

# GENERAL TERMS AND CONDITIONS OF PURCHASE FOR DELIVERIES AND SERVICES TO SGS GROUP GERMANY

## 1. GENERAL

- 1.1 Orders of SGS Holding Deutschland B.V. & Co. KG and its affiliated domestic companies (each of the aforesaid companies hereinafter referred to as "SGS") are subject exclusively to these General Terms and Conditions of Purchase (hereinafter referred to as "GTCP").
- 1.2 Any terms and conditions of the contractor/supplier (hereinafter referred to as "Contractor") shall only apply if SGS expressly agrees to their validity in writing. These GTCP also apply exclusively if SGS accepts or pays for deliveries and/or services in the knowledge of conflicting or deviating conditions of the Contractor. Likewise, any previously agreed terms of contract of the Contractor that contradict or supplement these GTCP will no longer be recognised.
- 1.3 These GTCP also apply to all future business relationships with the Contractor.
- 1.4 The requirement for written form agreed in accordance with these GTCP shall also be deemed met in the case of transfer by electronic means. Transfer by unencrypted email, other digital means or fax shall be deemed sufficient in this regard.

## 2. OFFER, ORDER, CONCLUSION OF CONTRACT

- 2.1 The preparation of an offer or quotation by the Contractor shall be free of charge and shall not constitute any obligation on the part of SGS.
- 2.2 Orders and changes to orders shall be made in writing.
- 2.3 The Contractor shall promptly check the order for any obvious errors, ambiguities, incompleteness or inadequacy of the specifications for intended use chosen by SGS and shall promptly inform SGS of any changes or clarifications to the order.

- 2.4 If the Contractor does not accept the order within two weeks of receipt, SGS is entitled to withdraw without the Contractor being entitled to any claims arising from it.
- 2.5 The use of subcontractors requires the prior written consent of SGS.
- 2.6 SGS is entitled to demand reasonable changes to the services agreed with the Contractor. If the change to a service affects contractual arrangements, e.g. compensation and/or completion date, the Contractor shall inform SGS immediately. The Parties shall then immediately agree in writing on the adjustment of the order due to the change, taking into account any additional or reduced expenses incurred.

## 3. DELIVERY, TRANSPORT, REACH, DANGEROUS GOODS

- 3.1 Delivery to SGS shall be made in accordance with Incoterms 2010 DDP to the place of delivery specified in the order of SGS.
- 3.2 For deliveries whose installation or composition is owed by the Contractor, the risk of accidental loss or damage only passes to SGS upon written acceptance by SGS.
- 3.3 The signing of the delivery note does not constitute acceptance of the delivery as being in accordance with the contract, nor does it constitute acceptance.
- 3.4 SGS is entitled to give or send the packaging material back to the Contractor. The return of the packaging material is at the expense and risk of the Contractor.
- 3.5 The Contractor is only entitled to premature delivery, over, under or partial deliveries and/or services provided that SGS has granted this right to the Contractor in writing.
- 3.6 For all deliveries and/or services to SGS, the Contractor must fulfil the requirements and measures resulting from the REACH regulation. In the case of the transport of dangerous goods, all relevant regulations must be observed; in particular, dangerous goods must be identified as such.

## 4. DATES, DELAY

- 4.1 The dates for delivery and/or service specified in the order or jointly agreed are binding. Faultless receipt of the delivery at the place of delivery specified by SGS or, in the case of services, the timeliness of the successful acceptance or a performance record signed by SGS is decisive when determining compliance with the delivery or service period.
- 4.2 If the Contractor realises that an agreed date cannot be met for any reason, it must notify SGS in writing immediately, stating the reasons and the probable duration of the delay together with a new delivery date. The statutory regulations on delay remain unaffected.
- 4.3 The Contractor may only invoke the absence of necessary documents to be provided by SGS if it has requested the documents in writing and has not received them within a reasonable period of time.
- 4.4 If the Contractor delivers the goods earlier than agreed upon, SGS reserves the right to return the deliveries at the expense of the Contractor.  
  
If there is no return in the event of early delivery, the delivery shall be stored by SGS at the expense and risk of the Contractor until the agreed delivery time.

## 5. PRICES

- 5.1 As a rule, prices are fixed prices for the entire period of execution of the contract, excluding VAT.
- 5.2 Billing based on hourly or daily rates must be expressly agreed in writing. Unless otherwise agreed, invoicing shall take place on a monthly basis and include submission of detailed and comprehensible performance records by the Contractor.
- 5.3 All prices include all the expenses incurred by the Contractor, such as customs, packaging and transport insurance.

## 6. ACCOUNTING, PAYMENT, OFF-SET, INSOLVENCY

- 6.1 Invoices must include the order number and be sent electronically in the proper form according to statutory requirements with all related documents and data to the email address specified in the order after successful delivery and/or service. Incorrectly submitted invoices shall only be deemed received by SGS from the time of rectification.
- 6.2 Payment shall be made net within sixty days.
- 6.3 Payment periods may not begin before the agreed delivery or service date under any circumstances.
- 6.4 The Contractor is not entitled to assign its claims from SGS or have them collected by third parties without the consent of SGS. If the Contractor nevertheless assigns its claim to third parties or has it collected by third parties, SGS may, at its discretion, pay the Contractor as well as the third party with the effect of discharging its debt.
- 6.5 SGS is also entitled to offset such claims against the Contractor to which other affiliated companies of the SGS Group (pursuant to Sec. 15 ff. German Stock Companies Act) are entitled, except in the case of its insolvency.
- 6.6 The Contractor is only entitled to offset undisputed or legally established claims.
- 6.7 If the Contractor discontinues its payments and/or is over-indebted or if insolvency proceedings are applied for against its assets, SGS shall be entitled to retain at least 5% of the net order value as collateral for the contractual warranty claims until the expiry of the warranty period.

## 7. SGS CODE OF CONDUCT FOR SUPPLIERS/COMPLIANCE

- 7.1 The Contractor is obliged to observe and comply with the principles contained in the 'SGS Code of Conduct for Suppliers' in the course of the order process. The Code of Conduct can be viewed [here](#) or on the homepage at [www.sgsgroup.de/agb](http://www.sgsgroup.de/agb).

- 7.2 The Contractor undertakes to take all necessary steps to ensure that its employees observe all applicable law in the course of their work and do not commit any acts liable to criminal prosecution.
- 7.3 The Contractor guarantees that it has the permits and consent required for its work.
- 7.4 In the event of a culpable violation of the provisions of this section 7, SGS is entitled to extraordinary termination of all contractual relationships existing with the Contractor. Should SGS receive claims from third parties for breach of these regulations, the Contractor shall indemnify SGS from all claims and shall reimburse SGS for all damages resulting from any claims.

## 8. EXPORT CONTROL

The Contractor shall inform SGS immediately if a delivery and/or service is wholly or partially subject to export restrictions under German foreign trade law, EC regulations or other international embargo and export regulations.

## 9. WARRANTY/COMPLAINTS

- 9.1 The Contractor warrants that all deliveries and/or services comply with the contractual agreements and specifications, as well as any other purpose communicated to the Contractor.
- 9.2 The contractor further warrants that all deliveries and/or services comply with the state of the art, as well as the relevant national and international legal provisions, regulations and guidelines.
- 9.3 For deliveries which SGS must investigate pursuant to Sec. 377 German Commercial Code, the period for the investigation and complaint of an open defect is two weeks from receipt of delivery. The notice period for hidden defects is two weeks from discovery of the defect.
- 9.4 Moreover, SGS is entitled to all statutory rights in full, and the statutory warranty periods apply.

## 10. LIABILITY/INSURANCE

- 10.1 The Contractor is fully liable in accordance with statutory provisions.
- 10.2 The Contractor shall indemnify SGS on the first request from third-party claims for damages for which the Contractor is responsible.
- 10.3 The Contractor must insure itself for the duration of the contract, including warranty and limitation periods, for personal injury, property damage and pecuniary loss to a reasonable and sufficient amount (minimum coverage amount of €1.5 million per loss event). The Contractor must provide evidence of insurance coverage at the request of SGS.

## 11. TERMINATION/INSOLVENCY

- 11.1 Without prejudice to the rights of the Contractor under Sec. 648 German Civil Code in the case of a contract for work or a contract for delivery of work, SGS is entitled to terminate a contract for services at any time subject to a notice period of four weeks without providing reasons.
- 11.2 The termination may involve the entire order, or parts thereof, and requires written form.
- 11.3 If the Contractor proves that it has already provided partial services by the time the notice becomes effective, SGS shall remunerate them accordingly.
- 11.4 If SGS terminates the contract for any reason for which the Contractor is responsible, the Contractor shall be remunerated only for the individual services rendered until the notice of termination was received that SGS could use in their form at that time.
- 11.5 SGS may terminate the contract without notice if the Contractor becomes insolvent, insolvency proceedings are opened against the Contractor or if such proceedings have been rejected for a lack of assets to cover the costs.

## 12. FORCE MAJEURE

- 12.1 If an interruption of work occurs at SGS or its client, in particular as a result of strikes, failures or other cases of force majeure, SGS may demand interruption of the work of the Contractor without additional costs incurring for SGS.

12.2 SGS is entitled to withdraw from the contract if the delivery and/or service is no longer usable for SGS due to force majeure, taking into account economic considerations.

### **13. NON-DISCLOSURE/RIGHTS OF USE**

13.1 The Contractor is – even beyond the termination of the business relationship – obliged to treat all information that it receives in the context of the business relationship confidentially. This does not apply to information that is or becomes publicly available or of which the Contractor has gained knowledge without infringing on its own or another non-disclosure obligation.

13.2 All documents submitted by SGS remain the property of SGS. They may not be made accessible to third parties and must – at the discretion of SGS – be returned to SGS in full and without request or destroyed after the order has been executed.

13.3 The subcontractors engaged by the Contractor in accordance with the provisions of these GTCP are not deemed third parties if they have assumed the same confidentiality obligations with respect to the Contractor.

13.4 SGS is exclusively entitled to all rights of use to all illustrations, drawings, calculations, analysis methods, software, recipes and other works that are produced or developed by the Contractor and/or by subcontractors/third parties in connection with and/or during the execution of the order.

### **14. PROPERTY RIGHTS**

14.1 The Contractor warrants that all deliveries and/or services are unencumbered by third-party property rights and, in particular, that no other third-party rights are violated by the delivery and use of the delivery items and services. The Contractor indemnifies SGS from any third-party claims for infringement of such rights and shall bear all costs incurred by SGS in this connection.

14.2 SGS is entitled, at its own discretion and at the expense of the Contractor, to obtain approval for the use of the delivery items from the claimant or to withdraw from the contract.

### **15. PUBLICATION/ADVERTISING**

An evaluation or announcement of SGS's existing business relations in publications or for advertising purposes is only permitted with the express prior written consent of SGS.

### **16. DATA PROTECTION**

16.1 The Contractor agrees that SGS stores and processes personal data of the Contractor within the scope of statutory provisions, insofar as this is necessary or expedient for the fulfilment and processing of the order.

16.2 The Contractor must observe the data protection provisions in effect at the respective time of delivery, regardless of the area from which and to which such delivery takes place.

### **17. FINAL PROVISIONS**

17.1 The legal relationships between SGS and the Contractor are subject exclusively to the substantive laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and conflict of law rules under private international law is excluded.

17.2 The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Hamburg, Germany. However, SGS reserves the right to assert its claims at any other permissible place of jurisdiction.

17.3 If individual parts of these GTCP are legally invalid, the validity of the remaining provisions remains unaffected.