

General Terms and Conditions of Purchase of SMF GmbH

§ 1. Principles

- 1.1 These General Terms and Conditions of Purchase (hereinafter referred to as "GPC") apply to all business relationships with the business partners and contractors (hereinafter collectively referred to as "Contractor") of SMF GmbH (hereinafter referred to as "Client"), in particular for the purchase of services and work as well as movable goods (hereinafter referred to as "Goods") by the Client.
- 1.2 All deliveries, services and offers of the Contractor shall be made exclusively on the basis of these General Terms and Conditions of Purchase. These are an integral part of all contracts that the Client concludes with a Contractor for the deliveries or services offered by the Contractor. They shall also apply to all future deliveries, services or offers to the Client, even if they are not separately agreed again.
- 1.3 The GPC shall only apply if the Contractor is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
- 1.4 Unless otherwise agreed, the GPC in the version valid at the time of the Client's order or in any case in the version last communicated to the Contractor at least in text form shall also apply as a framework agreement for similar future contracts, without the Client having to refer to them again in each individual case.
- 1.5 These GPC shall apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Contractor shall only become part of the contract if and to the extent that the Client has expressly agreed to their validity in writing. This requirement of consent shall apply in any case, for example even if the Contractor refers to its General Terms and Conditions in the order confirmation and the Client does not expressly object to them.
- 1.6 Individual agreements and specifications in an order placed by the Client shall take precedence over these GPC.

§ 2. Conclusion of contract

- 2.1 The specific modalities of the respective order shall be agreed by means of an offer submitted by the Contractor and an identical order placed by the Client.
- 2.2 An order shall be deemed binding at the earliest upon submission or confirmation in text form. The Contractor must point out obvious errors (e.g. typing and calculation errors) and incompleteness of the order, including the order documents, for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not to have been concluded.
- 2.3 The Contractor is obliged to confirm an order from the Client in text form within a period of 14 calendar days.
- 2.4 Delayed acceptance shall be deemed a new offer and shall in turn require acceptance by the client.
- 2.5 The client is entitled to change the time and place of performance or delivery as well as the type of packaging at any time by giving notice in text form at least 5 calendar days before the agreed delivery date.
- 2.6 The client is also entitled to withdraw from the contract at any time by written declaration, stating the reason, if
- a) he can no longer use the ordered products in his business operations or can only use them at considerable expense due to circumstances occurring after conclusion of the contract for which the contractor is responsible (such as non-compliance with legal requirements), or
 - b) the Contractor's financial circumstances deteriorate after conclusion of the contract to such an extent that delivery in accordance with the contract cannot be expected.

§ 3. Provision of services (services or work)

- 3.1 The Contractor shall provide the services independently, completely and in accordance with the order in accordance with the principles of proper professional practice and the current state of the art.

- 3.2 The Contractor warrants that it has the necessary expertise to provide the service. This also applies to the employees and third parties engaged by the Contractor.
- 3.3 If execution deadlines have been agreed in the respective order, the Contractor undertakes to comply with these execution deadlines.
- 3.4 Execution deadlines designated as milestones shall trigger default within the meaning of the contractual and statutory default regulations, without the need for a separate reminder from the client.
- 3.5 If the Contractor recognizes that it will not be able to provide a service on the agreed date or milestone, it shall inform the Client of this and of the main reasons and the expected delay until the service is provided immediately after becoming aware of this, at least in text form. Further claims of the Client, in particular due to delay, shall remain unaffected by this.

§ 4. Delivery of goods, transfer of risk

- 4.1 The Client is entitled to make changes to product specifications at any time by notifying the Contractor in text form at least 14 calendar days before the agreed delivery date, provided that these can be implemented within the Contractor's normal production process without significant additional expense. The Client shall reimburse the Contractor for any proven and reasonable additional costs incurred as a result of the change. If such changes result in delivery delays that cannot be avoided in the Contractor's normal production and business operations with reasonable efforts, the originally agreed delivery date shall be postponed accordingly. The Contractor shall notify the Client in text form of the additional costs or delays in delivery expected by it on the basis of a careful assessment without delay, but at the latest within 5 calendar days of receipt of the notification pursuant to sentence 1 and in any case in good time before the delivery date.
- 4.2 The delivery time (delivery date or period) specified in the Client's order or otherwise applicable in accordance with these GPC shall be binding; the Contractor shall automatically be in default if the delivery date is exceeded, insofar as such a date is specified in the respective order, without the need for a separate reminder from the Client. Early or partial deliveries are not permitted. The Contractor is obliged to inform the Client immediately in writing if it is unlikely to be able to meet agreed delivery times - for whatever reason.

- 4.3 In the event of default, the rights of the client - in particular to rescission and damages - shall be determined in accordance with the statutory provisions.
- 4.4 The risk of accidental loss and accidental deterioration of the goods shall only pass to the customer when the goods are handed over to the customer at the agreed destination, even if shipment has been agreed. The respective place of destination is also the place of performance for the delivery and any subsequent performance (obligation to deliver).

§ 5. Prices and terms of payment, retention of title for deliveries

- 5.1 The price stated in an order is binding. All prices are subject to statutory value added tax.
- 5.2 Unless otherwise agreed in the individual order, the price shall include all services and ancillary services of the Contractor (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transportation costs including any transportation and liability insurance).
- 5.3 The agreed price shall be due for payment within 30 calendar days from complete delivery and performance (including any agreed acceptance) and receipt of a proper invoice, unless otherwise agreed in the respective orders or individual commissions. In the case of bank transfer, payment shall be deemed to have been made on time if the transfer order is received by the Client's bank before expiry of the payment deadline; the Client shall be responsible for delays caused by the banks involved in the payment process.
- 5.4 The client shall not owe any interest on arrears. The statutory provisions shall apply to default in payment.
- 5.5 The Client shall be entitled to rights of set-off and retention as well as the defense of non-performance of the contract to the extent permitted by law. In particular, the Client shall be entitled to withhold due payments as long as it is still entitled to claims against the Contractor arising from incomplete or defective services.
- 5.6 The Contractor shall only be entitled to a right of set-off or retention on the basis of legally established or undisputed counterclaims.

- 5.7 Any processing, mixing or combination (further processing) of items provided by the Contractor shall be carried out on behalf of the Client. The same shall apply in the event of further processing of the delivered goods by the Client, so that the Client shall be deemed to be the manufacturer and shall acquire ownership of the product at the latest upon further processing in accordance with the statutory provisions.
- 5.8 The transfer of ownership of the goods to the Client must take place unconditionally and without regard to the payment of the price. However, if the Client accepts an offer of the Contractor for transfer of ownership conditional on payment of the purchase price in an individual case, the Contractor's retention of title shall expire at the latest upon payment of the purchase price for the delivered goods. The Client shall remain entitled to resell the goods in the ordinary course of business even before payment of the purchase price, assigning the resulting claim in advance (alternatively, the simple retention of title extended to the resale shall apply). This excludes all other forms of retention of title, in particular the extended retention of title, the forwarded retention of title and the retention of title extended to further processing.

§ 6. Remuneration for services

- 6.1 The Contractor shall receive remuneration for its work, which shall be agreed as part of the respective offer or the respective order.
- 6.2 The Contractor can only invoice the service actually provided by it in accordance with the respective offer or the respective order, whereby the scope of services specified in the order always represents the maximum scope. The Contractor shall have no claim to complete performance of this specified maximum scope; the Client shall not owe the Contractor any acceptance guarantee in this context.
- 6.3 The Contractor shall record the time spent by it, keep corresponding records and submit a time sheet to the Client for review and approval on a monthly basis or after completion of the activities. The Contractor shall invoice the Client for the time spent on the basis of the approved time sheets by the 3rd working day of the following month at the latest. The billing rate (hourly or daily basis) shall be agreed in the respective order or offer. If a fixed price has been agreed, there is no need for an approved time sheet.

- 6.4 The invoice shall be settled within the term of payment agreed in the order after submission of a proper invoice in non-cash form to an account to be specified by the Contractor. Upon payment, all claims of the Contractor against the Client arising from the respective order shall be fulfilled.
- 6.5 Claims by the Contractor can only be asserted against the Client within 6 months of the end of the respective activity. This requires at least the text form.
- 6.6 The Client has the right to cancel an order. This shall not affect the Contractor's right to payment of the remuneration for services already rendered within the scope of the order.
- 6.7 Remuneration is subject to VAT, if required by law.

§ 7. Handover, acceptance and remuneration for work services

- 7.1 The Contractor shall notify the Client of the completion of agreed partial services ("milestones") and the overall service without delay only in the event that the Contractor provides work services in accordance with Sections 631 et seq. of the German Civil Code (BGB).
- 7.2 The Client or its customer shall inspect the service within a reasonable period of time. In the event of defects, the Client shall set the Contractor a grace period to rectify the defects. If this grace period expires without result, the Client shall be entitled to reject the rectification of defects by the Contractor and to carry out a substitute performance at the Contractor's expense.
- 7.3 If the service is free of significant defects, the client declares acceptance; a fictitious acceptance is excluded.
- 7.4 Payment is due after acceptance of the service or partial service. Payments on account may be agreed.
- 7.5 Unless otherwise agreed in the order or offer, the statutory provisions shall apply to any warranty claims of the Client against the Contractor.

§ 8. Material defects and defects of title

- 8.1 The rights of the Client in the event of material defects and defects of title (in the case of delivered goods including incorrect and short delivery as well as improper assembly/installation or defective instructions) and in the event of other breaches of duty by the Contractor shall be governed by the statutory provisions.
- 8.2 The following additions and clarifications apply exclusively in favor of the client for delivered goods.
- a) In accordance with the statutory provisions, the Contractor shall be liable in particular for ensuring that the goods have the agreed quality upon transfer of risk to the Client. In any case, those product descriptions which - in particular by designation or reference in an order - are the subject of the respective order or have been included in the contract in the same way as these GPC shall be deemed to be an agreement on the quality. It makes no difference whether the product description originates from the Client, the Contractor or the manufacturer.
 - b) In the case of goods with digital elements or other digital content, the Contractor shall be responsible for providing and updating the digital content in any case to the extent that this results from a quality agreement pursuant to para. 8.2 a) or other product descriptions of the manufacturer or on its behalf, in particular on the Internet, in advertising or on the goods label.
 - c) The client is not obliged to inspect the goods or make special inquiries about any defects. In partial deviation from § 442 para. 1 sentence 2 BGB, the client shall be entitled to claims for defects without restriction even if the defect remained unknown to him due to negligence at the time the contract was concluded. The provisions of § 377, 381 HGB shall not apply.
 - d) The client's obligation to give notice of defects discovered later remains unaffected. A complaint (notification of defects) shall be deemed to have been made in good time if it is sent within 14 calendar days of discovery.
 - e) Subsequent performance shall also include the removal of the defective goods and reinstallation, provided that the goods were installed in another item or attached to another item in accordance with their nature and intended use before the defect became apparent;

the Client's statutory claim to reimbursement of corresponding expenses (removal and installation costs) shall remain unaffected. The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labor and material costs as well as any dismantling and installation costs, shall be borne by the Contractor even if it turns out that there was actually no defect. The Client's liability for damages in the event of an unjustified request to remedy a defect shall remain unaffected; in this respect, however, the Client shall only be liable if it recognized or was grossly negligent in not recognizing that there was no defect.

- f) Notwithstanding the Client's statutory rights and the provisions in Section 8.2 e), the following shall apply: If the Contractor fails to fulfill its obligation to provide subsequent performance - at the Client's discretion by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery) - within a reasonable period set by the Client, the Client may remedy the defect itself and demand compensation from the Contractor for the necessary expenses or a corresponding advance payment. If subsequent performance by the Contractor has failed or is unreasonable for the Client (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline need be set; the Client shall inform the Contractor of such circumstances immediately, if possible in advance.
- g) Otherwise, in the event of a material defect or defect of title, the client shall be entitled to reduce the purchase price or withdraw from the contract in accordance with the statutory provisions. In addition, the client shall be entitled to compensation for damages and expenses in accordance with the statutory provisions.

§ 9. Supplier recourse

- 9.1 In addition to the claims for defects, the Client shall be entitled without restriction to the legally determined claims for expenses and recourse within a supply chain (supplier recourse pursuant to Sections 478, 445a, 445b or Sections 445c, 327 (5), 327u BGB). In particular, the Client is entitled to demand exactly the type of subsequent performance (rectification or replacement delivery) from the Contractor that it owes its customer in the individual case; in the case of goods with digital elements or other digital content, this also applies with regard to the provision of necessary updates. This shall not restrict the Client's statutory right of choice (Section 439 (1) BGB).

- 9.2 Before the Client acknowledges or fulfills a claim for defects asserted by one of its customers (including reimbursement of expenses pursuant to §§ 445a para. 1, 439 para. 2, 3, 6 sentence 2, 475 para. 4 BGB), the Client shall inform the Contractor of this, briefly explaining the facts of the case, and request a written statement. If a substantiated statement is not made within a reasonable period of time and no amicable solution is reached, the claim for defects actually granted by the client shall be deemed to be owed to the respective customer. In this case, the Contractor shall be responsible for providing evidence to the contrary.
- 9.3 The Client's claims arising from supplier recourse shall also apply if the defective goods have been combined with another product or further processed in any other way by the Client, its customer or a third party, e.g. by installation, attachment or installation.

§ 10. Producer liability

- 10.1 If the Contractor is responsible for product damage, it shall fully indemnify the Client against third-party claims to the extent that the cause lies within its sphere of control and organization and it is itself liable in relation to third parties.
- 10.2 Within the scope of its indemnification obligation, the Contractor shall reimburse expenses pursuant to Sections 683, 670 BGB arising from or in connection with claims asserted by third parties, including recall actions carried out by the Client. The Client shall inform the Contractor of the content and scope of recall measures - as far as possible and reasonable - and give the Contractor the opportunity to comment. Further statutory claims shall remain unaffected.
- 10.3 If the delivery of goods is the subject of a contract with the Contractor, the Contractor must take out and maintain product liability insurance, which also covers genuine financial losses, with a lump sum cover of at least EUR 3 million per claim, which covers the Contractor's liability arising from statutory product liability, in particular from the Product Liability Act.

§ 11. Statute of limitations

- 11.1 The reciprocal claims of the contracting parties shall become time-barred in accordance with the statutory provisions, unless otherwise stipulated below.

- 11.2 Notwithstanding § 438 Para. 1 No. 3 BGB, the general limitation period for claims for defects is 3 years from the transfer of risk. If acceptance has been agreed, the limitation period shall commence upon acceptance, otherwise upon delivery. The 3-year limitation period shall also apply accordingly to claims arising from defects of title, whereby the statutory limitation period for third-party claims for restitution in rem (Section 438 (1) No. 1 BGB) shall remain unaffected; claims arising from defects of title shall in no case become time-barred as long as the third party can still assert the right - in particular in the absence of a limitation period - against the customer.
- 11.3 The limitation periods under sales law, including the above extension, shall apply - to the extent permitted by law - to all contractual claims for defects. Insofar as the client is also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (§§ 19, 199 BGB) shall apply, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

§ 12. Subcontractor

- 12.1 The Contractor shall not be entitled to have the service owed by it performed by third parties (e.g. subcontractors) without the prior written consent of the Client. The Contractor shall bear the procurement risk for its services unless otherwise agreed in individual cases.
- 12.2 If the Contractor engages subcontractors with the consent of the Client, it undertakes to structure the contractual relationship with the subcontractor in compliance with the provisions for cooperation between the parties set out in these GPC; this applies in particular to quality standards,

§ 13. Confidentiality, business documents

- 13.1 The Contractor shall maintain confidentiality regarding all business matters in connection with these GTCP as well as all information and documents that are made available to the Contractor or otherwise become known to the Contractor in the course of the cooperation with the Client, both during the duration and after termination of the business relationship with the Client; this shall also apply in particular with regard to information and documents of the Client's customers.

- 13.2 The Contractor undertakes to hand over all business documents, such as information material, books, documents about the Client's customers and other business materials, in particular software and data carriers in the Contractor's possession, including the codes (object and source codes), to the Client or to destroy them completely and irretrievably in accordance with the highest possible standards.
- 13.3 In addition, the Contractor shall be obliged to delete all data relating to its work for the Client from data carriers not to be handed over to the Client and to confirm to the Client the complete surrender or deletion of all materials and the deletion of all data.

§ 14. Data protection

- 14.1 The Contractor undertakes to comply with the provisions of the General Data Protection Regulation (GDPR) and in particular to maintain data secrecy in accordance with the General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG). The Contractor is aware that it is prohibited to process, store, make accessible or otherwise use protected personal data without authorization for any purpose other than the respective lawful performance of the task.
- 14.2 The Client's privacy policy shall be disclosed to the Contractor in a separate document.
- 14.3 If necessary due to the nature of the services, the parties will conclude an order processing contract in accordance with Section 28 GDPR.
- 14.4 The Contractor shall obligate its employees to maintain data secrecy in writing.

§ 15. Property rights

- 15.1 All rights to the work results achieved by the Contractor within the scope of the respective order shall belong exclusively to the Client. The codes (object and source codes) and the associated documents, including the corresponding documentation, shall become the property of the Client upon their creation, namely in their respective processing state. The Contractor shall store the documents for the Client until they are handed over.

- 15.2 Insofar as work results of the Contractor pursuant to paragraph 1 constitute a copyrightable work (in particular software), the Contractor shall grant the Client an exclusive and unrestricted right of use for all types of use, whether known or as yet unknown, now or in the future. This also includes the right to edit, modify, reproduce, publish and exploit the work at . The client is also authorized to transfer these rights in whole or in part to third parties or to grant third parties rights of use without separate consent in each individual case.
- 15.3 If a work result arising from the Contractor's work for the Client is the subject of or part of an invention, the Contractor shall transfer all rights to and from the invention or part of the invention to the Client, insofar as this is legally permissible.
- 15.4 All claims of the contractor for the granting of rights in accordance with the above paragraphs 1 to 3 shall be covered by the agreed fee upon payment by the client.

§ 16. Compliance with the Minimum Wage Act (MiLoG)

- 16.1 The Contractor undertakes to comply with the provisions of the MiLoG.
- 16.2 Insofar as the Client is held liable for the Contractor's violation of the provisions of the MiLoG by its employees, the Contractor shall indemnify the Client in full against any damages of any kind arising in this respect.

§ 17. Prohibition of corruption

- 17.1 The Contractor undertakes to,
- a) Not to offer or accept bribes or any other means of obtaining an unlawful or improper advantage;
 - b) Not to influence business decisions by accepting or offering favors, services, gifts or other gestures of hospitality that are either inappropriate or not in accordance with standard business practices;
 - c) Not to engage in corruption, extortion or any kind of fraud.

- 17.2 Furthermore, the Contractor shall not accept any orders if it is aware or must be aware that such services have been provided or are to be provided to a person who is in an employment relationship with the Client or the Contractor in accordance with para. 17.1, unless the Client has been informed of such an agreement in advance, at least in text form, and has given its written consent.

§ 18. Recognizing human rights and ensuring appropriate working conditions

- 18.1 The contractor recognizes the Universal Declaration of the United Nations and ensures that it is not involved in human rights violations or promotes them directly or indirectly.
- 18.2 The Contractor shall not tolerate child labor, forced labor and other involuntary labor in accordance with Conventions C138 and C182 of the International Labor Organization (ILO). The Contractor shall ensure occupational safety and health protection at the workplace for itself and its employees in compliance with the applicable laws and regulations. As a minimum, employees must be given free access to drinking water and sanitary facilities. In addition, suitable fire protection, lighting and ventilation must be provided.
- 18.3 Every employee is treated with respect and dignity. Based on the principle of equal opportunities and the General Equal Treatment Act (AGG), no employee is discriminated against or physically, mentally, sexually or verbally harassed or abused with regard to their gender, race, religion, age, family circumstances, origin, skin color, sexual orientation or disability.
- 18.4 Working hours should be in accordance with the applicable laws. The employees receive employment contracts in which the working hours and remuneration are specified. All remuneration shall be paid without delay and in accordance with the applicable laws.
- 18.5 The Contractor respects the right of its employees to freedom of association and collective bargaining within the framework of the applicable laws and the conventions of the ILO.

§ 19. Minimizing the environmental impact

- 19.1 The Contractor recognizes the environmental impact resulting from its business activities. The contractor shall ensure a responsible approach to the environment and work continuously to reduce its environmental impact.
- 19.2 The contractor undertakes to continuously improve the efficiency of the use of resources as an important part of operational management and to minimize waste of any kind as well as emissions into the air, water or soil.

§ 20. Insurance

- 20.1 The Contractor undertakes to take out public liability insurance with a minimum cover of EUR 3 million per claim for personal injury, property damage and financial loss.
- 20.2 The Contractor undertakes to provide the Client with an annual confirmation of continued insurance cover without being requested to do so. The confirmation must state the specific scope of cover.

§ 21. General provisions

- 21.1 The Client has the right to unilaterally amend these GPC. In such a case, the Client shall inform the Contractor of these changes and grant it a six-week right of objection. If the Contractor does not object within this period, the new amended GPC shall apply to it.
- 21.2 Legally relevant declarations and notifications by the Contractor in relation to an order (e.g. setting of deadlines, reminders, withdrawal) must be made in writing. Written form within the meaning of these GPC includes written and text form (e.g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declaring party, remain unaffected.
- 21.3 Amendments to these GPC and the order must be made at least in text form; this also applies to the revocation of this text form clause.

- 21.4 Agreements contained in an order shall take precedence over the provisions of the GPC.
- 21.5 These GTCP and the offers and orders based on them are subject exclusively to the law of the Federal Republic of Germany, with the express exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws rules of private international law.
- 21.6 The place of jurisdiction is - as far as permissible - Dortmund.