

# **General Conditions of Purchase of TSC GmbH**

**Version 09/2022**

## **I. Application**

1. These Purchase Conditions (Conditions) shall apply to all our present and future orders for merchandise, service and commission processing and to the performance of such orders towards businesses within the meaning of § 14 Art. 1 BGB (German Civil Code). Seller's conditions diverging from these Conditions will not be acknowledged unless otherwise stipulated within these Conditions or otherwise agreed in the contract with the seller. Should we accept the merchandise not expressly objecting these Conditions, the seller may in no case assume our consent with his conditions.
2. Any oral agreements made by our employees shall only become binding upon our confirmation written in text form.
3. Any offer made by seller will be free of charge and not binding to us.
4. Any trade terms shall, in cases of doubt, be interpreted according to the Incoterms as amended from time to time

## **II. Prices**

1. The contract price shall be regarded as a fixed price.
2. In case of "free house" deliveries, deliveries "free place of destination" and other "free"-deliveries, the price shall include the costs for freight and packaging. In case of "unfree" delivery, we shall bear the lowest possible freight rates only, unless a special kind of delivery has been requested by us.

## **III. Quality / Environment**

The Seller shall set up and maintain a documented quality assurance and environmental management system which is suitable in terms of type and scope and which corresponds to the state of the art. He shall keep records, in particular of his quality inspections, and make them available to the Buyer upon request. The Seller hereby consents to quality/environmental audits for the purpose of assessing the effectiveness of its quality assurance and environmental management system by the Buyer or a person appointed by the Buyer.

## **IV. Payment**

1. Unless otherwise agreed the following terms of payment shall apply: Payment shall be made either within 14 days with 3 p.c. discount, within 21 days with 2 p.c. discount or within 30 days without discount.
2. Payment and discount periods shall begin with the receipt of the invoice but not before the receipt of the merchandise. In case of services, such periods shall begin only after the transaction has been approved by us. If the delivery includes documentation (e.g. test certificates) or similar written material, such periods shall begin only after receipt of the same as agreed upon in the contract.
3. Payments shall be made by cheque or bank transfer. Payment is on time if the cheque has been sent by post on the due date or the bank transfer has been ordered from the bank on the due date.

4. We will be liable for interest only if and so far as we are in arrears for payments, not at their mere maturity date. The interest rate will then be 5 %points above the Basic Interest Rate. We are, in any case, entitled to establish a lower rate than claimed by the seller.

5. We shall be entitled to all statutory rights as to the set-off and retention of our claims against the seller's. In particular, we are entitled to withhold the purchase price if and as long as agreed test certificates according to EN 10204 are not delivered to us.

## **V. Delivery Times / Late Delivery**

1. All contractual terms and dates of delivery shall be binding to the seller. The seller shall immediately inform us in text form in case of imminent delays and submit to us adequate proposals to remedy the consequences of such delays.

2. Unless otherwise agreed in text form, any contractual terms and dates of delivery shall be considered to be met only if and in so far as the merchandise has been handed over to us at such dates.

3. If the seller is in default of delivery, we are, unless otherwise agreed, entitled to charge liquidated damages in the amount of 0.2% of the order value per day, but no more than 5% of the order value, unless the supplier proves that we suffered less damage in individual cases. The assertion of further damages for default on the basis of the statutory provisions remains unaffected. In particular, we shall have the right to claim damages for non-performance if and in so far as the seller fails to effect delivery after a reasonable grace period set to him has elapsed. Our right to request delivery shall be excluded only if the seller has compensated us for our damages.

4. The seller may claim relief for his default by reason of lack of any documents to be submitted by us only in such cases where we have, upon the seller's reminder in text form, failed to deliver such documents to him.

## **VI. Retention of Title**

1. The seller's terms covering his retention of title shall be valid subject to the condition that title in the merchandise shall pass to us on the date of payment for such goods. Consequently, the extended forms of the so-called current account retention (Kontokorrentvorbehalt) shall not apply.

2. The seller may claim return of the merchandise on the basis of the retention clause only if he has previously withdrawn from the contract.

## **VII. Performance of Deliveries and Passing of Risks**

1. The seller shall bear the risks of accidental loss and accidental deterioration of the merchandise until it has been handed over to us at its place of delivery. This provision shall also apply in cases of "free delivery" (franco domicile).

2. We will not accept partial deliveries unless we have given our prior express consent to them.

3. Excess or short deliveries will be accepted only in accordance with current trade practise.

4. Unless otherwise agreed in text form, the seller shall bear the costs of packing. Should we, in a given case, agree to bear such costs, the seller will charge us with the lowest possible costs only. Any obligations to take back packaging material shall be governed by the German Packaging Act of 5<sup>th</sup> July 2017 with the proviso that taking back always takes place at our registered office, unless otherwise agreed. In any case, the costs for the return transport and

disposal of the packaging shall be borne by the seller.

### **VIII. Declarations of Origin**

1. The seller will, upon our demand, provide us with a supplier's declaration regarding the preferential origin of the goods and/or regarding the non-preferential origin of the goods.

2. Where the seller makes a declaration in regard to the preferential or non-preferential origin of the sold goods, the following terms shall apply:

a) The seller will allow verification through customs authorities and submit all necessary information as well as any required certification.

b) The seller shall compensate us for any damages and losses incurred to us, if and in so far as the competent authorities, due to any deficient certification or impossibility to verify, fail to acknowledge the declared origin, unless he proves that he is not responsible for such consequences.

### **IX. Warranty Provisions and Statute of Limitations**

1. The seller shall deliver the merchandise free of any material and legal defects. He will certify in particular that his deliveries and his services comply with the state of the art and with any contractual requirements and standards.

2. We will examine the quality and quantity of the merchandise upon its receipt to the extent both reasonable and technically feasible for us. A reasonable examination shall, in the absence of any contrary indication, not include possible defects which are not apparent to the eye, but detectable only in case of examinations of the inner properties of the merchandise. Any notice of a defect will be deemed to be in time if it reaches the seller within eight working days by letter, telefax, e-mail or by telephone. Periods for such notices shall not start before we – or in case of direct sales ("Streckengeschäfte") our buyers – have detected or should have detected the defect.

3. In the event that the merchandise shows a defect, we may exercise our statutory rights. If the seller tries to repair the merchandise, such remedy is considered to have failed after the first unsuccessful attempt. We shall have the right to withdraw from the contract also in such cases where a breach of contract is not considered to be material.

4. Where the merchandise was already defective at the time the risk passed to us, we may claim from the seller also those expenditures in connection with such defect which we must pay to our customer.

5. A limitation period of 36 months shall apply to our claims for defects. The period shall begin with the timely notification of defects within the meaning of No. 2 above. The seller's liability for defects shall end no later than ten years after delivery of the goods. This limitation shall not apply if our claims are based on facts which the seller knew or could not have been unaware of and which he did not disclose to us.

6. The seller hereby assigns to us - on account of performance – the benefit of any claims against his supplier arising from the delivery of deficient merchandise or of such merchandise not conforming to the guaranteed characteristics. He will supply us with any documents necessary to enforce such claims.

### **X. Payment of the statutory minimum wage**

1. For our orders for services or work performance within Germany, the supplier undertakes to

comply with the provisions of the German Minimum Wage Act ("Gesetz zur Regelung des allgemeinen Mindestlohns" of 11 August 2014, as amended). The Supplier warrants that it will pay the statutory minimum wage to its employees and that it will also impose the same obligation on its subcontractors and any other contractors used by them. The supplier declares that it is not excluded from awarding public contracts.

2. The following shall apply in the event that services or work performances are rendered in the economic sectors or branches of industry specified in § 2a of the Act to Combat Clandestine Employment and Illegal Employment:

- The supplier is obliged to provide us at any time upon request with proof of the payment of the minimum wage by the contractor and, if applicable, its subcontractors for the period of the last two years relevant for the record-keeping obligation pursuant to § 17 MiLoG. This evidence shall be provided by submitting corresponding records of hours worked and remuneration paid for this.
- Furthermore, the supplier shall grant us access to the relevant (anonymised) wage and salary lists at any time upon request.
- In the event of non-compliance with these obligations to provide evidence, a contractual penalty of 10,000 euros per incident shall be forfeited.

3. In the event of our being held liable in this respect by third parties (§ 13 MiLoG, § 14 AEntG), the supplier shall indemnify us against all claims, including legal defence costs, upon first written request.

4. Should the supplier violate the regulations listed here, we are entitled to terminate the contractual relationship extraordinarily without observing a period of notice. This shall also apply in the event of a breach of the agreed obligations to provide evidence by the supplier.

## **XI. Place of Performance, Jurisdiction, Applicable Law and Data Protection**

1. Unless otherwise agreed to, our registered office shall be the place of performance for the delivery.

2. The place of jurisdiction is our registered office. We may also sue the seller at his place of jurisdiction as well as at the place of jurisdiction of our branch registered in the commercial register with which the contract was concluded.

3. All legal relationships between ourselves and the seller shall be governed by the laws of the Federal Republic of Germany supplementing these Purchase Conditions, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

4. The data of the seller are stored and processed by us in accordance with the requirements of the DSGVO.

## **XII. Applicable Version**

In cases of doubt, the German version of these General Conditions of Purchase shall apply.