

POOLgroup GmbH - General Terms and Conditions of Purchase

(hereinafter referred to as the Client)

Version: January 2016

1. Scope of application

- 1.1 The Client shall place orders exclusively in accordance with these General Terms and Conditions of Purchase. Opposing or deviating conditions of the Supplier from our General Terms and Conditions of Purchase shall not be recognised. The Client's General Terms and Conditions of Purchase shall even apply in the event that it takes delivery of the service and / or goods unreservedly in the knowledge of the differing or contradictory terms and conditions of the Supplier.
- 1.2 These General Terms and Conditions of Purchase shall also apply for all future agreements concluded with the Supplier.
- 1.3 These General Terms and Conditions of Purchase shall apply to all companies, traders, legal entities under public law and special assets under public law.

2. The written form

Purchase orders, amendments to orders and any other agreements shall only be considered binding if they are confirmed in writing by the Client. Agreements that are made verbally or by telephone must be subsequently confirmed in writing to be deemed legally valid. This shall also apply to verbal agreements and contractual amendments.

3. Service provision and regulations for service performance

- 3.1 The mutual rights and duties of the Contracting Parties are determined by the regulations stated in
 - the purchase order;
 - these General Terms and Conditions of Purchase;
 - the General Terms and Conditions for the performance of construction services (VOB/B) and / or the General Terms and Conditions for the supply of services (VOL/B) in their currently valid versions, provided that the subject of the Purchase Order falls within the actual scope of application of the VOB/B or VOL/B;
 - the German Civil Code (BGB)The above order of the regulations shall determine their order of priority.
- 3.2 The Supplier shall deliver or perform its service using the best available technology in each case. The Supplier shall comply with all laws and regulations which are applicable in the Federal Republic of Germany, including orders issued by authorities. The Supplier shall also observe all rulings enforced by courts and authorities as well as technical regulations, standards and guidelines which form the basis of its services. In particular, the Supplier shall observe trade association regulations, accident prevention regulations and all generally recognised rules relating to safety and occupational care.
- 3.3 The Supplier guarantees that it shall select the most appropriate materials and components and use appropriate and professional methods as well as ensuring that each contractual phase is performed without any issue and that each phase is suitable for the purpose it is to serve.
- 3.4 The Supplier guarantees that it shall have available the necessary number of personnel and the required machinery and equipment which are needed in order to carry out the contracted services on time and in a professional manner.

4. Compliance with legal regulations to safeguard employees

- 4.1 Insofar as the Supplier is under the obligation to comply with all of the laws applicable in the Federal Republic of Germany (see Section 3.2), it shall, particularly in terms of compliance with all legal regulations which are in place to safeguard employees, commit to all conditions regarding paying the minimum wage and making holiday fund contributions in accordance with the German Employee Assignment Law (AEntG) and the Minimum Wage Law (MiLoG) as well as complying with the collective agreement regulations in place at its own company. In the event a subcontractor or subsidiary subcontractor is assigned (see Section 5), the Supplier shall ensure that these companies also meet these requirements and that they are contractually obligated to abide by them. If there are any doubts in this matter then the Supplier shall actively work towards complying with these legal requirements.
- 4.2 The Supplier shall indemnify the Client from all claims in their internal relationship which are asserted against the Client due to an infringement by the Supplier or any of its subcontractors and subsidiary subcontractors against the AEntG, MiLoG or any other regulatory provisions which may assign liability. Furthermore, the Supplier shall support the Client to the best of its ability in the event that the Client is required to defend itself against such alleged claims and to provide the Client with the necessary information in order to achieve this.

5. Subcontractors

- 5.1 The appointment of subcontractors requires the prior written consent of the Client. Should the Supplier intend to have parts of the service performed by subcontractors then it shall specify the type and scope of the service which is to be performed by the subcontractor in its proposal along with the name, address and trade association of the subcontractor it intends to appoint. On request by the Client, the Supplier shall present suitable evidence in relation to the specialist knowledge, ability to perform the service and reliability of the subcontractor it intends to use. This also includes evidence which

demonstrates that the subcontractor has met its obligations to pay tax and social security contributions in addition to complying with all regulations under commercial law.

- 5.2 The Supplier and its approved subcontractors shall commit to only using suitable and qualified personnel.
- 5.3 The Supplier shall ensure that the subcontractors are bound by the same obligations undertaken by the Supplier itself with respect to the Client and shall secure compliance with these obligations. The same shall apply in the event that the subcontractors instruct other companies to provide the services.
- 5.4 Should the Supplier use subcontractors without at first obtaining prior written approval, the Client has the right to withdraw from the agreement, terminate it or demand damages.

6. Delivery and service times, delays

- 6.1 The agreed delivery dates and service times are binding. In the case of deliveries without assembly or installation services the punctuality of deliveries depends on when they are received at the place of acceptance stated by the Client. In the case of deliveries with assembly or installation services punctuality depends on the acceptability of such products or services.
- 6.2 If there is a risk that the agreed deadline will not be met, the Supplier shall immediately inform the Client in writing of the reasons behind the delay. This does not change the agreed deadline in any way whatsoever.
- 6.3 In the event of delays to services and deliveries the Client shall in particular be entitled to demand compensation in place of the service or to withdraw from the agreement, without the necessity of setting a separate deadline, if the Client has specifically bound its continued interest in taking delivery of the services to the punctuality of such services in the agreement. § 7 No. 2, Para. 1 VOL/B does not apply.

7. Contractual penalty

- 7.1 If agreed deadlines within the meaning of Section 6.1 (completion and individual deadlines) are not met and the Supplier is responsible for this then it shall be liable to pay a contractual penalty amounting to 0.15% of the total net invoiced amount for each working day (Monday to Saturday) that a completion date is delayed and 0.05% of the total net invoiced amount for each working day that an individual deadline is missed. The contractual penalty incurred by breaching individual deadlines is not to be credited against the contractual penalty incurred by breaching a completion deadline. If several individual deadlines are breached due to one and the same event for which the Supplier is responsible, the agreed contractual penalty shall not be applied for each individual deadline. The contractual penalty incurred due to breaching individual deadlines shall be waived if the Client manages to keep to the ultimate completion deadline despite the delays. The contractual penalty is limited to a maximum of 5% of the agreed total net invoiced amount. The Client shall be entitled to deduct the contractual penalty from payment obligations towards the Supplier and / or from the final invoice.
- 7.2 Insofar as the Client incurs a greater amount of damages, it shall be entitled to demand compensation from the Supplier for all of the damages incurred due to the agreed deadlines not being met. The contractual penalty shall be offset against any damage caused by delay.
- 7.3 The Supplier does not have to make a claim upon taking delivery of the service in order to assert a claim for payment of a contractual penalty. The reservation can be made up until the final payment is made.
- 7.4 If completion or individual deadlines are pushed back with an extension due to any possible legitimate claim from the Supplier, or if the deadlines are rescheduled by mutual agreement between the Parties then the provisions stated above shall continue to apply to the extended or newly agreed deadlines. Therefore, if the new completion or individual deadlines are not met in the event of a delay then a contractual penalty shall be incurred without this requiring a separate agreement.

8. Prices, transportation and transfer of risk

- 8.1 Unless otherwise agreed, the prices agreed for the deliveries and services are fixed prices exclusive of VAT. The prices include free delivery to the delivery address specified in the agreement and are inclusive of packaging and transportation costs as well as transportation insurance.
- 8.2 The Supplier shall select the most suitable method of transportation and packaging provided that the Client has not given an express indication of its specific transportation requirements.
- 8.3 Partial deliveries or services shall only be accepted with prior written consent.
- 8.4 In the case of deliveries without assembly or installation services the risk shall be transferred to the Client upon receipt at the delivery address which it specifies. In the case of deliveries with assembly or installation services the risk shall be transferred to the Client upon approval and acceptance at the installation location.

9. Payment conditions

Unless otherwise agreed in writing, invoices shall be paid within 14 days of receipt with the deduction of a 3% discount or within 30 days of receipt without any deduction.

10. Liability for defects

10.1 If goods are delivered, and these are to be examined by the Client in accordance with § 377 HGB (German Commercial Code), a period of 10 working days from receipt shall apply in order to examine the goods and to give notification of an obvious defect. In the event of hidden defects, the period for giving notification of defects shall be 10 working days from discovery.

10.2 The Client is entitled to the statutory warranty claims for defects without restriction. In the case of a purchasing or service agreement, the Client shall be entitled to demand that the Supplier, at its discretion, finds a remedy for the defect, delivers an item free of defects or manufactures a new product whilst taking into consideration the principles of proportionality.

10.3 In addition to the cases stated by law, the Client shall be entitled to arrange for a supplementary performance to be completed itself or by using third parties at the expense of the Supplier in urgent cases. In particular, an urgent case is apparent if the Supplier delivers and / or provides services in relation to a temporary event which are defective in such a way which causes the event to be at risk of not going ahead. Liability for defects shall continue to exist for the defects which are not remedied by the substitute performance.

10.4 The Client's warranty claims shall become invalid in accordance with legal provisions.

11. General liability provisions

11.1 The Supplier shall be liable for all accidents and damages which arise from performing their work in accordance with legal provisions. The Supplier shall not be discharged as per § 831 BGB.

11.2 The Supplier shall release the Client from liability for all third-party damages which can be attributed to the culpable non-fulfilment or inadequate performance of the Supplier or its agents. The Client shall not provide any acknowledgement in such a case.

12. Securities

12.1 As security for the fulfilment of all claims of the Client arising from this contractual relationship, with particular reference to the timely performance of services in accordance with the agreement, to claims for damages and contractual penalties, to claims from the Minimum Wage Law and the Employee Assignment Law as well as refunding overpayments, the Supplier shall provide the Client, at its own request, with a performance bond to the amount of 10% of the net total of the purchase order before payment of the first instalment. The bond must be an unconditional, open-ended and directly enforceable guarantee from an authorised bank or credit insurer within the European Union where the objection to the preliminary plea (§ 771 BGB) is waived. The documentation for the performance bond shall be returned on request by the Supplier after the final payment has been received, provided that the Supplier has completed the service in accordance with the agreement and the performance bond has not yet been used by the Client. The reimbursement shall take place concurrently against the transfer of the performance bond (cp. Section 12.3).

12.2 For payments in advance, a security amounting to the complete total of the prepayment must be provided by a bond which is unconditional, open-ended and directly enforceable from an authorised bank or credit insurer within the European Union where the objection to the preliminary plea (§ 771 BGB) is waived. The documentation for the prepayment bond shall be returned on request by the Supplier provided that the prepayment is credited against payments which are due within the meaning of § 16 No. 2 Para. 2 VOB/B.

12.3 5% of the gross invoice amount is agreed upon as security for fulfilling warranty claims, inclusive of any damages. The Supplier is authorised to replace the security deposit with a performance bond. The performance bond must be an unconditional, open-ended and directly enforceable guarantee from a major German bank or German credit institution/credit insurer where the objection to the preliminary plea (§ 771 BGB) is waived. The documentation for the performance bond shall be returned on request by the Supplier provided that the limitation period for the guarantee, including damages, has expired and the claims raised until that time have been met.

13. Insurance policies

13.1 The Supplier must sufficiently insure the goods to be delivered against theft and damage of any kind at its own expense.

13.2 The Supplier shall provide evidence of the following insurance policies within 14 days of concluding the agreement and shall commit to maintaining such cover to the extent demonstrated until at least the point in time when goods or services are delivered:

Public liability insurance with the following amount of cover, in each case per event causing damage:

- Personal injury cover: € 1.5 million
- Property damage and financial losses: € 1.5 million

Each respective insured sum does not represent a maximum amount of liability. The Supplier shall undertake to provide evidence of the above insurance cover to the Client by sending it a complete copy of the insurance agreements without having to be requested to do so. The documentation should include a written declaration by the insurance company which confirms to the Client that it will immediately inform the Client in the event that the insurance cover is no longer valid or the insurance policy is cancelled for any reason whatsoever.

13.3 The earliest point at which all of the Supplier's claims for payment shall become due is once the Supplier has provided evidence of the insurance policies which it is required to take out.

13.4 The Supplier shall ensure that all of the subcontractors which it instructs have also taken out sufficient public liability insurance policies before commencing the services. The Supplier shall provide the Client with proof of this on request.

14. Non-assignment clause

Assignments and other transfers of the Supplier's rights and obligations other than those as per § 354 a HGB are excluded; exceptions to this provisions shall be subject to the Client's prior written consent in order to be valid.

15. Termination

15.1 If a service agreement or agreement regarding the delivery of items, which are to be manufactured and which are non-fungible, is terminated for good cause, the following shall apply contrary to the legally regulated consequences of termination:

- In the event that the Client terminates the agreement for good cause, and the Supplier is responsible for this, then the individual services which are used by the Client up until the receipt of the termination notice shall be due for payment to the Supplier. Damage compensation claims by the Client are unaffected by this. In particular, the Supplier is to reimburse any additional expenses incurred.

- In the event that the Client terminates the agreement for good cause, for which the Supplier is not responsible, then the Supplier shall receive only the agreed amount for the individual services which have been performed and accepted by the Client up until the receipt of the termination notice. Further claims by the Supplier are excluded.

15.2 A good cause is particularly apparent if the Client no longer has an interest in the provision of the service as defined in the agreement due to rulings enforced by the government, the Supplier has filed for bankruptcy or the Supplier does not comply with its obligations to provide a supplementary performance within an appropriate period which is determined in writing. A good cause for the Client is present if the contractually defined delivery or service is in relation to a temporary event and this event has to be rescheduled or even cancelled without this being the fault of the Client.

15.3 The Client shall be permitted to withdraw from the purchase of deliveries (§ 433 BGB) at any time due to the reasons stated in Section 15.2 up until the delivery is transferred. In this case, the above provisions shall apply accordingly with regard to the Supplier's claim to remuneration; the Client shall obtain ownership of the partial services for which payment has been made.

16. Property rights

16.1 The Supplier shall be responsible for ensuring that no third-party rights are violated in connection with its services or deliveries.

16.2 If a claim is made against the Client by a third party due to such an infringement, the Supplier shall be bound to indemnify the Client against these claims upon first written request.

16.3 The Supplier's indemnity obligation shall cover all expenses which may be incurred by the Client from or in relation to a claim by a third party.

17. Confidentiality and data protection

17.1 The Supplier shall treat all information to which they are given access by the Client in relation to the purchase order as strictly confidential. This especially includes information, documentation, details, data, maps, calculations and technical drawings.

17.2 The Supplier undertakes to grant access to the Client's confidential information only to such employees, subcontractors and other suppliers who are involved in the provision of services under this agreement and who require such information in order to execute their duties. Furthermore, the Supplier shall place these employees, subcontractors and other suppliers under the same obligation to maintain confidentiality which it has also committed to and shall present this declaration on request by the Client.

17.3 Should a public authority demand to inspect confidential information within the meaning of the above from the Supplier then it shall immediately inform the Client of this demand prior to providing the information to the public authority.

17.4 The Supplier shall undertake to comply with the legal provisions regarding data protection.

18. Applicable law, place of jurisdiction

- 18.1 The law of the Federal Republic of Germany shall apply for these General Terms and Conditions of Purchase and all legal relationships between the Client and the Supplier. The application of the UN Sales Convention shall be excluded.
- 18.2 Unless otherwise specified on the purchase order, the place of performance shall be the delivery or service location specified by the Client.
- 18.3 If the Supplier is a business person, as defined by the German Commercial Code, or a legal entity under public law or public law special assets, the place of jurisdiction for all disputes directly or indirectly resulting from this contractual relationship shall be the registered office of the Client. In addition, the Client shall be entitled to bring action before whichever court has jurisdiction at the registered office of the Supplier.
- 18.4 In the event that a provision of these Terms and Conditions, or a part thereof, is or becomes invalid, this shall not affect the validity of the remaining provisions.