



Components * Solutions * Systems



Purchasing Conditions

Marktbreit, June 2021

1. Conclusion of Contract

1.1 The contract between the Contractor and the company GOK shall be based exclusively on these general Purchasing Conditions of the company GOK. The General Terms and Conditions of the Contractor shall hereby be vetoed, especially if they contradict these General Purchasing Conditions of the company GOK. The General Purchasing Conditions of the company GOK shall also apply to all future deliveries and services of the Contractor to the company GOK up to the application of new General Purchasing Conditions of the company GOK.

1.2 Orders, agreements and alterations shall be binding only if they are issued or confirmed by the company GOK in writing, via telefax or in electronic form. Correspondence is to be conducted exclusively with the purchasing division. Arrangements with other divisions of the company GOK, if they involve the entering into agreements, which alter issues determined in the contract, shall require explicit written confirmation via the purchasing division in form of an amendment to the contract.

1.3 Orders and delivery schedules shall be deemed accepted, if the Contractor does not object to them in writing within 1 week from receipt. However, within a further week, the company GOK shall be entitled to withdraw its order or delivery schedule, unless the Contractor accepted them in writing beforehand.

1.4 The Contractor has to treat all information made available to the Contractor in connection with the execution of the contract as strictly confidential.

1.5 Quotes, first samples and samples in general shall be binding and not to be paid, unless otherwise explicitly agreed upon in writing.

2. Prices

2.1 The agreed prices shall be fixed prices and, plus the respective valid VAT, free application site, duty paid including freight and packaging costs. If "ex works" or "ex warehouse" has been agreed upon, the company GOK shall only bear the most economical freight costs. All expenses up to the handover to the freight forwarder, including loading and excluding cartage, shall be borne by the Contractor. The agreement on the place of performance shall not be affected by the method of price agreement and price determination.

3. Proofs of Origin, Proofs Regarding Turnover Tax

3.1 The Contractor shall furnish all necessary information regarding proofs of origin requested by the company GOK and shall provide these immediately and properly signed. This shall apply, mutatis mutandis, to proofs regarding turnover tax in case of foreign or intra-community deliveries.

4. Delivery, Dates, Delays

4.1 Any departure from the company GOK's agreements and orders shall be admissible only upon prior written approval.

4.2 Agreed dates and terms shall be binding. The arrival of the goods at the company GOK shall be relevant for adherence to the delivery date or delivery term. If no delivery "free works" has been agreed, the Contractor has to make the goods available in time, under consideration of the time of loading and dispatch to be agreed with the freight forwarder.

4.3 If the Contractor has taken over erection or assembly and if nothing is agreed to the contrary, the Contractor shall bear, subject to differing arrangements, all necessary ancillary costs such as travel expenses, provision of tools and releases.

4.4 Fundamentally, the statutory regulations shall apply if agreed dates are not adhered to. As soon as the Contractor recognises difficulties regarding manufacture, material supply, adherence to dates or similar circumstances, which might prevent the Contractor from timely delivery or from delivery in the agreed quality, the Contractor has to notify the purchasing division of the company GOK without delay. The obligation to adhere to the agreed dates shall remain unaffected.

4.5 In case of default by the Contractor, the company GOK may, after fruitless expiry of an appropriate period of grace determined by GOK, cause the unperformed service of the Contractor to be executed by a third party at the Contractor's expense. After fruitless expiry of the grace period determined by the company GOK, GOK may also withdraw from the contract.

4.6 The unconditional acceptance of a delayed delivery or service shall not comprise any waiver of compensation claims due to the company GOK on account of the delayed delivery or service. This shall apply up to the total payment owed by the company GOK for the delivery or service concerned.

4.7 Subject to alternate proof, the values determined by the company GOK's incoming goods inspection shall be relevant for amounts, weights and measurements.

4.8 Partial deliveries shall basically not be permitted, unless the company GOK has explicitly agreed to them or they are reasonable for the company GOK.

4.9 The Contractor shall bear the risk of accidental loss, destruction or deterioration up to the point of acceptance of the goods by the company GOK or the company GOK's assignees at the place where the goods are to be delivered according to the order.

4.10 In cases of force majeure, industrial actions, non-culpable business disruptions, unrests, official measures and other inevitable events, the company GOK shall be entitled, irrespective of its other rights, to withdraw from the contract in whole or in part, if they are not of an insignificant duration and result in a significant reduction of the company GOK's demand.

5. Quality

5.1 The delivery must conform to the agreed specifications.

5.2 The Contractor has to constantly adjust the quality of the Contractor's produces to be delivered to the company GOK to the latest state of technology and notify the company GOK of possibilities for improvements and technical changes.

5.3 The Contractor has to establish and maintain a suitable, documented quality management system complying with the latest state of technology. The Contractor has to establish records, especially regarding the Contractor's quality controls, and make them available to the company GOK on demand.

5.4 At the company GOK's request, the Contractor shall be obliged to enter into a Quality Assurance Agreement with the company GOK.

5.5 The supplier must stringently present first samples if

- the supplier manufactures and delivers an item for the first time,
- the item has not been delivered for a long time (upon receipt of a request by GOK),
- the item was rejected several times in series supply (upon receipt of a request by GOK).

Besides presenting the first sample, the supplier has to inform GOK in addition if

- any index/version change is available for an item,
- the manufacturing technology and/or the manner in which a product is manufactured changes,
- the manufacturing conditions directly affecting the item changed at the supplier's.

6. Claims for Defects and Recourse

6.1 Acceptance shall always occur subject to an inspection regarding faultlessness, especially also regarding correctness, completeness and suitability. The company GOK shall be entitled to inspect the subject matter of the contract as soon and as far as possible within the proper course of business; discovered defects shall be reprimanded by the company GOK immediately upon notice. In this respect, the Contractor shall forego the objection to a belated notice of defect.

6.2 The company GOK shall principally have the right to choose the manner of cure. The Contractor shall have the right to refuse the manner of cure chosen by the company GOK under the requirements of sect. 439(3) BGB (German civil code).

6.3 If the Contractor does not commence with the rectification of the defect immediately upon notice of the defect by the company GOK, then, in urgent cases, especially to prevent acute dangers or larger damage, the company GOK shall be entitled to rectify these itself or to commission a third party at the Contractor's expense.

6.4 Claims for material defects shall expire 24 months after notice of defect has been given, unless the thing, in accordance with its normal usage, was used for a built structure and has caused the defectiveness of same. The limitation period for claims for material defects shall commence with the handover of the subject matter of the contract (passing of risk). The limitation period of sect. 479 BGB shall remain unaffected.

6.5 The company shall be especially entitled to claims of recourse against the Contractor according to sect. 478, 479 BGB if the company GOK bears such claims towards a third party. This shall also apply in case the subject matter of delivery was installed or further processed by the company GOK or a third party. Furthermore, these claims shall be due to the company GOK even if the third party or end customer is not a consumer, but an entrepreneur.

6.6 In case of defects of title, the Contractor shall also indemnify the company GOK from any existing claims of third parties. The limitation period for these defects of title shall be 10 years.

6.7 For any parts of the delivery which were restored or repaired within the limitation period of the company GOK's claims for defects, the limitation period shall commence anew from the point in time at which the Contractor has completely fulfilled the company GOK's claims to cure.

6.8 If the company GOK incurs any costs as a consequence of the defective delivery, especially transport, workmen's travel, work or materials costs or costs exceeding the normal extent of a receiving inspection, the Contractor has to bear these costs.

6.9 If the company GOK takes back goods, which it produced and/or sold itself, as a consequence of defaults of subject matters of the contract delivered by the Contractor or if the company GOK's purchase price was reduced due to this defect or if the company GOK is held liable in any other manner in this cause, the company GOK reserves the right of recourse towards the Contractor, with any otherwise necessary deadline not being required for the company GOK's rights from defects.

6.10 The company GOK shall be entitled to demand compensation from the Contractor for expenses, which the company GOK had to bear in the relationship with its customers for claims, which these customers had against the company GOK due to compensation for the purpose of cure, especially transport, workmen's travel, work and materials costs.

6.11 Regardless of the provision in clause 6.6, the limitation period in clauses 6.9 and 6.10 shall commence at the earliest 2 months from the time at which the company GOK has fulfilled the claims directed against it by its customer, at the latest, however, 5 years after handover by the Contractor.

6.12 If a material defect becomes evident within 18 months from passing of risk, it shall be assumed that the defect already existed at the time of passing of risk, unless this assumption is incompatible with the nature of both the thing and the defect.

6.13 The Contractor shall be liable for guaranteed qualities of the deliveries, independent of fault. The limitation period of sect. 479 BGB shall apply to such breaches of duty.

7. Product Liability

7.1 If the company GOK is held liable under German or any other law from product liability, the Contractor shall enlist towards the company GOK to the extent that the Contractor would be directly liable. Any contractual liability of the Contractor shall remain unaffected. The Contractor shall be obliged to indemnify the company GOK from such claims, if and in as far as the damage was caused by a defect in the subject matter of the contract delivered by the Contractor. In cases of liability dependent on fault, however, this shall apply only if the Contractor is at fault. If the cause of damage falls within the responsibility of the Contractor, the Contractor shall bear the burden of proof to this extent. In those cases, the Contractor shall bear all costs and expenses, including the costs of any legal action or recall.

7.2 The company GOK shall notify the Contractor without delay if it wants to hold the Contractor liable according to the above paragraph. If it is reasonable for the company GOK, the company GOK shall afford the Contractor the opportunity to investigate the event of damage and to coordinate any actions to be taken with the company GOK, such as settlement negotiations.

8. Provision and Co-Ownership

8.1 Materials, parts, containers and special packaging provided by the company GOK shall remain property of the company GOK. They may be used only in accordance with their purpose. The processing of materials and the assembly of parts shall occur on behalf of the company GOK. It is agreed that the company GOK shall be the co-owner of the produces resulting from the usage of the materials and parts provided by the company GOK and stored by the Contractor for the company GOK at the ratio of the value of the provisions to the value of the total produce.

9. Drawings, Design Documents, Tools and Confidentiality

9.1 Drawings and other documents, devices, models, tools and other manufacturing equipment, which were entrusted to the Contractor, shall remain the property of the company GOK.

10. Payment

10.1 The company GOK shall pay either 14 days from receipt of invoice and complete receipt of goods with a 3% discount or after 30 days with a 2% discount or after 60 days net.

10.2 Payments by the company GOK shall not constitute any acceptance of the accounting and shall be made under reservation of an audit.

10.3 The company GOK may offset all claims, which the Contractor may have against it, against all claims, which it may have against the Contractor.

11. Compliance With the Applicable Statutory Provisions and Regulations

11.1 The supplier undertakes to comply with the applicable laws on occupational safety and health and minimum wage.

11.2 The applicable policies on environmental protection and regulations on pollutants (RoHS, REACH, ELV, ElektroG and the like) shall be complied with by the supplier.

11.3 The supplier undertakes to respect human rights and anti-corruption regulations.

11.4 All deliveries shall be subject to the General Delivery Specification available on the GOK website.

11.5 Other than that, the Quality Assurance Agreement shall apply as well, where agreed.

12. Place of Performance, Partial Ineffectiveness, Place of Jurisdiction, Applicable Law

12.1 Place of performance for deliveries shall be the application site of the company GOK; for payments, it shall be the registered office of the company GOK.

12.2 Place of jurisdiction shall be the court having general jurisdiction for the company GOK. However, the company GOK may also sue the Contractor at the Contractor's place of general jurisdiction.

12.3 Supplementary to the contractual regulations, the law of the Federal Republic of Germany relevant for the legal relationships of national parties shall apply exclusively.

as of June 2021