

# **General Terms and Conditions** of Purchase and Contract

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### I. General Terms and Conditions of Purchase

### § 1 General - Scope of Application

1. Our terms and conditions of purchase shall apply exclusively. We do not recognize any terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase, unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's delivery without reservation in the knowledge that the Supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase

- nts made between us and the Supplier for the purpose of executing this contract shall be set out in
- ions of Purchase shall only apply to entrepreneurs pursuant to Section 310° paragraph 4 of the

### §2 Quotation – Bid Documentation

- 1. The supplier is obliged to accept our order within a period of 2 weeks.
- 2. We reserve all properly rights and opyrights to illustrations, drawings, calculations and other documents. They may not be made accessible to third parties without our express written consent. They are to be used exclusively for production on the basis of our order. After completion of the order, they must be returned to as without being requested to do so. They must be kept secret from third parties; in this respect, the provisions of \$9 (4) of these terms and conditions shall apply in addition.

### §3 Prices - Terms of Payment

- 3.5 Prices lerms of Payment

  1. The price stated in the order is binding. In the absence of a written agreement to the contrary, the price includes delivery, free domicile", including packaging. The return of the packaging requires a special agreement.

  2. The applicable statutory value-added tax at the time of the order is included in the price.

  3. We can only process invoices if these-according to the specifications in our order-indicate the order number show there. The supplier shall be responsible for all consequences arising from non-compliance with this obligation, unless he can prove that he is not responsible for them.
- 4. Unless otherwise agreed in writing, we shall pay the purchase price within 14 days of delivery and receipt of the
- invoice with a 3% discount or net within 30 days of delivery and receipt of the invoice 5. We shall be entitled to set-off and retention rights to the extent permitted by law.

- 1. The delivery time stated in the order is binding.

  2. The supplier is obliged to inform us immediately in writing if circumstances occur or become apparent to him which indicate that the stipulated delivery time cannot be met.
- 3. In the event of a delay in delivery, we shall be entitled to the statutory claims. In particular, we shall be entitled to demand damages in lieu of performance and rescission after the fruitless expiry of a reasonable period. If we demand compensation, the supplier shall have the right to prove to us that he is not responsible for the breach of contract.

- Unless otherwise agreed in writing, delivery shall be made free domicile.
   The supplier is obliged to state our order number exactly on all shipping documents and delivery bills; if he fails to do so, we shall not be responsible for any delays in processing

### §6 Warranty for Defects

1. We are obliged to inspect the goods within a reasonable period of time for any deviations in quality and quantity. The complaint shall be deemed to have been made in good time if it is received by the supplier within a period of 5's working days, calculated from receipt of the goods or, in the aces of hidden defects, from the time of discovery.

2. We shall be entitled to the full statutory claims for defects. In any case, we shall be entitled to demand from the supplier, at our discretion, remedy of the defect or delivery of a new item. We expressly reserve the right to claim damages, in particular damages in lieu of performance.

3. We shall be entitled to remedy the defect ourselves at the Supplier's expense if there is imminent danger or if there

is a particular need for urgency.

4. The limitation period shall be 36 months, calculated from the transfer of risk.

### §7 Product liability - Indemnification - Liability Insurance Coverage

- 1. To the extent that the supplier is responsible for product damage, it shall be obliged to indemnify us upon first request against claims for damages by third parties to the extent that the cause lies within its sphere of control and ornanization and it is liable itself in relation to third parties
- organization and it is bladie teach in reason of using parties.

  2. Within the scope of his lability for cases of damage within the meaning of paragraph (1), the supplier shall also be obliged to reimburse any expenses pursuant to Sections 683, 670 of the German Gwil Gode (868) or pursuant to Sections 830, 840, 426 of the German Gwil Gode (868) arising from or in comercion with a recall action carried out by us. We shall inform the supplier about the content and sope of the recall measures to be carried out- as far as possible and reasonable - and give him the opportunity to comment. Any other statutory claims shall remain unaffected. 3. The supplier undertakes to maintain a product liability insurance policy with a lump sum coverage of at least 10 million per personal injury/property damage: if we are entitled to further claims for damages, these shall remain

- unaneticum.

  58 Property Rights

  1. The Supplier warrants that no rights of third parties within the Federal Republic of Germany are infringed in connection with its delivery.

  2. If a claim is made against us by a third party, the Supplier shall be obliged to indemnify us against such claims
- upon first written request; we shall not be entitled to enter into any agreements with the third party, in particular to conclude a settlement, without the Supplier's consent.
- 3. The Sunnlier's indemnification obligation shall apply to all expenses necessarily incurred by us as a result of o 5. The Supplier's information to ungation state apply of all expenses interesting incurred by the action for inconnection with a claim made against us by a third party. The supplier's indemnity obligation shall apply to all expenses necessarily incurred by use as result of or in connection with the claim by a third party.
  4. The limitation period shall be 10 years, calculated from the conclusion of the contract.

### § 9 Retention of Title - Provision – Secrecy

- 1. If we provide parts to the supplier, we shall retain title thereot. Processing or transformation by the supplier shall be carried out for us. If our goods subject to retention of title are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus the respective statutory VAT) to the other processed items at the time of processing.

  2. If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item provided by us (spurchase price plus the respective statutory VAT) to the other mixed items at the time of mixing if the mixing takes place in such a way that the Supplier's item is to be becaused out at the nation time. It will be deconated worth that Supplier's item is to
- be regarded as the main item, it shall be deemed agreed that the Supplier transfers co-ownership to us on a pro rata hasis: the Sunnlier shall keen the sole ownership or the co-ownership in safe custody for us
- uses, the supplied shall neep the Suc evineship of the Co-evineship in share causery of ore.

  3. The Supplier shall be obliged to keep illustrations, drawings, calculations and other documents and information received strictly confidential. They may only be disclosed to third parties with our express consent. The obligation to maintain secrey shall also apply after the execution of this contract. It shall gener fain of the extent that the manufacturing knowledge contained in the illustrations, drawings, calculations and other documents provided has
- 4. To the extent that the security rights to which we are entitled pursuant to subsection (1) and/or subsection (2) exceed the purchase price of all our reserved goods not yet paid for by more than 10%, we shall be obliged to release the security rights at our discretion at the request of the supplier.

## §10 Place of Jurisdiction - Place of Fulfilment

- 1. If the supplier is a merchant, our place of business shall be the place of jurisdiction. However, we shall also be entitled to sue the supplier at the court of his place of residence.
- 2. Unless otherwise stated in the order, our place of business shall be the place of performance
- 3. All legal relationships between us and the supplier shall be governed exclusively by German law, to the exclusion of eign law, Excluded from the choice of law is the validity of the UN Convention on Contracts for the International Sale

Should these provisions be wholly or partially ineffective or lose their effectiveness at a later date, this shall not affect the validity of the remaining provisions. The same shall apply if a loophole should become apparent in the terms and conditions of the contract. In place of the invalid provisions or to fill the gap, an appropriate provision shall apply which, insofar as legally permissible, comes as does as possible to what the contracting parties intended economical or would have intended according to the meaning and purpose of this contract if they had considered the point where

### II. General Terms and Conditions for Contracts for Work and Services

- § 1 Contract components and their chronological order

  1. The nature and scope of the work to be performed shall be determined by the written contract.

  2. If a separate contract document is not drawn up, the contract shall consist of the Contractor's written quotation including supplementary quotations and negotiation records and the Customer's written declaration of acceptance
- 3. The subject matter of the contract shall be in the following order
- The support instead on the contraction is part of the other bill of quantities in the event of contradictions between the bill of quantities in the event of contradictions between the bill of quantities and the drawings, the bill of quantities shall take
- these terms and conditions of contract
- the General Conditions of Contract for the Execution of Construction Work (VOB/B) in the version valid at the time of the award of contract
- the General Technical Conditions of Contract for Construction Work (VOR/C) in the version valid at the time of the
- one element resumas commons or commact our construction vous (volox) in the version value at the time of the execution of the work up to the time of acceptance the German Civil Code (Bitigrediches Gesetzbuch) .

  In the event of legal and technical contradictions, the order of precedence shall be based on the sequence of the above list. In the event of technical contradictions between the text and the plans, the textual provisions shall take precedence. Determinations take precedence. In the event of contradictions within the same "rank" (e.g., within the service description), the higher-ranking service shall be provided in case of doubt. However, § 3 of these terms and service exclusions, it is made a manifested. The aforementioned provision shall only apply, however, insofar as the client does not decide on the technical contradiction. To enable such a decision, the Contractor must inform the Client of the objection and request a decision. The client shall decide between the different options at its reasonable discretion. This shall not give rise to any additional renumeration claims in favor of the Contractor.

### § 2 Deposit of the Offer Calculation

- 1. The tenderer shall be obliged to enclose, simultaneously with the submission of the tender, the tender calculation in as sealed emelope for deposit with the contracting entity. The following shall be shown separately: the sum of the individual costs of the partial services the sum of the construction site overhead costs general business costs

- · finally, the total amount of the offer without sales tax
- That is, the contraction of the site equipment, site maintenance and site dismantling costs. In addition, the calculation must contain information on the average wage including wage supplements and possible wage increases during the execution period. The Client may open the submitted calculation for examination when agreeing on new prices or when examining other contractual claims of the Contractor. Office without an enclosed sealed offer calculation shall not be considered.
  2.1 princes are to be agreed in accordance with 5 2 No. 3, 5, 6, 7 or 8 Para. 2 VOB/B, the Contractor shall, upon request, submit the basis of the price calculation for these prices and for the contractual performance on the basis of the
- deposited calculation as well as provide the necessary information.
- 3. The Contractor shall be obliged to submit the price calculation on the basis of the deposited calculation. If it turns out 3. In el contractor shall be obliged to submit the price actualism on the basis of the deposted calculation. In it turns of during the opening of the deposted of recludation that it does not contain the above required brisidown and not the required individual information or that it does not correspond to the contractual final prices, the Contractor shall not be entitled to have the calculation used as proof of the, basis of price determination." In this case, the Customer shall be entitled to determine the new price for changed or additional services as well as, if applicable, compensation pursuant to Section 642 of the German Civil Code (8GB) at its reasonable discretion.

### § 3 Evaluation of Bids

- 1. The bidder is obliged to familiarize himself with all execution of Rids 1. The bidder is obliged to familiarize himself with all execution documents in addition, he must inform himself about the condition of the construction site with regard to access routes and storage facilities. In particular, the Contractor must riform himself on his own responsibility about the existence and location of supply lines of any kind.
  2. Before starting the work, the Contractor must check the dimensions and measurements of the plans handed over to him and/or the plans to be inspected by him and determine the execution dimensions for his work by checking
- existing shell dimensions or other dimensions already available, if this is possible. He shall be solely responsible for compliance with all dimensions as well as for the correctness of the dimensions checked and used by him.
- complaince with all dimensions as well as for the correctness of the dimensions checked and used by him.

  3. If the bidder discovers any inaccuracies or ambiguities in the bidding documents, he shall immediately notify the contracting authority in writing before or together with the submission of the bid.

  4. The bidder shall remain bound by the bid once it has been prepared. The bidder shall remain bound by the bid once it has been prepared, when the prepared is the bidder shall remain bound by the bid once it has been prepared, even if it should subsequently transpire that the dimensions or measurements of the bid are incorrect, and even if the plans, calculation documents or planning data provided to the bidder or to be inspected by it contain inaccuracies or discrepancies, provided that the bidder could have identified the relevant inaccuracies or discrepancies by applying the above principles and exercising the necessary professional care.

- § 4 Industrial Property Rights

  1. The contractor assures that he is not aware of any circumstances, in particular no industrial property rights of third parties, which make it difficult or inadmissible to manufacture, sell or use the objects and processes necessary for the fulfiliment of the contract, furthermore, that no claims for infiningement of industrial property rights have been or will be asserted against him. The bidder and future contractor shall indemnify the customer against any claims that may nevertheless arise or exist.
- If the Contractor realizes that he could only provide the contractual service in violation of industrial property rights,
- 2. It me contractor realizes that he could only provide the contractual service in violation of industrial property right he shall be obliged, at his discretion, either:
  2.1 to modify the subject matter of the contract in such a way that it is no longer affected by the industrial propert right on the one-hand, but on the other hand still fulfils the contractual conditions, in which case the consent of the Customer must be obtained, or:
  2.2 to obtain from the owner of the industrial property right the right to use the subject matter of the contract.
- permanently and without disturbance and without payment of a license fee.

### § 5 Construction Electricity Construction Water Construction Cleaning

- 1. The Contractor shall be provided with electricity and water. The Contractor shall pay 0.35% of the net final invoice amount for the costs.

  2. If the Contractor requires billing according to actual consumption, he shall install consumption meters at his own
- expense.

  3. The Contractor's obligation to remove waste from his area and to remove contamination resulting from his work.

  3. The Contractor's obligation to remove waste from his area and to remove contamination resulting from his work. as well as waste from the Customer's area up to a quantity of 1 m, insofar as the waste is not contaminated (DIN 18299 4.1.11 and 4.1.12), shall remain unaffected by the following provision. If the Contractor does not comply with this obligation despite a reminder, the Customer shall be entitled to additionally charge the Contractor for the costs una oungacon respirate a reminier, une castorne siani de entite de adultionismi y charge die contact incurred in this respect. 4. The corresponding deductions may already be made on a pro rata basis in the case of partial payr

## § 6 Builders Risk

The Client is free to take out construction insurance. If he takes out such construction insurance, the premium shall be charged to the Contractor at a flat rate of 0.25% of the net final invoice amount. Both the Client and the Contractor reserve the right to prove higher or lower costs. The corresponding deductions may already be made on a pro rata

The client is free to have a common construction sign erected. If he does so, the Contractor shall not be allowed to put up his own construction sign. The costs for the joint construction sign shall be divided among the persons listed on the construction sign according to the head portions, and the corresponding partial amount shall be charged to

## $\S$ 8 Prohibition of Assignment $\S$ 354a HGB

e assignment of the Contractor's wage claims against the Customer shall only be permissible with the prior consen

### § 9 Daily Construction Records

- 1. The Contractor shall be obliged to keep a daily construction diary and to make a copy of this diary available to the Client on a daily hosts. The construction diary must contain all information that may be of importance for the execution and invoicing of the services, in particular the content of the construction diary must be as follows:

   number and qualification of the persons employed on the construction site during the reporting period
- number and type of equipment used

- special induction of the Unistitution size confirmations of receipt of execution instructions drawings, etc. -date and compliance with deadlines exact performance and justification of downtimes instructions of the client

2. the contractor must mention obstruction notices (§ 6 VOB/B) of any kind in the construction diary. However, the mention in the construction diary is not considered as a formal notification. The notification of an impediment must rather be made in a separate lette

\$10 Compensation (Supplements to \$2 VOB/B)

All terms and conditions of the contract shall also apply to claims of the Contractor for amended or additional remuneration, i.e. in particular also agreed discounts and rebates.

### § 11 Final Planning Documents (Supplements to § 3 VOB/B)

- 1. Execution documents to be provided by the contractor, in particular construction plans, work plans or the like as well as construction site installation plans shall be submitted to the purchaser in due time for written approval. 2. The approval of the execution documents submitted by the Contractor in accordance with No. 3 by the Customer does not include the approval of changes which the Contractor has not previously expressly indicated and which the Customer has not expressly approved in writing or by a corresponding note on the execution documents. The approval of the execution documents shall not release the Contractor from its responsibility for the proper and defect-free contractor from its responsibility for the proper and defect-free contractor from its responsibility for the proper and defect-free contractor from its responsibility for the proper and defect-free contractor from its responsibility for the proper and defect-free contractors. creation of the work owed by it; also not in that as defects are attributable to errors or deviations of the Contractor in the approved execution documents
- ntenance plans, revision plans, plant documentation and operating instructions shall be handed over by the

- § 12 Execution (Supplements to § 4 VOB/B)

  1. Storage areas, workplaces and access routes provided by the Gustomer shall be restored by the Contractor to the condition in which they were at the time of provision, unless otherwise agreed.
- 2. If existing installations in the assembly area are to be modified or removed, the Contractor shall obtain the Customer's consent: in addition, the Contractor shall notify the owner or occupier of the installation in good time of the

### § 13 Contractual Penalty (Supplements to § 11 VOB/B)

- ites marked in the contract as binding contractual dea penalties, as shall the completion date.
- 2. Unless otherwise stipulated in priority contractual documents, net interim settlement sums shall be formed for the Z. Unless onerwise sipulated in priority contractual occurrents, net interm settlement surps shall be formed for in individual sections, from the start date to the first interiin deadline, from interiin deadline to interiin deadline, in neach case for the respective section, based on the construction work ower for this section. In case that the Contractor is in default with regard to the contractually stipulated interiin deadline, it shall owe to 15% of the net interiin settlement sum for the relevant section for each working day of the culpable exceeding of the deadline. The total contractual penalty incurred for exceeding the individual interiin deadlines shall be accepted in the start of the s be retained, irrespective of whether there are also exceedances and contractual penalties for the following interim deadlines or for the final completion deadline.
- deadlines of hor the hinal completion deadline.

  3. Unless otherwise stipulated in overding contractual documents, the following shall apply: If the Contractor is culpably in default with the final completion, the contractual penalty shall amount to 0.15 % of the total net invoice amount for each working day of exceeding the final completion deadline. The contractual penalty for exceeding the final completion deadline. The contractual penalty for exceeding the final completion deadline shall be a maximum of 5% of the total net invoice amount.

  4. The contractual penalty for exceeding each individual deadline shall always be calculated and handled separately,
- irrespective of whether the same reasons have already led to an earlier exceeding of the deadline.

  5. If intermediate deadlines on the one hand and the final completion deadline on the other hand are exceeded the Client may only charge the larger amount resulting from the comparison of the contractual penalty for the final
- compression resource in the other hand.

  6. The contractual penalty shall not exceed 5% of the contractual penalty for the final completion deadline on the one hand and the sum of the contractual penalty shall not exceed 5% of the contractual penalty for the final completion deadline on the one hand and the sum of the contractual penalties for all intermediate completion deadlines on the other hand. The contractual penalty shall amount to a maximum of 5% of the net settlements sum for interim deadlines for the net settlement sum for the construction stage in question; for final completion a maximum of 5 % of the net settlement sum for the entire project.
- 7. The net settlement sum shall be determined including discounts and including all contractual claims of the
- 7. The fire securities wan small or decentinates unknowing account and account and account of the contractor recognized by the dissinner.

  8. The Customer's claim for compensation for damages exceeding the contractual penalty shall remain unaffected. However, the forfeited contractual penalty shall be offset against any further claim for damages.

### §14 Inspection and Approval (Supplements to § 12 VOB/B)

- The Contractor shall cooperate in the acceptance and provide the necessary labor and measuring equipment.

§ 15 Guarantee (Supplements to § 13 VOB/B)
The limitation period for all warranty daims is 5 years. It begins with the acceptance.

### § 16 Invoices (Supplements to § 14 und §16 VOB/B) 1. Invoices shall be designated as partial or final invoices; partial final invoices may only be issued if this has been expressly agreed in the contract. 2. The final invoice shall be submitted in triplicate; the project number and contract date as well as any partial pay

2. In en hail invoice shall be supported in Trypical give project number and contract date as well as any partial pay-ments received shall be listed. For invoices, the designations and the numbers of the serial numbers (firems) of the bill of quantities shall be used in the order of the bill of quantities. The designations may be abbreviated if the execution does not deviate from the service description. All dimensions and quantities required for checking the invoice must be measurement documents must contain the contractor, the client and the number of the measurement sheet, the designation of the construction work and the ordinal number

- 1. The Purchaser shall retain the security Deposit (Supplements to \$17 VOB/B)

  1. The Purchaser shall retain the security amount for the duration of the warranty, The Contractor may redeem the retention of security by providing a directly enforceable guarantee from a bank or savings bank subject to European credit supervision or from a credit insurer in accordance with \$17 No.4 VVBBR.
- credit supervision or from a credit insurer in accordance with § 17 No. 4 VOB/B.

  2. The Contractor hall provide a contract performance pursantee in accordance with § 17 No. 4 VOB/B in the amount of 10 % of the gross contract sum. If the Contractor does not provide the security within 18 working days after conclusion of the contract, the Customer shall be entitled to withhold the progress payments until the security amount is reached. In all other respects, the provisions of § 17 VOB/B shall apply.

  3. Security for the performance of the contract shall be returned upon request when all obligations covered by such security have been fulfilled in accordance with the contract and the Contractor has provided any agreed security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted. Consequently, the security for the fulfillment of the claims for refercts and the work has been accepted.
- of the contract can still be retained and used by the client to cover claims for defects even after acceptance. as long as security for claims for defects has not been provided by the client. Security for defect claims shall be returned upon request after expiry of the Contractor's warranty period if there are no longer any defect claims.

## § 18 Terms and conditions of the contractor

The Contractor's terms and conditions – of any kind whatsoever – as well as information on the place of performance and jurisdiction shall not apply unless the Client has expressly accepted them in writing in connection with the declaration of acceptance of the contract.

### § 19 Contract Amendment

de in writing. This applies in particular to the amendment or cancellation

 The place of jurisdiction for all claims arising from the contract is Bocholt.
 The declarations and agreements of this contract and all rights and duties in connection with its subject matte shall be governed exclusively by German law. Excluded from the choice of law is the validity of the UN Convention on Contracts for the International Sale of Goods, which is hereby wai