

## 1. Scope

**1.1** These General Terms and Conditions of Purchase (GTCP) apply to all deliveries, services and offers of our domestic suppliers. They form an integral part of all contracts that we (Atlas Weyhausen GmbH) and all companies affiliated to us within the meaning of Section 18 AktG (Stock Companies' Act) conclude with them with regard to the deliveries or other services that they offer. They shall also apply to all future deliveries, services or offers made to us, in particular also to quantity and value contracts, delivery plans, release orders and individual orders, even if they are not once again agreed upon separately.

**1.2** The terms and conditions of our suppliers or of any third parties shall not apply, even if we should not, in an individual case, object separately to their validity. Even if we should refer to a written document that contains the terms and conditions of the supplier or of a third party or refers to any such, this shall not constitute our consent to the validity of those terms and conditions.

## 2. Contractual Conclusion

**2.1** Inquiries that we make to the suppliers concerning deliveries constitute an invitation to the latter to, in its turn, submit an offer to us. All tenders submitted by a supplier are non-binding and free of charge for us. We may accept any tenders submitted to us by the supplier orally or in writing within a period of at least 14 working days of receipt of the same by way of sending a written order (contractual conclusion), which the supplier shall be required to confirm to us in writing within three working days, thereby also sending us a complete supplier's declaration.

**2.2** We are entitled to alter the time and place of the delivery and the nature of the packaging at any time by way of a written communication serving a period of notice of at least five calendar days prior to the agreed delivery date. The same shall apply to modifications to product specifications, inasmuch as these may, in the context of the normal production process of the supplier, be realised without any significant additional expenditure, whereby, in such cases, the period of notice as required according to the previous clause shall be a minimum of 14 calendar days. We shall refund to the supplier the proven and appropriate extra costs incurred as a result of the respective modification. Should such modifications result in delivery delays that may not be avoided in the normal production and business operation of the supplier in return for a reasonable amount of effort, the originally agreed delivery date shall be deferred

accordingly. The supplier shall notify us in

writing of the extra costs or delivery delays to be expected according to its own prudent assessment in plenty of time prior to the delivery date, but at least within five working dates of receipt of our communication according to Clause 1.

**2.3** We shall be entitled to cancel the contract at any time by way of a written declaration, thereby stating the reason, should we no longer be able to use the ordered products in our business operation due to circumstances that have arisen subsequent to the conclusion of the contract. In such a case we shall pay the supplier for those partial services it has already rendered.

**2.4** The object of delivery shall be specified by the Material-No. quoted in the order as well as the documentation compiled in this connection.

**2.5** In the case of contracts or delivery plans, quantities and deadlines for deliveries shall only become binding through the additionally issued delivery schedules or release orders relating to the contract or delivery plan.

**2.6** In the event of evident errors in the order, particularly typing errors, the supplier undertakes to inform us accordingly. Should the supplier violate its obligation to provide information, we shall be entitled to subsequent modification or revocation of the contract without becoming liable for compensation towards the supplier.

**2.7** Rights and/or duties arising from the respective contractual relationship may be assigned by us at any time to affiliated companies or other third parties. The full or partial forwarding of orders to third parties on the part of the supplier shall require our prior written consent.

## 3. Dispatch, Packaging, Disposal

**3.1** Dispatch shall be effected at the supplier's risk. This shall also apply should we have assumed the transport and/or the transport insurance. Should the goods, by way of exception, be transported at our risk and costs, we shall decide upon the nature of the means of transport and select the carrier or forwarding agent.

**3.2** In the case of goods with limited storage properties the supplier shall be obliged to indicate the expiry date and, in the case of goods subject to special storage and/or disposal regulations, the relevant information in a clearly visible position on both the goods themselves and the packaging as well as in all order confirmations and delivery notes. In order to facilitate the control of the quantities, the content quantity is to be indicated on all

repackaging and on every dispatch unit.

**3.3** The supplier shall be required to package all goods to be dispatched sorted and in single-origin batches. Should repackaging be required because goods have not been packaged in single-origin batches, the supplier shall be required to bear the costs incurred as a result hereof.

**3.4** The packaging must be of a suitable nature in order to, in the case of proper handling, rule out any damage being incurred during transport and unloading.

**3.5** Should, for pre-defined goods, transport frames be necessary, these are to be used as a basic rule. The same applies should, for pre-defined goods, standardised, exchangeable, reusable forms of packaging or other forms of packaging have been firmly agreed. The agreed quantities for each packaging are also to be adhered to.

**3.6** Unless anything to the contrary has been agreed, the delivery is to be effected using standardised, exchangeable and reusable forms of packaging such as Euro pallets or Euro mesh boxes according to UIC leaflet 435-2. Alternatively, after prior consultation, one-way loading aids may be used inasmuch as they should be comparable to standardised reusable forms of packaging in terms of their measurements and handling. The goods are to be secured on/in the loading aid in such a way that they are safeguarded against damage and sliding around. Furthermore, the external measurements may not be exceeded by the goods.

**3.7** Inasmuch as the dimensions of the goods to be dispatched should rule out the economically viable deployment of standardised, exchangeable and reusable forms of packaging, the goods may also be dispatched in cartons or other suitable forms of packaging.

**3.8** The supplier shall observe our **Packaging and Labelling Regulations** (contents, introduction, labelling of the goods, details indicated on delivery notes/package lists, barcode specification) according to **Attachment 3.8**. The packaging or loading aids used are to be furnished with the material number, material short text, order number and order position of the material they contain. A delivery note is to be enclosed with every delivery, which is to be affixed to every loading aid. This must include the following details at the very least: delivery note number, delivery note date, order number and order position or delivery plan, material number, quantity delivered. The supplier shall not supply packaging or packaging components in which the concentration of lead, cadmium, mercury and chromium VI cumulatively exceeds 100 milligrams per kilogram (quality agreement).

**3.9** The supplier shall be obliged to inform us in all cases in which certificates of origin are necessary or export restrictions apply to its deliveries inasmuch as it must know about the same or be able to procure the same in return for a reasonable amount of effort. This information must be clearly visible on the order confirmations, the delivery notes, and the invoices. Any certificates of origin that might be required are to be sent to us unasked, separate from the delivery.

**3.10** We shall not incur any costs for the disposal of transport packaging. The supplier undertakes to collect the packaging necessary for the transport from the delivery address or place of receipt specified by us without delay at its own costs and risk and to dispose of the same in an orderly fashion.

#### **4. Delivery, Default, Force Majeure**

**4.1** Delivery shall take place on the dates specified in delivery plan call-ups, individual orders or release orders.

All delivery dates and quantities are binding; adherence to those deadlines is a cardinal contractual obligation. Delivery periods shall be calculated from the order date. Delivery deadlines from a divergent order confirmation shall only be decisive if we have explicitly consented thereto in writing. The decisive criterion for adherence to the delivery date is the orderly delivery of the goods to the delivery address or place of receipt specified by us. For services, the regulation contained in the order shall apply.

**4.2** Provided that nothing to the contrary has been agreed in writing, deliveries shall be effected DAP works ATLAS or to the place of receipt specified in the contract (Incoterms 2010), including all ancillary costs such as packaging, freight and customs duties. The risk, even if dispatch should have been agreed, shall not be transferred to us until such time as the goods are handed over at the specified destination.

**4.3** If delivery free place of receipt has not been agreed, the supplier shall be required to make the goods ready for collection punctually, thereby taking into account the time usually required for loading and dispatch, and to announce their availability to the carrier agreed upon. The availability of the goods for dispatch is to be announced to us (or, in the event of an existing routing order, to the prescribed carrier) in writing or electronically one working day in advance.

**4.4** The following applies to deliveries in accordance with Point 4.3: We are self-insurers and thus a waiver customer.

**4.5** We are not under any obligation

to accept partial deliveries that have not been agreed. We are entitled to return any such partial deliveries to the supplier at the latter's costs and risk or to prolong the period allowed for payment accordingly until such time as the delivery has been received in full. In the event of excess quantities, we shall be entitled in the same way to return that part of the delivery that exceeds the agreed quantity. Any administration costs and the costs of intermediate storage resulting from a partial delivery that had not been agreed shall be borne by the supplier. Statutory default rights shall remain unaffected by this regulation.

**4.6** Should the supplier recognise that, for whatever reasons, agreed delivery dates cannot be adhered to, it shall be required to notify us without delay hereof in writing, thereby stating the anticipated duration and causes of the delay. Should we declare in writing our consent to the overstepping of the deadline, the case of default shall be determined according to the newly agreed dates. Force Majeure shall exonerate the supplier only if it should adhere to its notification obligation, inasmuch as it should not be prevented from doing so by Force Majeure.

**4.7** The supplier shall be under an obligation to compensate us for all direct and indirect losses that we incur as a result of the delayed delivery or performance.

**4.8** The acceptance of the delayed delivery or performance does not constitute the waiving of claims to compensation.

**4.9** In the event of default on delivery we shall be entitled, after issuing a prior written warning, to demand from the supplier from the 4th working day onwards, subject to the proviso of any divergent contractual agreement, a contractual penalty for each week or part-week of the missed deadline amounting to 0.5% of the net order value, but restricted to a maximum of 5 % of the total net order value. We reserve the right to assert any further-reaching losses, thereby offsetting the contractual penalty imposed. We are entitled to declare the reservation of the contractual penalty according to Section 341 Para.3 BGB (German Civil Code) within 5 working days of acceptance of the goods and to assert said penalty within a further 7 working days. The performance obligation of the supplier shall not be affected by this.

**4.10** Should the agreed delivery dates not be adhered to due to a circumstance for which the supplier bears the responsibility, the supplier shall be in default without the need for a warning. In the case of a fixed-date transaction, we shall

immediately and, in other cases after a reasonable period of grace set by us thereby offsetting any imposed contractual penalty has expired without fruition, be entitled without prejudicing any other statutory entitlements to refuse contractual fulfilment, rescind the contract and demand compensation in lieu of performance.

**4.11** In cases of Force Majeure the supplier shall be entitled to defer the delivery or performance at most by the duration of the impact of said force inasmuch as it should have informed us in writing within 24 hours subsequent to the occurrence of Force Majeure. Otherwise we shall be entitled to assert our default rights. Should the supplier be in default, it cannot appeal to Force Majeure. Should, in the event of Force Majeure, the delayed performance no longer be of any interest to us, we may rescind the contract for the duration of the impact of the force without any negative consequences.

#### **5. Acceptance Obstacles, Default on Acceptance**

**5.1** We shall be able to refuse acceptance in cases of Force Majeure, strikes and lock-outs or other operational disturbances, as well as civil unrest or official decrees, inasmuch as we should not be responsible for the aforementioned obstacles to acceptance. We shall be entitled to rescind the contract should said obstacles to acceptance persist for longer than one month. In this case the supplier shall be under an obligation to refund any payments already received. We shall, at our own discretion, be entitled to retain any partial services rendered in such cases.

**5.2** In the event that we should default on acceptance, the supplier shall only be entitled to demand the refunding of expenditure for an unsuccessful offer as well as for proven warehousing and maintenance costs connected with the goods ordered. The amount of such a refund is restricted to 0.5 % of the net value of goods for each full week of our default on acceptance, inasmuch as we should not have caused this either through gross negligence nor wilful intent.

#### **6. Prices, Payment Conditions, Invoice Information**

**6.1** The prices agreed in the order are maximum prices not including the statutory valid rate of VAT, but including all ancillary costs, such as packaging, freight and customs duties up to the delivery address DAP specified by us (Incoterms 2010). Inasmuch as a divergent written agreement should have been reached, this shall be regulated in the respective individual agreement.

**6.2** The prices shall be binding for the entire duration of the contract or the contractual volume. The date of the conclusion or the contract and not of the delivery shall be the decisive criterion for the validity of prices. Statutorily prescribed taxes, in particular VAT, are to be declared separately on the invoice.

**6.3** Invoices are – thereby stating the data specified in Point 3.8 – to be dispatched, separately from the goods, in duplicate to that company named as the contractual partner in the order.

**6.4** Subject to the proviso of any divergent agreements, payments shall be effected at our discretion either within a period of 14 days thereby deducted an early payment discount of 3% or within 30 days net. Payments shall be effected subject to the proviso of invoice verification and shall not be deemed recognition of a defect-free delivery or performance.

**6.5** The payment period shall commence after receipt of a full and defect-free delivery or of an orderly invoice that fulfils the requirements of Section 14 UStG (VAT Act), whichever of the two points in time shall be the later. Should the goods arrive at the place of receipt after the invoice, it is the time of the arrival of the defect-free goods that shall be decisive for the commencement of the payment period. In the case of premature delivery, the agreed delivery date shall be deemed the commencement of the payment period. Payments shall have been effected punctually should they have been booked out of our account by the end of that calendar week in which they mature according to the deadlines defined in Point 6.4.

**6.6** Our order number, article number, delivery quantity, delivery address and, if applicable, supplier number, are to be quoted on all order confirmations, delivery documents and invoices. Should one or more of these details be missing, and should this, in the context of our normal course of business, result in a delay in processing by us, the payment deadlines defined in Point 5.5 shall be extended by the period of said delay.

**6.7** In the event of default on payment, we shall owe default interest amounting to four percentage points in excess of the basic rate of interest according to Section 247 BGB.

## **7. Incoming Goods Inspection, Quality Assurance, Documentation**

**7.1** For the piece numbers, measurements, weights and quality of a delivery, it is the values determined by us at the incoming goods inspection that shall be the decisive criteria. Acceptance shall follow

subject to the proviso of examination for correctness and suitability as well as to prescribed quality guidelines. Our personnel and third parties commissioned by us are entitled, during the supplier's normal hours of business, to review the quality of the material and/or the production process.

**7.2** The payment of the purchasing price shall not constitute acceptance of a defect-free delivery in accordance with the specifications.

**7.3** The supplier shall be under an obligation to adhere to state-of-the-art technology, the safety regulations and the technical specifications required for the delivery and to subject the quality of its products to ongoing checks.

**7.4** Initial sampling shall be effected in accordance with the prescriptions of the VDA (Automobile Industry Association), defined in the VDA series of publications "Quality Control in the Automobile Industry, Volume II Suppliers' Assessment and Initial Samples Inspection" in its version valid at the given time.

**7.5** The inspection documents are to be archived for a period of 10 years and to be handed over to us at any time upon request. Any pre-suppliers to our supplier are to be obligated to the same extent within the framework of the statutory possibilities.

## **8. Ownership Protection**

**8.1** The supplier recognises our right of ownership to all documents, samples, models, films, drawings and tools provided to it by us, as well as to any work pieces surrendered by us for processing, etc. The supplier is subject to an obligation to use said objects exclusively for the manufacturing of the goods ordered by us. The supplier is subject to an obligation to insure those objects belonging to us at their replacement values at its own costs against damage by fire, water and theft. At the same time the supplier assigns to us at this point in time already all entitlements to compensation from said insurance; we hereby accept the assignment. The supplier is under an obligation to implement with respect to our tools any servicing and inspection work that may be necessary as

well as all maintenance and repairs at its own costs in good time. It shall be required to report any malfunctioning to us without delay.

**8.2** Irrespective of the intended purpose, the supplier recognises our exclusive right of authorship to the drawings, drafts, models, films, lithographs, printing plates, master copies, clichés, matrices, embossing plates, punching tools and con-tours, impression cylinders, etc. Should the

supplier, due to its own processing, effected on our behalf, of the drawings, drafts, models, etc. acquire a right of authorship of its own, it grants us at this point in time already an exclusive right of use, unrestricted in time and free of charge pertaining to this right of authorship.

**8.3** The supplier shall be required to return those documents received in accordance with 8.1 and 8.2 in full at our request, should they no longer be required by it in the orderly course of its day-to-day business or should negotiations not have led to the conclusion of a contract. In such a case, any copies the supplier might have made are to be destroyed; the only exceptions to this are archiving in accordance with statutory archiving obligations and the storage of data for backup purposes in the context of standard data security.

**8.4** All documents specified in Point 8.1 are to be archived by the supplier free of charge and at its own risk for a period of at least five years and subsequently delivered to us free domicile after advance notification. The destruction of said documents is permissible only with our explicit written consent. In the event of loss, improper treatment or illegal destruction the supplier shall be under an obligation to either effect restoration or to pay compensation.

**8.5** New developments that the seller pursues either together with us or by our order may only be used for any other purposes with our written consent; any publications concerning the new developments shall also require our consent. Inasmuch as we should not exercise our right to apply for a patent or utility model for said new development ourselves, the supplier, prior to making any registration of its own of these rights, shall require our prior written consent.

**8.6** Any goods or parts provided shall remain our property. As such, they are to be stored separately and may only be used for our orders. Should the item provided by us be processed or inseparably mixed with other objects that do not belong to us, we shall acquire co-ownership of the new item in proportion to the value of our item (purchasing price plus statutory VAT) to those of the other objects that have been processed or mixed at the time when the processing/mixing took place. Should the processing or mixing take place in such a way that the supplier's item is to be regarded as the main item, the supplier shall be obliged to assign co-ownership to us proportionately. The supplier shall keep custody of the sole or co-ownership on our behalf.

**8.7** Suppliers who undertake wage processing on our behalf shall be required to examine any material provided by us without delay for its suitability and freedom from defects and, if need be, to register a complaint with us within 3 working days of receipt of

the goods. We shall not be liable for any costs caused by deficiencies or reject items as a consequence of defects that have either not been complained about at all or complained about too late.

**8.8** Tools, fixtures and models that we place at the supplier's disposal or are manufactured for contractual purposes and invoiced to us separately by the supplier shall remain our property or be transferred to our ownership. They are to be identified as our property by the supplier, stored carefully, secured against damage of all kinds and only to be used for the purposes of the contract. The costs of their maintenance and repair shall be borne by the contractual partners equally – for want of any divergent agreement. Inasmuch as these costs should be attributable to defects to any such objects manufactured by the supplier or to improper usage on the part of the supplier, however, its employees or any other of its vicarious agents, they are to be borne by the supplier alone. The supplier shall inform us without delay of all cases of damage to said objects that is not merely insignificant. It shall be obliged, upon demand, to hand the objects over to us in an orderly condition should they no longer be required by it for fulfilment of the contracts concluded with us.

**8.9** Reservations of rights of ownership on the part of the supplier shall be valid only inasmuch as they should relate to our payment obligation for the respective products for which the supplier is reserving its right of ownership. In particular, extended or prolonged reservations of rights of ownership are inadmissible.

#### **8A Material compliance/material requirements**

Provided that nothing to the contrary has been agreed in divergent contractual agreements, the goods delivered comply with the material requirements of the REACH Regulation, the German Chemicals Prohibition Ordinance (ChemVerbotsV), the RoHS Directive with regard to homogeneous materials, the POP Regulation, the Batteries Act (BattG), the Toxic Substances Control Act 1976 (TSCA), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal Prop.65) as specified in Annex 8A. The supplier shall also comply with the information and disclosure obligations specified in Annex 8A.

### **9. Obligation to Notify Defects, Warranty**

**9.1** In the event of defects, the statutory entitlements shall be available to us without restriction. By way of deviation from this, however, the warranty period shall be 36 months. Rights of recourse against the supplier due to claims based upon material defects in accordance with Sections 478-479 BGB shall remain unaffected by this.

**9.2** Evident quality and quantity deviations shall have in all cases been complained of in good time if they have been established in the due and orderly course of business and we inform the supplier of them immediately after the arrival of the goods at our premises. Hidden defects shall in all cases have been complained of in good time if the notification to the supplier is sent immediately after their discovery. Our examination duty is restricted to the inspection methods usual for us; we are under no obligation to consult external experts.

**9.3** We do not waive our warranty entitlements by accepting samples or specimens presented to us.

**9.4** The statute of limitations shall be suspended from the time of the receipt of our notification of defects by the supplier until such time as the supplier rejects our claim, declares that the defect has been rectified or else refuses the continuation of negotiations pertaining to our claims. In the cases of substitute delivery and rectification of defects, the warranty period for substituted and reworked parts shall commence anew, unless it should be the case that, due to the conduct of the supplier, we would be forced to assume that the latter had not considered itself obliged to undertake the measure but had only performed the substitute delivery or rectification of defects for good will or similar reasons.

**9.5** The supplier is aware and recognises that the contractual products delivered shall be installed in the construction machines which we manufacture. For this reason it is agreed that, in cases in which a defect occurs for which the supplier bears the responsibility, the supplier shall bear all costs and expenses incurred and associated with the replacement or rectification, irrespective of whether these are incurred by us or by our customers/buyers. Such costs and expenses shall include, in particular, labour, travel, transport, testing and material costs. Sentence 3 shall apply accordingly to costs which we incur due to the fact that, for example, personnel and/or material resources for the performance of the warranty work (such as deployments at the current place of use of the machines at our customers' premises) are provided by us, our dealers or by other third parties. Invoicing shall be on a time and material basis, but at least at the following rates: Working time (installation and dismantling, travel time) 70 € p.p./hour; mileage allowance 0.95 € p.p./hour; Working time (installation and removal, travel time) 70 € p.p./hour; mileage allowance 0.95 €/km/vehicle.

### **10. Liability on the Part of the Ordering Party**

**10.1** Our liability is restricted to gross

apply in connection with the violation of life, limb or health or the violation of cardinal contractual

obligations. Cardinal contractual obligations are ones the fulfilment of which makes the orderly implementation of the contract possible in the first place and upon the fulfilment of which the contractual partner may regularly place its trust. The amount of any compensation claims is in this case restricted to the refunding of typical and predictable losses.

**10.2** Inasmuch as we should culpably violate protection and consideration obligations as defined in Section 241 Para. 2 BGB, the supplier shall be entitled, after issuing a written warning, to assert a claim for compensation or to rescind the contract. These restrictions upon liability shall not apply inasmuch as the violation of protected rights should have been committed through wilful intent or gross negligence or in connection with the violation of life, limb or health.

**10.3** All of the above restrictions and exceptions to them shall apply equally to our legal representatives and vicarious agents.

### **11. Product Liability**

**11.1** The supplier shall be liable for all claims asserted by third parties based upon personal injuries or material losses suffered that are to be attributed to a defective product it has supplied and is under an obligation to exempt us from any resulting liability. Should we be obliged, due to a defect in a product supplied by the supplier, to carry out a recall action with regard to third parties, the supplier shall bear all costs connected with said recall action.

**11.2** The supplier is subject to an obligation to maintain at its own costs a product liability insurance policy providing coverage of at least EUR 5,000,000.00 for each insured event, which, inasmuch as nothing to the contrary should be agreed in an individual case, must also cover the risk of a product recall. The supplier shall send us at any time at our request a copy of the liability insurance policy as well as proof of the payment of the current insurance premium.

### **12. Protected Rights**

**12.1** According to the criterion of Point 1.2, the supplier guarantees that the products it delivers do not violate the protected rights of any third parties in countries within the European Union or any other countries in which it manufactures the products or causes them to be manufactured.

**12.2** The supplier is obliged to exempt us

from all claims that third parties might assert against us on the basis of the violation of commercial protected rights referred to in Point 12.1 and to refund to us all necessary expenditure in connection with any such availment. This entitlement shall not be given inasmuch as the supplier should prove that it is neither responsible for the violation of protected rights nor must have been aware thereof at the time of delivery had it applied the due caution of a prudent businessman.

**12.3** Our further-reaching statutory claims due to legal defects to the products supplied to us remain unaffected.

### 13. Spare Parts

In order to guarantee the procurement of spare parts, the supplier undertakes to ensure the delivery of those materials and components necessary for this until a period of 10 years has expired since the ending of series production and/or ending of the business relationship (= post-contractual period). Should the supplier recognise during this period that it shall no longer be able to do this, it shall be required to inform us of the end of its supply capability without delay and to take all measures necessary to open up the possibility of procurement from third parties, in particular by way of imparting the necessary production know-how.

### 14. Confidentiality

**14.1** The supplier undertakes to treat as confidential all commercial and technical details that are not overt of which it gains knowledge in the course of the business relationship and not to make them accessible to any third party. Its employees and sub-suppliers are to be subjected to relevant obligations.

**14.2** The obligation to confidentiality shall continue to apply after the processing of this contract; it shall only lapse when and inasmuch as the manufacturing know-how contained in the illustrations, drawings, calculations and other documents has become generally known.

**14.3** Procedural descriptions, drawings, samples, models and other information that have been surrendered to the supplier by us for the purpose of executing the order or the procedures developed by the supplier according to our specific instructions and all drawings, samples, models etc. created in this connection may not be used by the supplier without our written consent for any other purposes than the execution of our order. Upon demand, but at the very latest upon the termination of the contract, they are to be handed back to us without delay together with all transcripts or reproductions

under exclusion of any right of retention whatsoever.

**14.4** Should the supplier intentionally or negligently violate its obligation according to this Point 14, it shall pay a contractual penalty to ATLAS for each individual breach, the amount of which will be determined by ATLAS at its own reasonable discretion and which may, upon an application on the part of the supplier, be reviewed for its appropriateness by the responsible court. The

defence of persistent breach is excluded for the determination of the number of violations. In the case of an ongoing violation, the penalty shall be due for each month during which said violation persists. We reserve the right to assert any further-reaching losses.

### 15. Offsetting, Assignment

**15.1** The supplier shall only be entitled to offset or assert a right of retention against claims that are either undisputed or have been legally established.

**15.2** The supplier shall not be entitled to assign its entitlements deriving from the contractual relationships to third parties. This shall not apply inasmuch as it is a matter of claims for money.

### 16. Data Protection

**16.1** The supplier is under an obligation to heed the provisions of the Federal Data Protection Act and of the EU General Data Protection Regulation.

**16.2** Inasmuch as the supplier, in the context of rendering its services, should collect, process or use personal data from ATLAS ("Order Data Processing"), it shall, at the request of ATLAS, additionally conclude an agreement pertaining to data protection and to data security in the context of order relationships in accordance with Art. 28 Para. 3 of the EU General Data Protection Regulation (GDPR).

**16.3** The supplier undertakes to collect, process or publish personal data exclusively for the purpose of contractual fulfilment.

**16.4** Inasmuch as the supplier should transmit said data to countries that are neither member states of the European nor parties to the treaty on the European Economic Area, it shall conclude with us those agreements that are necessary in order to uphold our appropriate level of data protection. Inasmuch as the supplier should deploy sub-contractors for this purpose, it shall, if required to do so by ATLAS, ensure that the latter also conclude appropriate agreements with ATLAS.

**16.5** The supplier shall ensure that those persons deployed by it in the rendering of its services are trained in matters of data protection law and subjected to an obligation to pay heed to data protection both during their activity and thereafter.

**16.6** The information required is to be proved and evidenced upon request to the data protection officer of ATLAS.

### 17. Place of Fulfilment, Court of Jurisdiction, Applicable Law

**17.1** The place of fulfilment for both parties is the head office of ATLAS/Wildeshausen.

**17.2** The place of jurisdiction for all disputes arising from the business relationship, including actions on cheques and bills - shall be Oldenburg. We reserve the right, however, to also file a suit against the supplier at any court of jurisdiction established for it.

**17.3** The contracts concluded between ourselves and the supplier shall be subject to the law of the Federal Republic of Germany under exclusion of the UN Convention on the International Sale of Goods.

**17.4** Should any individual provisions of these General Purchasing Terms and Conditions be invalid, this shall not affect the validity of the remaining provisions. The parties undertake to agree in the stead of the invalid provision one that comes closest to what had been wanted from an economic point of view.

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### ANNEX 3.8

#### Packaging and Labelling Regulations

##### Introduction

Packaging frequently does not do justice to the strains and demands posed during the transport, handling and storage processes, as a result of which the risk of damage or a delay in the progress of the goods being transported increases. For this reason, the topic of the optimisation of packaging and labelling is increasingly gaining in importance in the cooperation between supplier and customer. Thus it is that it is no longer merely the price and quality of a product that are at the fore but also the optimal form of packaging and labelling of a product are seen as a prerequisite for loss- and error-free logistic processing. Atlas Weyhausen GmbH (hereinafter Atlas), in addition to the protection of the goods, has also set itself the task of reducing packaging costs and the volume of packaging in relation to the "Handling Costs".

In the event of failure to heed the labelling and packaging regulations, Atlas reserves the right to pass on any expenses incurred in the incoming goods department according to expenditure.

This applies for example to the following issues:

- Incorrect deliveries with respect to date, quantity or material,
- Excess weight of load carriers,
- Unusable load carriers or load carriers in need of repair,
- Missing or incorrect documents/labels (e.g. delivery note or tagging of the goods)
- Missing sub-packaging,
- Loosely packed and different goods on one single load carrier,
- Non-adherence to agreed carton formats / sizes or packing regulations.

This list does not make any claim to be complete.

### Packaging



Gitterboxpaletten aus Stahl nach DIN 15155  
Innenmaß: 1200 x 800 x 780 mm  
Außenmaß: 1240 x 835 x 970 mm  
Gewicht: 85 kg  
max. Gesamtgewicht: 1000 kg

The determination of the optimal form of packaging shall be effected in cooperation between the divisions Quality Assurance and Logistics. Purchasing shall decide, in consultation with the supplier, upon general and specific packaging regulations. The general packaging regulations are the subject of this document. Existing agreements for special frame packaging shall remain unaffected. In the case of special frames, the labelling of the delivery units is to be additionally taken into account.

When choosing the packaging and creating a loading unit, attention is to be paid to the demands of the entire delivery chain. Beyond that, the packaging should be selected in accordance with the ecological aspects of its recycling capability or reusability.

### Definition of a Loading Unit:

The largest load bearer of an order number with one material number. In other words, a loading unit is always of a single source and contains only one material number relating to one order.

The largest load carrier is the pallet, if cartons (sub-packaging) of one material and one order stand on one pallet.

The largest load carrier is the carton, if this contains only one quantity of one material number and one order number. An order which is distributed among merely a few cartons may be consolidated upon a single collecting pallet, in order to facilitate the loading and unloading thereof.

Please, when doing this, take care that you do not pack such COLLECTING PALLETs in several layers, as this would, in our incoming goods department, result in the re-packing of the pallet and thus to more expenditure. Unpacked loose parts may not be mixed with other material numbers in

one loading unit.

If an order quantity is packed in several loading units, the quantities in each loading unit should be equal, and also in future deliveries accordingly.

### Packaging materials that are not permitted:

- Packaging chips, composite materials
- Expanded polystyrene
- Cartons or paper with water-insoluble or glued coatings,
- Chipboard, coated and/or lacquered timber, packaging timber infested with mould or blue stain.

### Permitted forms are:

**Timber** – generally speaking only according to the IPPC Standard (only wood that has been subjected to heat treatment according to ISPM Standard 15, labelled in accordance with the regulations).

### Paper and Cartons:

Free of hazardous substances and labelled with the RESY symbol.

**Shrink and Stretch Foils:** PE according to DIN specification.

**Reusable packaging:** PE, PP according to DIN – specification, applies also to one-way packaging (the supplier undertakes to take these back, if necessary).

### Standard Packaging

Preferred load bearers / packaging forms are: Euro pallets or four-way pallets conforming to 120x80.



Europalette nach DIN 15146 (Verriegelungsart)  
Abmessung: 1200 x 800 x 144 mm  
Tragfähigkeit: 1000 kg  
Eigengewicht: 25 kg

If need be 1x folding frame / collapsible stacking frame high, or 2 or 4x frames high; Internal measurements of 1 foldable frame: 1200 mm x 800 mm x 210 mm



### Other Forms of Packaging:

- > Stackable frames made of metal for frame and/or car body components. Care should be taken that too small supporting feet do not result in point load pressures that are too high and that the material on the frame is secured against sliding around.
- > Cartons of other dimensions.

Loading units of dimensions in excess of 120x80x105 cm (LxWxH) are to be avoided should the material permit this (Loading unit = goods + load bearer). Loading units must, if possible, be created so as to be stackable and the load bearer should at least offer the goods flush protection against damage when being picked up or set down using a fork-lift truck.

### > Mesh box

As a general rule, mesh boxes are to be avoided and 120x80 pallets with folding frames and, if need be, lids are to be used. With the aid of cardboard inserts in mesh boxes the components of any material may be prevented from protruding from or falling out of the mesh box.

### Labelling of the Goods

In order that the goods receiving department at Atlas is able to function smoothly and source of error reduced to a minimum we, in addition to a form of packaging able to cope with the stress placed upon it, also require for our processes the clear labelling of the goods to be delivered.

For the consistent identification of the goods delivered, both the delivery note and the package tag must contain certain minimum details.

### Minimum details on the Package Tag:

- Atlas – Material number in plain writing and as barcode 1
- Material designation
- No. of pieces contained in the respective package
- Atlas – order number
- Weight of the package in “kg” (gross)
- Dimension of the package in “cm” (LxWxH)

Should the package consist of sub-packaging (e.g. cartons on a pallet), the smallest packaging unit must also be furnished with a label in addition to that tag on the package. The label on the smallest package unit must contain:

- Atlas – Material number in plain text and as a barcode
- Material designation
- Number of pieces in the sub-packaging

### Details on the Delivery Note/Pack List

- Delivery address
- Delivery note number



- Atlas – supplier number
- Atlas – order number
- Atlas – material number in plain text
- Material designation
- Delivery quantity and distribution among packages or, if this should be sufficient: No. of packages
- Weight of the packages in “kg”

(gross) or individual weight of the articles in kg (net)

- Dimensions of the packages in “cm” (LxWxH)

Should it not be possible to provide any of the required details in the form of a delivery note, these may also be supplied in a separate packing list.

### Barcode Specification

The barcode is an important aid to the rapid and clear identification of the goods. The data encrypted in the barcode may be read in automatically using a scanner and transmitted for further processing to an EDP system.

### Scope

Depending upon the nature and size of the material, labelling of each individual material, but at the very least of each packaging unit.

### Introduction

A barcode is an electronically readable text consisting of parallel bars of differing widths. The data encrypted in the barcode may be read out with the aid of optical

reading devices (such as scanners) and electronically processes. There are different types of barcodes, which have been developed at different times and for different purposes.

At Atlas, barcode type Code 128 is used. Code 128 is an alpha-numerical barcode with a high information density. Code 128 offers a wide scanning range and is described in full in the international standard ISO/IEC 15417.

For Atlas, however, other barcode types may also be used that are capable of achieving similar scanning ranges, but at least 2m. In the standard form for Atlas, only the 7-digit material number is encoded in the barcode. However, the following alternative coding forms also exist:

Alternative 1: “P” + “6-7-digit article number”

Alternative 2: “6-7-digit article number” + “check digit according to Modulo 10”  
Alternative 3: a leading “9” + “6-7-digit article number”

Alternative 4: a leading “9” + “6-7-digit article number” + “check digit according to Modulo 10”

**There now follow some examples of barcodes:**

Example for material 3961688 locknut:  
**Standard**



**Barcode type Code 128** without check digit  
Dimensions of barcodes: 67.6 mm 18.7 mm X-scale: 18.7 mm X-scale 0.75 mm (widest scan range)



**Barcode type Code 39** without check digit  
Dimensions of barcodes: 50.3 mm 18.7 mm X-scale: 0.38 mm (smallest scan range)



**Barcode type GS1 128 (EAN)** without check digit



Dimensions of barcodes: 63.2 mm 18.7 mm X-scale 0.63 mm (medium scan range)

**Barcode type: Interleaved 2 of 5**

**(ITF)** with check digit according to Modulo

10, dimensions of barcode 51.7 mm 18.7 mm X-scale: 0.38 mm

**Barcode type: Code 128** with a leading “P”

Dimensions of barcode 63.2 mm 18.7 mm X scale: 0.63 mm



**Barcode type: Code 39** with a leading “P”

Dimensions of barcode 55.9 mm 18.7 mm X scale 0.38 mm

**Calculation of the check digit according to Modulo 10 (only barcode type ITF) +weighting 3:**

**Step 1**

Position	1	2	3	4	5	6	7	8
Material	3	9	6	1	6	8	8	

Position Ma-	1	2	3	4	5	6	7	8
aterial No.	3	9	6	1	6	8	8	
Multiplier	3	1	3	1	3	1	3	
	9	9	18	1	18	8	24	

Check sum:  
**87**

**Step 3**

divide check sum by 10  
87/10=8.

**Step 4**

subtract the decimal place from 10  
10-7 = 3

**Result:**

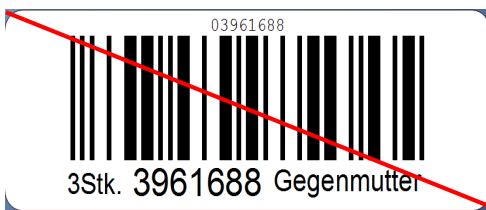
check digit for Material 3961688 is

The sequence of digits to be coded is 39616883

Should the check digit be 10, 0 is to be coded in the barcode.

Due to its specific character, even sequences of digits only must always be coded for Type ITF.

For this reason, the following example is not permitted:



For Barcode type Interleaved 2 of 5 without check digit Dimensions of barcode: 63.8 mm 18.7 mm 0.87 mm

Please Note: leading zero. ITF only usable for even sequences of digits. ITF is therefore only usable including a check digit (=8 digits).



**Further Information**

In addition to the barcode the tag should also contain the Atlas Material Number in clear text and the designation of the material.

“Thermotransfer” is recommended as the printing procedure, as this procedure is particularly resistant to light and humidity. In addition to the correct coding of the material number, attention should be paid in particular to a sufficiently large space before the beginning and after the end of the barcode.

**Aids**

In order to create the label, professional software such as “Bartender” may be used. You may find further information under: [www.seagullscientific.com](http://www.seagullscientific.com).

The simplest method of producing a barcode is to use an appropriate free typeface (e.g. Code39) under Excel.

## ANNEX 8A Material compliance agreement/material requirements

### 1. General

**1.1** The supplier shall comply in full with the materials law requirements pursuant to German, European and US-American law with regard to all goods (products, mixtures and substances) delivered by the supplier in the version applicable at the time of delivery. In particular, the provisions of Regulation (EC) No. 1907/2006 (REACH Regulation), the provisions of the German Chemicals Prohibition Ordinance (ChemVerbotsV), the provisions of the RoHS Directive 2011/65/EU with regard to homogeneous materials as well as its national implementation in Germany by way of the Electrical and Electronic Devices Ordinance (ElektroStoffV), the provisions of Regulation (EU) No. 2019/1021 (POP Regulation), the provisions of the Batteries Act (BattG), the provisions of Regulation (EU) 2017/821 (Conflict Minerals Regulation), the provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the provisions of the Toxic Substances Control Act 1976 (TSCA) and the Safe Drinking Water and Toxic Enforcement Act of 1986 (Cal Prop.65) shall be complied with to the full extent.

The aforementioned legal grounds do not provide a complete overview of the national and international legislation concerning the material regulations applicable to the goods supplied, in particular with regard to substance bans and substance restrictions. We support our suppliers with determining the substance bans and substance restrictions applicable to the products by means of the Material Compliance Guideline (version dated 06.03.2023), which can be downloaded from the following link (<https://www.weycor.de/de/downloadcenter.html>). The supplier shall be obliged to check and comply with the applicable materials law requirements itself at all times.

**1.2** In each case, the supplier undertakes to actively inform itself, even if the legislation has been modified or changed when compared to the last delivery (for example, the respective current candidate list of the ECHA), if the product delivered by the supplier is affected by the changes.

**1.3** At our request, the supplier must provide us with suitable evidence (certificates, test reports, supplier declarations, material declarations, etc.) verifying that the information provided by the supplier is correct and that the goods comply with all materials law requirements.

**1.4** The supplier shall compensate damages and expenses (including the costs of prosecution) and for all claims by third parties based on a breach of the provisions of this Material Compliance Agreement for

which the supplier is responsible. Missing and incorrect information pursuant to Point 2.2, Point 2.3, Point 3.2, Point 4.3, Point 6.1, Point 6.2 of this contractual agreement with all suppliers regarding the REACH regulation, the RoHS Directive and other material law requirements of this Material Compliance Agreement.

### 2. REACH Regulation/German Chemicals Prohibition Ordinance/POP Regulation

**2.1** The supplier shall comply with all requirements of the REACH Regulation in its currently valid version. The supplier undertakes not to supply us with any goods which do not comply with the substance bans, substance restrictions or usage restrictions stipulated in Art. 56 and Art. 67 of the REACH Regulation in conjunction with Annexes XIV and XVII (quality agreement). The same shall apply to the bans and restrictions on marketing pursuant to Section 3 of the German Chemicals Prohibition Ordinance (ChemVerbotsV) and the POP Regulation.

**2.2** The supplier shall be obliged by law and, irrespective of this, also on the basis of this contractual agreement, to actively provide us with all information which must be provided pursuant to Article 33(1) of the REACH Regulation immediately upon placement of the order, but at the latest by the time the product is delivered. The supplier shall inform us immediately after the order has been placed as to whether and if so, which candidate substances (SVHC contained in the respective valid ECHA candidate list) are contained in the respective articles with a concentration of more than 0.1 mass percent (w/w). A delivered product generally consists of numerous products.

**2.3** The information shall be provided in such a way that candidate substances present can be precisely assigned to the respective article or articles. At least the name and the identification number (CAS number) of the respective candidate substance must be specified.

**2.4** In the case of changes to or extensions of the candidate lists, the supplier shall actively check the contract goods to determine whether the notification must be updated pursuant to section 2.2 and, if this is the case, shall perform this update without delay.

**2.5** The supplier shall provide us with a safety data sheet in compliance with the conditions defined in Article 31 of the REACH Regulation.

### 3. California Prop. 65/TSCA

**3.1** The supplier shall comply with all

with goods which violate the substance bans, substance restrictions or usage restrictions as set forth in California Prop. 65 as well as the TSCA (quality agreement).

**3.2** Notwithstanding of any statutory obligations arising from this contractual agreement, the supplier shall be obliged to notify us actively and without delay after the order has been placed but at the latest by the time of product delivery, if one of the chemicals specified by California Prop. 65 is present in the product delivered by the supplier. The same shall apply if the product contains the restricted substances pursuant to the TSCA.

### 4. RoHS Directive

**4.1** The supplier is aware that we are a manufacturer of electrical and electronic equipment (EEE) pursuant to the RoHS Directive and the Electrical and Electronic Devices Ordinance (ElektroStoffV). Therefore, the supplier is obliged to comply with all material requirements of the RoHS Directive (substance restrictions) to the full extent, even if the goods delivered are not independent electrical and electronic equipment.

#### 4.2

The supplier shall undertake to not deliver to us any goods which contain a prohibited concentration of substances specified in Section 3(1) of the Electrical and Electronic Devices Ordinance (ElektroStoffV) or Annex II of the RoHS Directive, in the version applicable at the time of delivery.

**4.3** If, according to the Electrical and Electronic Devices Ordinance (ElektroStoffV) in conjunction with Annexes III and IV of the RoHS Directive in the version applicable at the time of delivery, the supplier is permitted to exceed the limit values set forth in Section 3(1) of the Electrical and Electronic Devices Ordinance (ElektroStoffV), the supplier must inform us thereof at the latest by the time of product delivery, specifying the respective exception regarding the homogeneous material concerned.

**4.4** The reference point for the evaluation of the substance restrictions is not the goods delivered but rather the homogeneous materials pursuant to Section 2(19) of the Electrical and Electronic Devices Ordinance (ElektroStoffV)..

### 5. Batteries Act (BattG)

Inasmuch as the supplier delivers batteries to us in accordance with Section 2(2) of the Batteries Act (BattG), the supplier shall undertake, irrespective of any legal obligation, to deliver only batteries which are not subject to the substance prohibitions specified in Section 3 of the Batteries Act (BattG).

## 6. Conflict Minerals

### Regulation/Dodd-Frank Act

**6.1** Insofar as the supplier is a Union importer of conflict minerals as defined by the Conflict Minerals Regulation and these are supplied to us as raw materials or in processed form, the supplier shall undertake to comply with the obligations set forth in the Conflict Minerals Regulation. The supplier shall be legally bound and, irrespective thereof bound by this contractual agreement actively inform us immediately after the order has been placed but at the latest by the time of product delivery, of all information obtained in the course of fulfilling the due diligence obligation in the supply chain to the legally defined extent (Article 7 of the Conflict Minerals Regulation).

**6.2** Should the supplier deliver tantalum, gold, tin or tungsten from the DR Congo or a neighbouring state of the DR Congo (conflict material) to us as raw material or in processed form, the supplier shall be obliged to actively provide us with information concerning the industrial processor (smelter/refiner) of the conflict material, the country of origin of the conflict material and the measures taken to determine either the specific mine or the place of origin of the conflict material with the greatest possible accuracy immediately after the order has been placed but at the latest by the time of product delivery. This shall not apply if the information has already been provided in accordance with section 7.1.