

## General Terms and Conditions of Purchase Refratechnik (Steel/Casting/Cement/Ceramics) GmbH („Refratechnik“)

### 1. General Terms and Conditions

1.1 These Terms and conditions of Purchase (the "Conditions") apply exclusively for Refratechnik GmbH ("Refratechnik") orders.

1.2 With the conclusion of the first contract, incorporating the following conditions, the contractor acknowledges their validity for the entire duration of the business relationship. Any conditions deviating from these conditions, or supplementary conditions of the contractor, will not be binding on Refratechnik even if Refratechnik does not object to them. Any deviating or supplementary conditions will in every case require the written approval of Refratechnik in order to be valid.

1.3 These conditions apply only to undertakings, public law entities and special property under public law (öffentlich-rechtliches Sondervermögen).

### 2. Order Placement/Order Confirmation/ Data Sheets

2.1 All orders and side agreements to contracts must be in written form.

2.2 Orders placed by Refratechnik must be accepted within a two-week period.

2.3 With the acceptance of Refratechnik's order, the contractor undertakes to hand over all safety data sheets and product data sheets to Refratechnik, at the latest together with the order confirmation. In the event that products are inadequately labelled and described, the contractor will be liable for any damage that could arise from a mishandling of the goods, unless it did not act culpably.

### 3. Contractual Penalty/Date of Delivery/Delivery

3.1 A contractual penalty agreement does not affect Refratechnik's right to rescind the contract and/or assert any further claims. Refratechnik is authorised to demand a contractual penalty even if it has accepted the delivery of goods or services without any special reservation. A reservation may be declared up to the expiry of a three-week period following delivery or handover of the goods and at the latest by the time payment is made in full.

3.2 If it becomes apparent to the contractor that delivery dates cannot be adhered to, it must inform Refratechnik without delay via post, fax or e-mail.

3.3 In the event a delivery is not made in time – in particular where no fault is involved – after granting an appropriate grace period, Refratechnik will be entitled to rescind the contract irrespective of any more comprehensive legal claims and rights. In that case, Refratechnik may retain partial deliveries and rescind the contract with regard to the outstanding deliveries. The preceding two sentences will not apply if Refratechnik is solely or predominantly responsible for the delay and the reason for the delay was caused by intent or gross negligence on Refratechnik's part or the reason for the delay, for which the contractor is not responsible, arises at a time at which Refratechnik is culpably in default of acceptance.

3.4 The contractor may supply only the products ordered by Refratechnik. Replacement products, even if they are technically identical, must be identified in writing with regard to their quality and origin and be explicitly accepted in writing by Refratechnik as being in proper fulfilment of the contract.

3.5 The acceptance or approval of drawings and samples presented by the contractor will not affect the contractor's sole responsibility for the conformity of the delivered item with the contract. The contractor is solely responsible for inspecting its goods or work and for making deliveries in accordance with the contract.

### 4. Shipping/Labeling

4.1 The shipping papers must contain the order data provided by Refratechnik. In accordance with Refratechnik's forms, these papers must state the precise designation, quantity, weight (gross and net), type of goods and their packaging. If the contractor does not adhere to the aforementioned obligations, Refratechnik will not be liable for any delays in processing.

4.2 If the shipping papers for a delivery are not delivered in time or the information stipulated in clause

4.1 is not given in the shipping papers, the goods will, at Refratechnik's option, be stored at the cost and risk of the contractor until the shipping papers arrive or the missing information is provided in full.

4.3 In the event the goods are mislabelled or have not been packaged in accordance with the respective requirements of the goods, the contractor will be liable for all consequential damage, costs and expenditure even if the goods were not labelled or packaged on its own premises.

This does not apply if the contractor is not responsible for the mislabelling or inadequate packaging.

### 5. Bearing of risk

The risk of accidental loss or deterioration of the goods will be borne by the contractor until the goods are delivered in accordance with the contract. Unless otherwise agreed in writing, delivery will be made free to the door (destination).

### 6. Handover/Acceptance/Force majeure

6.1 Force majeure and other extraordinary circumstances, such as war, natural disasters, strikes or lockouts, for which Refratechnik is not responsible, will entitle Refratechnik to postpone the receipt and/or acceptance of the goods by the corresponding period of time, but at most by six months.

6.2 The handover and/or acceptance will be effected in the ordinary course of business. Should additional acceptances become necessary owing to reasons for which the contractor is responsible, it must bear the costs involved, such as the cost of travel to the manufacturing site, inspection costs and the like.

### 7. Payment

7.1 The price shown in the order is binding. In the absence of any written agreement to the contrary, the price includes delivery to the destination including packaging. A special agreement will be required for the return of the packaging.

7.2 Payment periods run from the date of the invoice or, if there is a delay in the delivery of goods to Refratechnik, from the date the goods are received in full. The date of the receipt stamp, or of the delivery note on the transportation papers, will be deemed to be the date of receipt. Payment periods will in any case not commence prior to the agreed delivery date unless this was expressly accepted in writing at the time the order was placed.

7.3 Payments on account, interim payments and final payments do not constitute either an acknowledgement that the delivery/performance was in accordance with the contract or an acceptance of the goods.

### 8. Rules of Technology/Official Regulations

8.1 The contractor is obliged to adhere to the accepted most current rules of technology and the guidelines issued by the legislature, the regulatory authorities, the professional associations and the Association of German Engineers (VDI) or by other state or European authorities with respect to the location and quality of the goods, prevention of accidents and protection of the environment.

8.2 The contractor is obliged to issue a test certificate (Werkszeugnis) for each delivery and hand it over to Refratechnik. Refratechnik reserves the right to carry out an inspection on the contractor's premises prior to delivery. It further reserves the right to perform an audit at the contractor's site in accordance with ISO 9000 et seq.

### 9. REACH Clause

Refratechnik points out the supplier's responsibility for the items to be delivered in accordance with Regulation (EC) No. 1907/2006 of the European Parliament and the Council dated December 18, 2006 regarding the Regulation on Registration, Evaluation, Authorization and Restriction of Chemicals (REACH), for creating a European Chemical Agency, for changing the Directive 1999/45/EC, and for repealing the Council's Regulation (EEC) No. 793/93, the Commission's Regulation (EC) No. 1488/94, the Council's Directive 76/769/EEC, and the Commission's Directives 91/155/EEC, 93/67/EEC, 93/105/EC, and 2000/21/EC ("REACH Regulation"). Insofar as the items to be delivered are subject to this regulation, the supplier must observe his duties in accordance with this regulation, in particular towards Refratechnik. This applies especially (but not only) for his duty to register the items to be delivered, and for his informational duties (in particular regarding risk management measures and material safety data sheets). Insofar as the supplier is permitted, in accordance with the specifications of this regulation, to carry out himself the necessary registration of the items to be delivered and which are to be used by Refratechnik, he alone, and not Refratechnik is responsible for registration. If the supplier is not domiciled in the European Community, he commits himself to assign an exclusive agent in accordance with Article 8, Sections 1 and 2 of the REACH Regulation, who will act as the importer, and insofar as necessary, will register the items to be delivered. The supplier and Refratechnik agree that the duty to register the items to be delivered, insofar as permissible, only affects the supplier; the supplier will undertake all applicable measures to implement this agreement.

Should any damage be caused to Refratechnik because the supplier failed to observe his duties in accordance with this

Regulation, the supplier must compensate Refratechnik for this damage or indemnify third parties accordingly.

### 10. Quality of the Goods/ Rights and Claims in the Event of Defects

10.1 Notwithstanding more far-reaching statutory provisions, the contractor warrants that the goods comply with the legal, official and contractual provisions applicable for their use and distribution and that the goods are of the agreed quality.

10.2 In the case of a defect, Refratechnik may, in accordance with the statutory provisions (cf. section 437 German Civil Code (BGB)), at its option, demand supplementary performance, rescind the contract, reduce the purchase price or demand damages or reimbursement of wasted expenditures.

10.3 The statute of limitations is three years from the time at which the goods are handed over unless the statutory provisions stipulate a longer period of time. If the goods sold are put into operation later than the delivery or the completion of the assembly, the statute of limitations will not commence until the date on which they are put into service, but at the latest four weeks after delivery or completion of the assembly. The statute of limitations will be suspended as long as negotiations between Refratechnik and the contractor regarding defect claims or the circumstances giving rise to them are ongoing. This applies in particular to the duration of the subsequent performance by the contractor if the statute of limitations does not run anew pursuant to the statutory provisions. The suspension will commence with Refratechnik's written or verbal notification of the defect. The statute of limitations for parts which are replaced or remedied by the contractor or supplier by way of subsequent fulfilment will begin to run anew; but in the case of a remediation, only to the extent it involves the same defect or the consequences of a defective remediation. The preceding sentence will not apply if the behaviour of the contractor or supplier gives Refratechnik good reason to assume that the contractor or supplier did not feel it was obliged to take the measure, but merely performed the replacement or remediation for the sake of good will or the like. Otherwise, the statute of limitations will extend in each case by the duration of the interruption of operations as a result of the defect.

10.4 Refratechnik is obliged to inspect the goods within a reasonable period of time for any deviations in quality and quantity and to notify the contractor of any defects. The notification of any defect is deemed to be made in good time if it is received by the contractor within a period of five working days from the delivery of the goods, in the case of hidden defects within a period of 14 working days from the discovery of the defect. Defects in packaged goods may still be notified after the packaging has been opened.

10.5 Once a reasonable period of time for subsequent performance that was granted to the contractor expires without success, in particular with regard to remedying the defect, Refratechnik will be entitled to remedy the defect itself at the contractor's expense or have it remedied by third parties (self-help) or to procure a replacement. Except in the cases provided for by statute, no time period need be set if Refratechnik comes to an agreement with the contractor on the performance of self-help or procurement of a replacement. Moreover, no time period need be set in urgent cases, in particular, if the defect poses a risk to operational safety or the risk of unusually great damage to Refratechnik or third parties, and if, due to the particular urgency involved, it is no longer possible to inform the contractor of the defect and the risk of damage and set it a deadline for remedying it. In that case Refratechnik must inform the contractor once the defect has been remedied of the measures that were performed in the course of the self-help or the procurement of a replacement.

10.6 Farther-reaching legal or contractual rights and claims of Refratechnik remain unaffected.

### 11. Intellectual Property Rights

11.1 The contractor is responsible for ensuring that no claims are asserted against Refratechnik by third parties due to the contractual or usual delivery or use of the goods owing to an infringement of intellectual property rights or other rights of third parties. Where foreign intellectual property rights are involved, this applies only if the contractor is apprised of the country of destination of the goods.

11.2 In the case of an infringement of intellectual property rights by the contractor and/or Refratechnik, the contractor will be obliged for the duration of Refratechnik's intellectual property right to compensate it for all expenditures and damage arising therefrom, including in particular indirect damage, unless the infringement was caused inten-

tionally or as a result of gross negligence by Refratechnik (or a legal representative or vicarious agent (Erfüllungsgehilfe) of Refratechnik). The contractor hereby indemnifies Refratechnik against all claims of third parties stemming from any infringement of intellectual property rights upon first demand. Where foreign intellectual property rights are involved, the two preceding sentences apply only if the contractor is apprised of the country of destination of the goods.

11.3 Paragraphs 11.1 and 11.2 will not apply if the contractor has not acted culpably.

11.4 Claims against Refratechnik arising from this clause 11 paragraphs 1 and 2 will become statute barred three years after the conclusion of the contract.

## 12. Product Liability

12.1 Where the contractor is responsible for product damage, it is obliged to indemnify Refratechnik against damages claims by third parties upon first demand to the extent the cause arose within the contractor's sphere of control and organisation and it itself bears liability vis-à-vis third parties.

12.2 The contractor undertakes to maintain product liability insurance for personal injury/property damage with coverage that is appropriate to the circumstances.

12.3 Farther-reaching legal or contractual claims of Refratechnik remain unaffected.

## 13. Observance of Secrecy/ Ownership and Copyrights

13.1 The contractor undertakes to treat the order from Refratechnik and all associated commercial and technical details confidentially. The contractor is entitled to pass such information on to suppliers, affiliated companies (section 15 Stock Corporation Act (AktG)) or other third parties only if and to the extent necessary in order to fulfil the contract and only if and to the extent that such third parties have undertaken in advance and in writing keep this information secret. Refratechnik may be cited as a reference with its consent.

13.2 Information provided by Refratechnik, drawings, pictures, sketches or similar documents created by Refratechnik or by the contractor on the basis of such information in order to carry out the order may only be applied or used elsewhere with Refratechnik's written consent. All rights of ownership and copyrights in or relating to these documents and this know-how will remain with Refratechnik or be transferred irrevocably to Refratechnik upon conclusion of the respective contract.

## 14. Set-off/Right of Retention

14.1 Refratechnik is entitled to set off any claims against the contractor to which it, or a company which is affiliated with it (pursuant to section 15 Stock Corporation Act) and is involved in the performance of the order with the contractor's knowledge, is entitled against any claims the contractor has against Refratechnik or a company affiliated with it in the aforementioned sense. The contractor here and now explicitly consents to any necessary assignment to Refratechnik of claims held by a company affiliated with it (in the above sense). On request, a list of the affiliated companies will be provided to the contractor.

14.2 The contractor may only set off against claims of Refratechnik or an affiliated company which are undisputed, ready for decision (entscheidungsreif) and/or final and binding (res judicata). The contractor will only be entitled to exercise a right to refuse performance or a right of retention to the extent its counterclaim is based on the same contractual relationship and is undisputed, res judicata or ready for decision.

## 15. Assignment

15.1 Rights arising from this contractual relationship may only be assigned to third parties with Refratechnik's prior consent (section 399 German Civil Code (BGB)).

15.2 Refratechnik will be deemed to have rendered consent if the contractor has granted an extended retention of title (verlängerter Eigentumsvorbehalt) to its supplier in the ordinary course of business.

## 16. Vicarious Agents

The contractor must assume responsibility for the delivery and performance of its ancillary suppliers as well as for its own deliveries and performances. The suppliers of the contractor are deemed to be its vicarious agents within the scope of the contract and these conditions and its respective performance (section 278 German Civil Code).

## 17. Provisions regarding § 13 of the Minimum Wage Law (MiLoG)

17.1 Reservation of consent for Refratechnik  
Due to the sub-contractor liability referred to in § 13 MiLoG, in combination with § 14 of the Posted Workers Act (AEntG), the employment of sub-contractors by the contractor requires the previous written consent of Refratechnik. Moreover, the contractor commits himself to select and use only reputable and known sub-contractors.

17.2 Declaration of commitment by the contractor  
The contractor undertakes to pay his employees at least the minimum wages specified by law, and only to employ persons who possess a legal work permit. Moreover, the contractor commits himself to use only sub-contractors who have also agreed contractually to pay their employees at least the minimum wages specified by law, and only to employ persons who possess a legal work permit. The contractor undertakes to commit his sub-contractors accordingly.

17.3 Refratechnik's supervisory rights  
At the request of Refratechnik or an authorized Refratechnik representative, the contractor agrees to provide confirmation from his tax accountant or financial auditor regarding payment of minimum wages to the workers he employs within the scope of the contract(s) entered with Refratechnik. At the request of Refratechnik, the contractor's obligation of disclosure also includes the provision of anonymized payroll accounts for the workers mentioned above, and/or documents in accordance with § 17 MiLoG. At the request of Refratechnik, the contractor's obligation of disclosure also includes information from the Central Trade Register. The contractor assures that he will impose corresponding obligations of disclosure on his sub-contractors, and to monitor the documents received. Should indications arise that a sub-contractor has failed to comply with the payment regulations in accordance with MiLoG, the contractor must inform Refratechnik accordingly without delay, and will take corrective action.

17.4 Indemnity / Claim for damages by Refratechnik  
In case the MiLoG regulations are violated, the contractor agrees to indemnify and keep Refratechnik harmless against all claims arising from such violation, and also to compensate Refratechnik for any possible damage resulting from such a culpable violation. This obligation also applies for the contractor, if one of his sub-contractors (culpably) violates the Minimum Wage Law regulations.

17.5 Refratechnik's right for extraordinary notice of cancellation  
Should the contractor repeatedly violate his obligation to pay his employees at least the minimum wages specified by law, Refratechnik is entitled to cancel the contract without notice.

The same applies, if the contractor repeatedly violates one of the obligations in the previous section [this covers all the regulations involving sub-contracting], in particular the obligation to inform Refratechnik without delay about a sub-contractor's violation of the MiLoG, although known to the contractor or in case of his grossly negligent unawareness.

17.6 Refratechnik's participation in minimum wage lawsuits

Should a sub-contractor's employee place claims against Refratechnik for payment of the legal minimum wage, the contractor is obliged to provide Refratechnik with all the necessary information required for the defense against such claims as well as possible action for payment. This also applies after termination of the contractual agreement between Refratechnik and the contractor. The contractor assures that he will impose corresponding obligations of disclosure on his sub-contractors, and will provide all the necessary information to Refratechnik without delay, should a sub-contractor's employee place claims against Refratechnik.

## 18. Place of Performance/Legal Venue/ Applicable Law

18.1 The place of performance for deliveries by the contractor is the destination. The place of performance for payment is the registered office of Refratechnik.

18.2 In addition to the provisions of the contract and these conditions, the statutory provisions of the Federal Republic of Germany in their respective valid version will apply. The application of the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG) is excluded. For the application and interpretation of the contract and these conditions, the German text is authoritative.

18.3 Where the contractor is a trader (Kaufmann), public law entities or a special property under public law or does not have a general legal venue in the Federal Republic of Germany, the legal venue for all disputes arising directly or indirectly from or regarding the contract or these conditions (including actions on bills of exchange) will be Düsseldorf.

## 19. Written Form/Severability Clause

19.1 Apart from the content of the written contract, no other oral or written side agreements have been made. Any additions or changes to the agreement or these conditions must be in written form in every case, whereby this formal requirement may be waived only by explicit written declaration and for a specific individual case.

19.2 Should a provision of the contract or these conditions be invalid or infeasible, this will not affect the validity of the remaining provisions of either the contract or these conditions. This also applies to omissions or inconsistencies in the contract or these conditions.

## 20. Data Protection

In accordance with section 33 (1) of the Federal Data Protection Act (BDSG), we call your attention to the fact that we will store and process your data for commercial purposes.

Refratechnik (Steel/Casting/Cement/Ceramics) GmbH  
Düsseldorf, December 2015

# REFRATECHNIK