

# General Terms and Conditions of Purchase of KUNSTSTOFF VERTRIEB DR. SCHIFFERS GmbH u. Co. KG (Effective as of 01/06/2017)

## 1. Scope of application

These General Terms and Conditions of Purchase apply to all, including future, orders of goods and services and the processing of these.

We do not acknowledge conflicting terms and conditions or contractors' own terms and conditions that deviate from these Purchase Terms and Conditions, unless something else is defined in these Terms and Conditions of Purchase or in the contract with the contractor. Under no circumstances may it be inferred from our acceptance of the goods without express objection that we have acknowledged the contractor's terms and conditions.

Should terms and conditions that deviate from these Terms and Conditions be agreed for a specific order, these General Terms and Conditions of Purchase apply as subordinate and supplementary.

The preparation of quotations for us is free and without obligation.

## 2. Orders

Orders are only binding if they are issued by us in writing. Verbal agreements must be confirmed by us in writing in order to be valid.

Cost estimates are a binding basis for orders resulting from them for the period of their validity.

If the contractor does not accept the order within two weeks of receipt thereof, we shall be entitled to cancel the order free of charge.

## 3. Prices

The agreed prices are understood to be free delivery from the place of receipt specified by us, including transport, packaging and additional costs.

Where delivery is not included, we shall assume only the most favourable freight costs, unless we have specified a special kind of shipment.

The contractor shall bear packaging costs unless otherwise agreed in writing. Packaging and transport costs must be shown separately.

## 4. Scope of delivery

The quantities ordered are binding. Excess or short deliveries by the contractor are permitted only within the typical commercial scope. In the event of excess deliveries, we are entitled to send these back at the expense and cost of the contractor.

Part deliveries shall require our consent.

The scope of delivery includes, among other things

- o the handover of all the technical documentation necessary for the operation and maintenance of the delivered goods.
- o the transfer of the rights of use necessary for the use of the delivered goods
- o the assurances of the contractor that it is also able to transfer the rights of use and indeed free of third party rights.

## 5. Quality

The contractor must establish and maintain a documented quality assurance system that is suitable in type and scope. For all substances, preparations and products delivered to us, the standards and measures evident from the REACH Ordinance must be fulfilled on the part of the contractor.

## 6. Payment

Payment shall take place according to agreement. A delivery provided before the agreed deadline shall not affect the payment period linked to this deadline.

The payment periods shall run from receipt of invoice, however not before receipt of the goods and/or in the case of services, not before the acceptance of these and, insofar as documentation or similar documents are part of the scope of the service, not before the transfer of these to us as per the contract.

Payments shall be made by bank transfer. Payment shall be considered to be timely if the bank transfer is effected with the bank on the due date.

We may exercise rights of set-off and retention to the extent allowable under law.

## 7. Delivery dates

Agreed delivery dates and periods are binding. Impending delivery delay must be reported to us immediately, stating the reasons and the expected duration of the delay.

In the event of a delay to delivery, we shall be entitled to the statutory claims.

In particular, we shall be entitled to claim for damages on the grounds of non-performance once an appropriate grace period has passed to no avail.

A delivery before the agreed deadlines shall entitle us to return the delivery until its due date.

All events of force majeure which result in a restriction of the smooth operation of our company shall entitle us to suspend the fulfilment of assumed acceptance obligations until the event of force majeure ceases; in the event of a permanent suspension of the operation or in the event that the fulfilment has become unreasonable after the event of force majeure has ceased, we shall be entitled to rescind the contract in full or in part or terminate the contract in full or in part. In such cases, we shall not be liable for damages or expenses.

## 8. Retention of title

Any extended or expanded retention of title shall be excluded insofar as this is legally permissible. The ownership of delivered goods shall pass to us upon full payment of the purchase price, unless a legal transfer of ownership takes place through the combination/mixing/processing of the goods. The contractor's current account and group reservations shall not apply.

## 9. Statement of origin

In the event that the contractor submits declarations concerning the origin of the goods sold, the following shall apply:

The contractor undertakes to enable the competent authorities of customs administration to verify the certificates of origin and shall provide the necessary information and any necessary confirmations for this.

The contractor is obliged to compensate for the damage caused by the fact that the declared origin is not recognised by the competent authority as a result of a faulty certificate or lack of verification, unless it is not responsible for such consequences. However, the contractor shall only be liable for faulty conduct or a fault in a guaranteed property.

## 10. Warranty for defects

The contractor must assure us that its deliveries and services to us comply with the recognised rules of

technology, the contractually agreed properties and standards as well as safety, occupational safety, accident prevention and other regulations, that they have the guaranteed properties and do not have faults which impair the value or suitability of the products for the customary or contractual purpose of these more than insignificantly.

We shall inspect the goods upon receipt, as far as is reasonably and technically feasible, for quality and completeness.

Notifications of defects shall be considered by us to be duly delivered if they are received by the contractor within 14 days by fax, e-mail or telephone. The period for notification of defects shall begin at the point when we, or, in the case of third party fulfilment, our employees, discovered or should have discovered the defect.

If a product is defective or lacks the guaranteed properties, we shall be entitled, in addition to the statutory rights, to rectification or replacement delivery, as well as to reimbursement of the costs necessary for this, including any testing costs. If after a corresponding request the contractor does not carry out the rectification or replacement delivery within a reasonable period of time or to our satisfaction, we may remedy the defects at the Contractor's expense, or have them remedied by third parties, or make covering purchases.

The statute of limitations for our claims for defects is, unless otherwise agreed, 24 months and shall begin with the timely notification of defects. The same applies to subsequent deliveries within the scope of the warranty of the contractor. The warranty of the contractor shall in any case end two years after delivery of the goods. These deadlines do not apply if our claims are based on facts which the contractor knew or could not have been ignorant of and did not disclose to us.

The contractor assigns to us here and now - as conditional payment - all claims which it is entitled to against its own suppliers by occasion of and in connection with the delivery of defective goods or goods which do not have guaranteed properties. The contractor shall hand us all documents necessary to assert these claims.

#### **11. Liability and indemnity**

If a third party makes a claim against us based on the defectiveness of the delivered goods and/or the violation of statutory or official safety regulations, the contractor shall release us from all claims at first request.

The contractor shall also reimburse us for expenses incurred by us as well as our customers in the run-up to or in connection with defect claims for the purpose of early avoidance, prevention or mitigation of damages (e.g. recall actions).

The contractor shall indemnify us and hold us harmless of all claims for infringement of third party property rights by the delivered goods.

The contractor shall also reimburse the expenses which we are legally required to bear in relation to our customers or which can be attributed to defects in the delivery received from the contractor.

#### **12. Assignment, execution of contract**

The contractor shall require our prior consent to assign the rights under this contract; the exception here is payment claims.

Without our prior written consent, the contractor shall not be entitled to transfer the execution of the contract to third parties in whole or in part. Regardless of any consent given

in individual cases, the Contractor shall remain responsible for the fulfilment of the contract.

#### **13. Compliance with minimum wage legislation by the contractor**

The contractor for goods and services guarantees that it fulfils all obligations under the Mindestlohngesetz [German Minimum Wage Act] (hereinafter: MiLoG), as amended, in particular, that it always pays its employees a wage of at least the amount of the statutory minimum wage in a timely manner. The Contractor undertakes to impose an identical obligation with regard to MiLoG on its subcontractors and rental companies and to monitor their compliance with this in a suitable manner.

The Contractor shall give us a binding declaration at the beginning of each year of its compliance with the provisions of MiLoG for the past year and in the case of justified doubts provide evidence to us of compliance with the obligations under MiLoG.

In the event of a breach of the provisions of MiLoG, the Contractor shall indemnify us at first request against all obligations and costs resulting from this and compensate us for the damage resulting from the breach. This indemnification and/or compensation obligation shall also exist in the event that the subcontractor or rental company commissioned by the contractor violates the provisions of MiLoG and as a result a third party makes a claim against us. We reserve the right to assert a claim for further damage compensation.

#### **14. Severability clause**

In the event that one or more provisions of these Terms and Conditions of Purchase are or become completely or partially invalid, incomplete or require supplementation, then this shall not affect the validity of the remaining provisions. In such cases, the parties shall agree upon a provision that most closely reflects the original intention of the invalid provision. The same procedure shall apply for loopholes.

#### **15. Place of performance, jurisdiction and applicable law**

The registered office of our company shall be the exclusive place of performance for the delivery.

The exclusive place of jurisdiction for all legal disputes in connection with the business relationship shall be the place of business of our company if the Contractor is a registered trader, a legal entity under public law, a special fund under public law or if it has no place of jurisdiction in Germany. We shall be entitled to file a suit also in the general place of jurisdiction of the contractor.

German law shall exclusively apply for the business relationship between us and the contractor, even if the contractor's residential or company address is abroad. The validity of the standardised United Nations Convention on Contracts for the International Sale of Goods is excluded.

#### **16. Language**

The English text version of these Terms and Conditions is for information purposes only. The German version alone remains legally binding.