

General Terms and Conditions of Purchase

TPM Technical Product Marketing Aussenhandelsgesellschaft mbH · Halstenbeker Weg 96c · 25462 Rellingen · Germany

1. General

(1) Our General Terms and Conditions of Purchase shall apply exclusively to all agreements of TPM Aussenhandelsgesellschaft mbH (referred to in the following as "TPM" or "we") on the procurement of goods and services. Unless we have given our explicit consent, other terms and conditions, particularly the terms and conditions of business of the supplier which are contrary to our Terms and Conditions or deviate from them shall not apply irrespective of whether they have been explicitly rejected by us or not. Our General Terms and Conditions of Purchase shall also apply if we accept a delivery without reservation in knowledge of contrary or deviating terms and conditions of the supplier.

(2) **Our General Terms and Conditions of Purchase shall only apply towards entrepreneurs within the meaning of Section 14 (1) German Civil Code (BGB).** They shall also apply to all future business with the supplier from regular business relationships.

2. Contract initiation and conclusion

(1) Submitted offers should contain gross prices, rates of discount, other remuneration and should state the delivery period.

(2) Our orders shall only be legally binding if they have been given in writing or have been confirmed in writing.

(3) Amendments and supplements to the order as well as the resultant agreement and all other agreements between the parties on the implementation of agreement shall require the respective statements in writing to be effective.

(4) Orders are to be accepted by the supplier within 10 days by order confirmation in text form, unless delivery to the delivery address of the ordered goods stated by us takes place within three days. In this case, an order confirmation is not required.

(5) Remuneration or cost reimbursement for visits or the preparation of cost estimates, project studies or other documents in preparation of entering into agreement shall not be given insofar as nothing to the contrary has been explicitly agreed in writing.

(6) If the supplier has concerns as to the lawfulness or practicability of a design or execution requested by us or our specifications, he is obliged to advise us thereof in writing immediately.

3. Prices/invoicing/payment

(1) Insofar as nothing to the contrary has been agreed in writing, the agreed prices are fixed prices plus the statutory rate of value added tax. The prices also cover the delivery, packaging and all ancillary expenses. They shall remain applicable even if their foundation (wages and material prices) alters. We shall not recognize reservations to alter prices.

(2) Invoices must be sent in duplicate to the address stated in the order. It is not admissible to send the invoice before sending the ordered goods or together with the goods. In the event of agreement of services, it shall not be admissible to send an invoice before said services have been provided in full if nothing to the contrary has been explicitly agreed in writing.

(3) Invoices can only be processed by us if our order number has been stated precisely. Any imprecise or incomplete invoices shall be viewed to have not been received until such times as they have been corrected or completed. In the event of an impreciseness or incompleteness, we shall advise the supplier of this within an appropriate period.

(4) Unless otherwise agreed in writing, payment shall, at our discretion, be made within ten days with a cash discount of 3% or within 30 days net - in each case from the time all goods/services are received or the invoice is received, whichever comes later. Legal rights of set-off and retention remain unaffected.

4. Dispatch/packaging

(1) Unless otherwise agreed in writing, deliveries shall be made "free delivery address" or "free place of performance" as stated in our order.

(2) The goods shall be sent at the risk of the supplier; the supplier shall be liable for any coincidental damage or disruption up to the time of delivery to the agreed delivery address.

(3) The complete order numbers and other agreed information must be indicated or enclosed in all shipping notes, bills of lading or other delivery documents, invoices and other correspondence. The supplier is liable for possible consequences of culpable omissions in this context.

(4) The supplier is obliged to take back transport and sales packaging. We are not therefore obliged to return or remunerate packaging material.

(5) The supplier must ensure that goods delivered to TPM are marked in a way that guarantees batch traceability at all times.

5. Delivery data/default

(1) Agreed delivery periods and data are binding. The date of receiving the goods/services at the delivery date

(2) we have specified is decisive for the observation of delivery periods by the supplier.

(3) In the event that the supplier learns of circumstances meaning that the delivery date cannot be met, the supplier shall notify us thereof in writing immediately, communicating the reason and the expected duration of delay.

(4) The supplier shall be liable for all direct and indirect damage resulting from the delay. The acceptance of delayed goods/services by us shall not affect this liability.

(5) If the delivery date is not met due to circumstances for which the supplier is responsible, we shall be entitled to claim damages for non-performance and to obtain the goods/services from third parties and to withdraw from the contract after expiry of a reasonable period of grace. An extension of time is not necessary in the case of a fixed transaction.

(6) Insofar as nothing to the contrary has been explicitly agreed in writing, we shall not accept deliveries before the agreed delivery date. In the event of a premature delivery which has not been agreed, TPM shall reserve the right to return the goods at the cost and risk of the supplier. If the goods are not returned in any such case of premature delivery, they shall be stored by us at the cost and risk of the supplier until the agreed delivery date.

(7) We shall not accept part deliveries unless anything to the contrary has been explicitly agreed in writing. In the event of agreed part deliveries, any outstanding remaining part including its date of delivery must be stated precisely in the delivery documents.

6. Claims based on defects

(1) The supplier guarantees that all delivered goods and services correspond to the current state of the art, the applicable legal regulations, relevant technical standards (in particular ECE standards), fulfil the functions specified by us and comply with the agreed specifications.

(2) All defects in the delivered goods which are reported to the supplier within the warranty period shall be remedied by the supplier at our request without delay and without charging additional or ancillary costs to us at our discretion by repair or replacement of the defective parts. The foregoing shall not affect any further claims for defects to which we are legally entitled, including withdrawal from the contract, reduction of the purchase price (reduction) and/or damages.

(3) In the event of serial defects (defects of the same type that occur in at least 5% of the delivered goods), we are entitled to reject the entire delivery quantity as defective and to assert our statutory claims for defects for the entire delivery quantity.

(4) If the supplier does not fulfil his warranty obligations within a reasonable period set by us, we are entitled to carry out or have carried out the actions necessary to remedy the defect ourselves at the supplier's expense and risk and without influence on our claims for defects against the supplier. In the event of imminent danger or particular urgency, in particular in the event of impending production downtime at TPM or our customers' production plants, we shall be entitled to remedy the defects ourselves or have them remedied by third parties at the supplier's expense. In such a case we will inform the supplier within a reasonable time. With regard to our obligation to mitigate damages, we are entitled, without any obligation to agree a price, to repair insignificant defects ourselves and to charge the costs incurred for this to the supplier, insofar as the latter is obliged to assume the damage; his further warranty obligations remain unchanged.

(5) **Insofar as nothing to the contrary is agreed, the limitation period for claims based on defects shall be 36 months starting from delivery or, insofar as agreed, from acceptance.** For parts which may not be kept in operation during a pending defect examination and/or repair, the decisive warranty period shall be extended by the duration of the interruption. For repair and spare parts as well as parts repaired by the supplier in execution of his warranty duties, the limitation period shall start from the date of repair/delivery of replacement anew. Longer limitation periods provided for by the law shall not be reduced by this rule. Insofar as no more than six months have passed since the passing of risk, the defect shall be viewed to have already existed on passing of risk.

(6) All minimum shelf life or expiry dates specified by the supplier shall be viewed as durability warranties according to Section 443 BGB.

(7) The supplier is also liable for defects of title through no fault of his own. The period of limitation for claims based on defects of title is 36 months from the point in time at which we have become aware of the circumstances giving rise to the claim or - in the case of grossly negligent ignorance - should have become aware of them. In no case, however, is it longer than ten years.

7. Product liability/quality/documentation

(1) In the event that claims are asserted against us due to a breach of official safety requirements or national or foreign product liability laws and regulations on the grounds of a defect in our products or services resulting from goods delivered to us or services provided to us by the supplier, the supplier is obliged to indemnify us against any such claims at first request insofar as the damage caused is attributable to the area of responsibility or the organization of the supplier and the supplier himself is liable in the external relationship. **The supplier is furthermore obliged to reimburse us all costs pursuant to Sections 683, 670 BGB which we sustain in association with any possible recall campaigns.** We shall advise the supplier of the nature and extent of recall campaigns insofar as possible and insofar as this can justifiably be expected of us and provide the supplier with the opportunity to comment.

(2) The supplier must constantly check the quality of the goods and services. He will maintain a quality assurance program which is appropriate in type and scope and complies with DIN EN ISO 9000 ff. Upon request, suitable proof must be submitted to us. If we consider it necessary, the supplier shall conclude an appropriate quality assurance agreement with us.

(3) In addition, the supplier shall take out and maintain a product liability insurance policy with an appropriate sum insured and shall send us a copy of the insurance policy on request.

8. Industrial property rights

(1) The supplier warrants that all goods delivered and services provided are free from patent or any other industrial property rights as well as copyright of third parties in the Member States of the European Union or, insofar as he is aware, in the country of destination and that patents or other industrial property rights, copyrights or licenses of third parties are not infringed, in particular by the delivery and use of the goods supplied or services provided. The supplier undertakes to indemnify us and all our customers against all third party claims in this respect arising from the infringement of patent or other industrial property rights, copyrights or licenses. In addition, the supplier shall be liable to us for all damage resulting from any such infringement of third party property rights irrespective of fault.

(2) In the event of an infringement of third party rights, we are entitled, in addition to the assertion of further claims towards the supplier, to acquire from the third party who is the industrial property right holder a license necessary for the distribution, operation, use and resale or exploitation of the goods/ services delivered at the expense of the supplier at an appropriate price.

9. Reservation of ownership/provision of parts or tools

(1) We shall reserve ownership to the parts or other objects provided by us to the supplier. Any processing, converting or combining of such objects by the supplier shall always be performed for us. If an object we own is processed, converted or combined with other objects which do not belong to us, we shall acquire co-ownership to the new object in the ratio of the value of the object we have provided to the other processed, converted or combined object at the date of processing, converting or combining.

(2) If an object we have provided is inseparably mixed with objects which do not belong to us, we shall acquire the co-ownership to the new object in relationship of the value of the object belonging to us to the other mixed objects at the time of mixing. If the mixing is performed in a manner such that the object of the supplier is to be viewed as the main object, then it shall be viewed to have been agreed that the supplier transfers to us proportionate co-ownership. The supplier shall keep the resultant sole property or co-property for us.

(3) All tools provided to the supplier by us shall remain our property. The supplier is obliged to use these tools exclusively for the manufacture of the goods we have ordered. The supplier is furthermore obliged to insure any such tools at this own expense at the reinstatement value adequately against fire, water and theft damage. The supplier must inform us immediately of any incidents; in the case of a culpable infringement of this duty, the supplier shall be liable for all damage arising as a consequence thereof.

10. Drawings/secret

(1) All specifications, drawings, drafts, models, samples, manufacturer's instructions or other documents (referred to in the following as "specifications"), also data for the manufacture of product packaging which we provide to the supplier for the purpose of preparing a cost estimate or executing an order are and shall remain our property and may not be copied or used for other purposes insofar as they are made accessible to third parties without our explicit consent.

(2) Immediately after satisfaction of agreement, e.g. through delivery of the goods or provision of the services, all documents must be returned to us free of charge. The supplier shall have no right of retention to any such documents.

(3) **The supplier undertakes to treat confidentially business or technical information such as business secrets of TPM** as well as our entire know-how or any other information not publicly available and to which the supplier becomes privy during the course of our business relationships and shall furthermore undertake to refrain from disclosing such to third parties without our prior written agreement. Furthermore, the supplier undertakes to impose a corresponding confidentiality duty on his employees and any subcontractors.

(4) The supplier undertakes to treat the implementation and content of the agreement confidentially. References to our business relationships in advertising material, reference lists or similar documents shall require our prior written consent.

(5) The confidentiality duties regulated in this clause 10 shall also apply after the end of the business relationships.

11. Exclusivity

(6) The supplier may manufacture the goods we have ordered, packaging materials or documents exclusively in accordance with our specifications. He may not manufacture any products for third parties which comply with these specifications or which may be confused with the products manufactured in accordance with the specifications. Furthermore, the supplier may not provide the products manufactured in accordance with our specifications to third parties without having obtained our prior explicit written consent.

(7) The exclusivity duties regulated in this clause 11 shall also apply after the end of the business relationships.

12. Contractual penalty

The supplier shall pay to TPM a contractual penalty at the discretion of TPM and to be examined in the case of dispute by the competent court for every culpable infringement of one of the duties set out in clauses 10(1), 10(3), 10(4) and 11(1). The other statutory and contractual rights and claims of TPM shall not be affected by this.

13. Data protection

We are entitled to electronically store and process all data on the supplier which are related to the business relationship, for the purposes of implementation of agreement under consideration of the provisions of the Federal Data Protection Act.

14. Supply chain security

(1) If the supplier is already a certified authorized economic operator (AEO), he undertakes to provide evidence of such by sending a copy of the certification to TPM.

(2) If the supplier is not (yet) a certified authorized economic operator (AEO), he undertakes to satisfy the requirements set out in the security declaration for AEO-certified companies (which can be obtained from www.dieseltechnik.com) in his company and submit the signed safety declaration to TPM as required. If the supplier is unable to meet the requirements set out in the security declaration or is able to meet them in part only, he undertakes to notify TPM of this immediately.

(3) The supplier shall similarly notify TPM immediately and in writing if he loses the certification as authorized economic operator (AEO) or is unable to meet the requirements set out in the security declaration or is able to meet them in part only at any given time.

15. Proof of origin/supplier declarations

(1) The contractor shall provide the proofs of origin requested by us with all necessary information and immediately submit them to us duly signed.

(2) The supplier undertakes to comply with the provisions in Regulation (EU) No. 952/2013 and - where pertinent - in the Decision No. 1/95 of the EC-Turkey Association Council of 22 December 1995 (96/142/EC) and shall submit to us a long-term supplier's declaration for products having preferential origin status for goods supplied by him to us in accordance with Implementing Regulation (EU) No. 2015/2447 and - where pertinent - in accordance with Decision No. 1/2006 of the EC-Turkey Customers Cooperation Committee of 26 September 2006 (2006/646/EC) and renew it in good time before expiry. If it cannot be provided for individual deliveries of goods, corresponding proofs of origin must be provided on invoicing at the latest.

(3) Should we or our customers be subsequently burdened by a customs authority as a result of an infringement on the part of the supplier of his duties set out in paragraph (2) or suffer a pecuniary disadvantage as a result, the supplier shall be liable for this.

16. Export restrictions

The contractor shall inform the customer immediately if a delivery is subject in whole or in part to export restrictions under German or any other export law. If the contractor fails to point out any existing export restrictions, this shall be viewed as a confirmation that no export restrictions exist.

17. Miscellaneous

(1) In the event of individual provisions of this agreement or of these General Terms and Conditions of Purchase being or becoming ineffective, this shall not affect the efficacy of the remaining provisions.

(2) Without our prior written or explicit consent, the supplier is not entitled to transfer his rights and duties from this agreement to third parties.

(3) Insofar as nothing to the contrary has been explicitly agreed, place of performance for the duties of the supplier shall be the delivery address we have stated. Place of performance for all other duties is Rellingen, Germany.

(4) **All legal relationships in connection with the agreement shall be governed exclusively by the law of the Federal Republic of Germany, ousting the Convention on the International Sale of Goods (CISG).** If the supplier is a merchant, then the exclusive venue for all disputes arising from and in connection with the agreement is Rellingen, Germany. However, we are entitled to litigate against the supplier at his registered office.