



## **General Conditions of Purchase of HTG GmbH for purchasing contracts, contracts for services and contracts for work and materials**

Status January 2007

### **§1 Validity of the client's terms and conditions.**

The purchasing conditions as determined hereinafter apply to all orders, purchases, orders of material and services placed by the company HTG as well as to any request for services to HTG, hereinafter referred to as "the client" and its respective contract partner, hereinafter referred to as "supplier / contractor" (in short "S/C").

These Conditions of Purchase shall also be applicable to all future business relationships, even where they have not been explicitly reaffirmed. At the latest upon acceptance or confirmation of an assignment or purchase order these conditions shall be deemed accepted.

By no means shall the acceptance of services as agreed upon by contract constitute an acknowledgement of General Conditions of Business possibly existing on the part of the supplier / contractor. Deviating conditions and terms on the part of the supplier / contractor shall only be binding for us if explicitly acknowledged by us in written form.

### **§2 Order of Priority**

With regard to type and volume of the mutual services to be performed the following order of priority shall apply:

- the provisions of the purchase order
- if applicable the master agreement
- these General Conditions of Purchase
- technical specifications according to the purchasing documents
- general specifications and standards of the purchaser
- general standards

### **§3 Quotation**

With regard to the quotation the bidder shall strictly adhere to the specifications and wording of the inquiry. In case of any deviations these shall be explicitly indicated. The quotation shall be submitted free of charge.

### **§4 Purchase order**

Purchase orders are required to be submitted in writing. This requirement of the written form shall be deemed to be complied with if a purchase order is submitted by means of electronic data transfer. Oral side agreements regarding purchase orders shall be binding only if confirmed in writing by the client. This shall also apply to subsequent modifications and amendments.

Within a period of 3 working days the S/C shall confirm the conformity of contents of the purchase order in a legally binding manner.

Purchase orders submitted by the client by means of electronic data transfer can be confirmed in the same manner.

For any correspondence the purchase order number, our 6-digit item number and the customer number shall be indicated. Inasmuch as agreed on delivery on call in the framework of other agreements, e.g. master agreements, the shipment must be effected on call without delay.



With regard to pictures, drawings, calculations and other documentation we reserve the property and copy rights; they may not be disclosed to third parties without explicit prior written agreement from us. They shall be used exclusively for manufacturing by reason of our purchase order. After completion of the purchase order such documents shall be filed at the S/C's premises on our behalf.

#### **§5 Client provided equipment**

The S/C shall be liable to the client for the loss or damage of equipment provided by him. The materials provided by the client shall be processed in the orders placed by the client. They shall remain the client's property during handling and processing.

#### **§6 Subcontractor**

Without prior written consent of the OP the S/C shall not be entitled to transfer any of his contractual obligations, neither partially nor completely, to third parties or pass on any services or works assigned to the S/C to other companies. This shall also apply to services, for which the S/C's company is not properly equipped.

#### **§7 Execution, environmental protection, safety and quality**

The delivery items shall comply with the current state of the art, in particular with the EC guidelines and the European standards valid in Europe and additionally with national standards and technical specifications (such as EN, VDE, VDI, RoHS etc.). The S/C shall be obliged to take into consideration state-of-the-art technology as well as any valid legal and official provisions and company-internal regulations and provisions. Should hazardous materials be scheduled for delivery, the client shall be provided with product information, in particular safety data sheets, in time before delivery. The use of carcinogenic materials is strictly prohibited.

As far as applicable the S/C shall maintain a quality assurance system according to the DIN EN ISO 9000 : 2000 standard. The client shall be entitled to audit this quality assurance system or other processes relevant for quality.

#### **§8 Prices / invoices**

The prices indicated in the purchase order are fixed prices including all discounts and surcharges. The value added tax is included in the price and shown as a separate item at the legal applicable height on the day the invoice is issued.

Invoices shall only be processed on condition that we are able to verify them, i.e. the invoice shall be structured according to the details of our purchase order and specify the purchase order number/s as indicated therein.

The supplier shall be liable for any consequences arising from his failure to comply with this obligation, unless he presents proof that he is not responsible for such non-compliance.

Each invoice shall be issued in duplicate. They shall correspond to the contents of the purchase order and be sent to the invoice address stated therein.

We shall be entitled to claim the full range of our legal rights of set-off and retention.

Unless agreed upon differently in writing we shall pay the purchase price with a 2% discount within a period of 14 days or within 30 days net, based on the day of delivery and receipt of invoice.



### **§9 Delivery time**

The delivery time determined in the purchase order shall be binding and guaranteed by the supplier / contractor. The S/C shall be obliged to notify us in written form without delay if circumstances arise or he becomes aware of such circumstances implicating that the delivery time agreed on cannot be complied with.

Should an acceleration of the transport of goods be required in order to adhere to the determined delivery time, the S/C shall bear any additional costs arising for such delays caused by him.

Should the S/C be responsible for the delay in delivery we shall be entitled to assert legal claims. In particular we shall be entitled to claim damages should the S/C fail to comply with the delivery date set after expiry of an appropriate period of grace.

### **§10 Shipment / quality assurance**

The purchase details and article numbers as specified and stated in our purchase order must be indicated on all documents such as shipping advice, delivery note, packing slip, bill of lading, invoice and on the outside packing. Shipments of goods must be sent exclusively to the receiving address specified by us. Delivery must be made according to purchase order and items. Material delivered must be correctly sorted.

The responsibility for the quality of the goods delivered to us lies solely with the S/C. Any agreements on quality assurance measures possibly required do not release the S/C from his responsibility for product quality. The supplier is obliged to comply with the zero-error target and shall meet this obligation by performing a 100% inspection of outgoing goods prior to shipment. The supplier shall be liable for damages and bear costs arising due to non-compliance with these handling and shipping instructions on his part or on part of vicarious agents or subcontractors authorized by him. Any shipment that cannot be accepted owing to non-compliance with these shipping instructions shall be stored at the supplier's cost and risk. We shall be entitled to inspect contents and condition of such shipments. The S/C is only entitled to effect partial shipments / services upon written agreement of the client. The return and possible invoicing of packing material requires a separate agreement.

### **§11 Claims for defects / warranty**

The client shall be entitled to assert claims for defects to the full legal extent. As supplementary performance the client shall be at liberty to decide whether to request either the removal of such defect or the delivery of an item free of defects or the manufacturing of a new part. In case of imminent danger or special urgency, the client shall be authorized to remove the defect himself at the S/C's expenses. Unless regulated differently by law, the supplier's warranty period shall be 12 months. Should we have asserted a claim of defect, the warranty period shall be extended by that period of time elapsed between submission and complete remedy of such claim. Should we select supplementary performance by delivery of goods free of defect, which are to be re-produced by the S/C, the warranty period shall recommence again.

### **§12 Property rights**

We reserve all property and copyrights to any pictures, drawings, calculations and other documents, which we have passed on to the S/C or which he has received through other means in connection with the purchase order placed and the goods to be supplied by the S/C according to contract. Therefore, it shall not be permitted to use any documentation as listed above for any other purpose or to copy or disclose this information to third



parties without explicit prior written agreement from us. The S/C shall use any aforementioned documentation exclusively for handling purposes with regard to purchase order and supply. Should the mutual business relationship be terminated this documentation must be returned to us without further notice and delay. The S/C shall not be entitled to retain any copies.

### **§13 Termination**

Should the utilization of the goods ordered be rendered impossible or significantly difficult in terms of economic aspects due to labor disputes, disruption of operations, accidents, events of war, staginations of the market, regulatory interference, similar events or force majeure, the OP shall be entitled to terminate the contract. Should one contract party fail to meet its payment obligations or should insolvency proceedings be opened against the assets of one party, the other party shall be entitled to withdraw from those parts of the contract not yet fulfilled at that time.

### **§14 Place of jurisdiction**

Inasmuch as the S/C is deemed to be a merchant in the sense of the "Handelsgesetzbuch" [*German Commercial Code*], a legal person under public law or special fund under public law, the headquarters of the client shall be the exclusive place of jurisdiction for any conflicts directly or indirectly arising out of the contractual relationship. Additionally the client shall be entitled to file claims at the court having jurisdiction at the S/C's place of business.

Exclusively the laws of the Federal Republic of Germany shall govern and apply to these General Conditions of Purchase, without regard to its conflicts of law principles. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall be excluded.

Should any provision of these terms and conditions be found to be legally unenforceable or invalid, this shall not affect the effectiveness of the other conditions of the contract.