to be bound by the Supplier to the same extent within the scope of the legal possibilities.
3. If authorities or the Purchaser's customers request insight into the Purchaser's production process and test documents in order to verify certain requirements, the Supplier agrees – in coordination with the Purchaser – to grant them the same rights in his establishment and to provide all reasonable support.
4. The performance of the obligations of the Supplier by sub-suppliers and/or changing of sub-suppliers requires the prior written authorization of the Purchaser. In case that the goods originate from countries which do not belong to the OECD, the Supplier shall already inform the Purchaser thereof in writing during the offer phase
5. In the event that the Supplier intends to cease the manufacture of a product and/or to change the specification of products which have been delivered to the Purchaser within the last 24 months or in case of planned product shifts of the aforesaid products, the Supplier is obliged to inform the Purchaser thereof in writing in a timely manner, at least,

however, 12 months in advance. In case the Supplier breaches such duty, Purchaser may charge Supplier with any and all costs and expenses resulting from any of the aforementioned events. Upon the prior written approval of the Purchaser, the Supplier may alternatively propose the delivery of products similar in technique, quality and pricing, taking into account any and all necessary authorizations and/or approvals requested by third parties. Any and all costs and expenses resulting from any of the aforesaid changes, including but not limited to cost for necessary authorizations and/or approvals, shall be borne by the Supplier. The option to cease the manufacturing of products shall not apply in case the Supplier has committed to delivery of products for a certain period of time.

XIV. Quality Management/Testing

1. The Supplier shall conduct and maintain an effective quality control and provide evidence hereof to the Purchaser upon request. The Supplier assures that it has established a Quality Management System in accordance with DIN EN ISO 9001:2000. The respective relevant version of the norm is applicable.
2. The Purchaser is entitled to check the aforesaid Quality Management System or adherence to the tests agreed upon at any time or to have this checked by authorised third parties as well as the Purchaser's customers during the working hours applicable at the Supplier.
3. Supplier's Sub-suppliers have to be obliged accordingly.
4. A certified environmental management system in accordance with ISO 14001 is expected.

XV. Export Control Regulations

1. The Supplier undertakes to comply with the currently valid Counter-terrorism Regulations as well as Export Control.
2. Furthermore, the Supplier undertakes to notify the Purchaser of products which are subject to approval in accordance with the relevant Export Control Regulations of the USA as well as the EC and national formalities upon delivery at the latest and to provide all necessary details.

XVI. Non-disclosure

1. The contract partners undertake to treat all non-public administrative and technical details which become known to them via the business relationship as trade secrets.
2. Samples, test results, formulae and similar objects are not to be passed on to or made accessible to unauthorised third contract partners. Duplication of such objects is only permissible within the scope of the company requirements.
3. The Supplier has to commit its sub-suppliers accordingly.
4. The contract partners may only advertise their business connection after prior written approval.

XVII. Code of Conduct for Suppliers

The MANKIEWICZ Code of Conduct for Suppliers, in its currently valid version, is an integral part of every contract between the Purchaser and the Supplier and must be strictly adhered to by the Supplier.

XVIII. General Provisions

1. The current Safety Regulations of the Purchaser are applicable to the Supplier and his sub-suppliers for all operations at the Purchaser's establishment.
2. These Terms and Conditions and the related contract shall to the greatest extent possible be interpreted in such a manner as to comply with the applicable laws. However, if any provision thereof is, notwithstanding such interpretation, determined to be or to become invalid or unenforceable,

or if there is an omission, the remaining provisions of these Terms and Conditions and the related contract shall remain to be binding upon the contract partners. The contract partners agree to replace any such invalid or unenforceable provision by a valid and enforceable one which comes as close as possible to the original purpose and intention of the invalid or unenforceable provision. In the event of an omission, a provision which corresponds with the purpose and intention of what would have been agreed between the contract partners, if the matter had been considered at the outset, shall be deemed to have been agreed.

3. These Terms and Conditions and the related contract shall be governed and construed solely by the laws of the People's Republic of China, unless expressly and in writing agreed otherwise. Application of the UN Convention on the International Sale of Goods (CISG) is expressly excluded.

4. All disputes arising out of or in connection with these Terms and Conditions and the related contract including any question regarding their existence, validity or termination, shall be settled through friendly consultations between both contract partners. If no agreement can be reached between the contract partners within thirty (30) days after the dispute has arisen, the dispute shall be finally submitted to an arbitration tribunal of the China International Economic and Trade Arbitration Commission (hereinafter referred to as "CIETAC"), Shanghai Sub-Commission, for arbitration according to the Rules of Arbitration of the said arbitration commission effective on the date of request for arbitration. The place of arbitration shall be in Shanghai, People's Republic of China. The arbitration proceedings shall be conducted in the English language. The arbitration tribunal shall consist of 3 (three) arbitrators. Each contract partner shall appoint 1 (one) arbitrator. The two first mentioned arbitrators shall select the third arbitrator, who shall act as chairman of the arbitration tribunal. If a contract partner fails to appoint its arbitrator within one (1) month after receipt of the notice of arbitration from the arbitration commission or if the two first mentioned arbitrators cannot come to an agreement on the chairman of the arbitration tribunal within one (1) month after they have been appointed, the respective arbitrator or the chairman of the arbitration tribunal shall be appointed by the Chairman of the CIETAC, Shanghai Sub-Commission. The arbitration award shall be final and binding on the contract partners. The arbitration fee and the reasonable expenses of the winning contract partner, including lawyer's fees, shall be borne by the losing contract partner except as otherwise awarded by the arbitration tribunal. During the arbitration proceedings the contract partners shall continue to perform the contract except for the stipulations which are in dispute.

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