

# **SEDOTEC GmbH & Co's General Terms and Conditions of Purchase**

## **1. Scope of Application**

1.1 Our purchase orders are placed exclusively on the basis of our Terms and Conditions of Purchase set out below (hereinafter referred to as "Terms and Conditions of Purchase"). We do not acknowledge any conflicting or deviating or general terms and conditions of the supplier, which are not regulated in the Terms and Conditions of Purchase, unless we have expressly consented in writing to their application. This also applies if we accept the goods and services supplied by the supplier without reservation while being aware of terms and conditions which conflict with, deviate from or are not stipulated in the Terms and Conditions of Purchase or if the supplier, in its quotation, in its acknowledgement of the order, on invoices or otherwise in connection with the processing of the contract, refers to the application of its general terms and conditions of business.

1.2 In ongoing business relations the Terms and Conditions of Purchase also apply to all future contracts.

1.3 The Terms and Conditions of Purchase apply only in relation to an undertaking ("Unternehmer") within the meaning of Paragraph 14 German Civil Code ("BGB").

1.4 Our orders are placed exclusively in written form. Any advance orders communicated verbally or by telephone shall be confirmed in writing (which includes by fax or e-mail).

## **2. Prices**

2.1 All agreed prices are deemed to be fixed prices and shall not be subject to any change even if the supplier reserves the right to make changes.

2.2 If prices have not been finally fixed at the time of submitting a quotation the supplier must notify us of the prices as soon as they have been determined; they shall not take effect until after receipt of our purchase order with our subsequent confirmation of the price.

2.3 If prices are calculated on the basis of the weights ascertained, the relevant weights shall be the weights without packaging.

2.4 Unless we have entered into a deviating agreement, DDP (Incoterms 2010) the place of delivery stipulated in our purchase order shall apply for the prices, or, if no place of delivery is stated in our purchase order, DDP Ladenburg.

## **3. Delivery Periods and Delivery Dates**

3.1 The periods and dates stipulated in our purchase orders are binding. The delivery date shall be the date upon which the goods are received by us or by the delivery address stipulated by us; in the case of services it shall be the date of acceptance. The delivery period shall commence on the day upon which we receive the confirmation of the order.

3.2 As soon as the supplier can perceive circumstances which mean that the supplier is not able to comply with an agreed date or deadline, the supplier is obliged to immediately notify us thereof in writing stating the reasons and the expected duration of the delay.

3.3 If the supplier is in delay with performance ("in Verzug") we shall be entitled to demand a contractual penalty in the amount of 0.5% of the delivery value for each started week of delay, but not more than a maximum of 5% of the delivery value. We shall be entitled to assert a contractual penalty in addition to performance; we undertake to declare that we are reserving our right to the contractual penalty to the supplier at the latest within 10 working days calculated as of receipt of the late delivery. This shall be without prejudice to any further-reaching and additional claims and rights.

3.4 We do not accept any disclaimers, limitations of liability and/or exemptions of liability of the supplier of any kind in the event of any delay in delivery.

## **4. Terms of Delivery - Dispatch**

4.1 Unless we have entered into a deviating agreement, delivery shall be effected DDP (Incoterms 2010) the place of delivery stipulated in our purchase order, or, if no place of delivery is stated in our purchase order, DDP Ladenburg.

4.2 Every delivery must include auditable consignment notes or delivery notes stating the content as well as the full order reference.

4.3 The delivery shall be effected carriage paid to our works or to the place of delivery designated in our purchase order including packaging costs, carriage costs and other costs. In all cases dispatch shall be effected at the risk and for the account of the supplier. If, as an exception, we have declared

our agreement in writing to a charge or to returning the packaging, we shall be entitled to send the packaging back against a credit note for its full invoice value.

4.4 Unless otherwise agreed as an exception, it shall be the supplier's duty to obtain the transport insurances at its cost.

4.5 Part deliveries or part performances shall be permitted only with our express prior written consent.

## **5. Drawings**

5.1 Unless otherwise agreed, any samples, drawings, pictures, models and other product-related, application-related or project-related documents, which contain know-how that is worthy of protection (hereinafter altogether referred to as "Drawings"), which we provide to the supplier, shall remain our property. The Drawings may not be reproduced or made accessible to third parties without our express prior written consent and must be returned to us without being asked and at the supplier's cost forthwith after the contract has been processed.

5.2 The supplier undertakes to use the Drawings and other items, which we have provided to the supplier, only for fulfilling the respective contract; the supplier must keep the form and content thereof confidential.

## **6. Infringement of Industrial Property Rights**

6.1 The supplier gives its assurance that no national or foreign rights of third parties, particularly no industrial property rights of third parties (e.g. patents, utility models and design patents, copyrights) are infringed in connection with its supplies and services.

6.2 If a third party makes a claim on us because of an infringement within the meaning of the above Clause 6.1 the supplier shall be obliged to indemnify us from and against said alleged or actual claims, and to pay compensation for any and all damage, costs and expenses, incurred by us in connection with the recourse taken by the third party unless the supplier is not responsible for the breach of obligation.

## **7. Incoming Goods Inspection - Complaints about Defects**

7.1 As part of the incoming goods inspection we are obliged to check only the number of and the identity of the products delivered and any transport damage to the products delivered. As far as this is concerned, the supplier waives all further-reaching statutory requirements to be met by the incoming goods inspection (particularly pursuant to Paragraph 377 German Commercial Code ("HGB")).

7.2 The time limit for reporting defects ("Rügefrist") is 5 days. The time limit for reporting defects shall in the case of obvious defects commence upon handover of the products, and in the case of defects which are not obvious upon discovery of the defect.

7.3 If we discover defects in the course of any random sample inspection, we shall be entitled to reject the entire delivery without further examination or, at our option, to examine the entire delivery ourselves or through third parties at the supplier's cost.

## **8. Quality Standards - Defects in Quality (Sachmängel) - Damages**

8.1 The supplier warrants that the products supplied by it comply with the specifications, Drawings, performance features and respective other up-to-date technical and qualitative standards regarding the product and the other requirements pursuant to Clause 12, that the material and workmanship thereof are of good quality and that they are fit for the intended purpose.

8.2 In cases of doubt, the supplier must ask us about the intended use or the type of further processing.

8.3 Claims because of defects in quality ("Sachmängel") shall be time-barred two years after the passing of risk unless statute provides for a longer limitation period or we have agreed a longer limitation period with the supplier.

8.4 We do not accept any limitation of our statutory warranty rights. In the case of sales contracts (Kaufverträge) and contracts for work and materials ("Werklieferungsverträge") we are entitled, at our option and within a reasonable additional period of time, to demand rectification of the defect or delivery of goods that are free from defects.

8.5 Payment of the purchase price by us does not include any waiver of our right to complain about defects and/or to object that delivery has not been made properly in compliance with these Terms and Conditions of Purchase, the individual agreements and/or statutory provisions.

8.6 We do not agree to any restriction of our statutory claims for damages, neither in terms of the degree of fault nor in terms of the scope and amount of liability.

8.7 Apart from that the statutory provisions on the delivery of defective products shall apply. As far as this is concerned, we remain at liberty to assert more far-reaching claims because of the delivery of defective products.

### **9. Invoice - Payment Terms - Retention/Set Off - Assignment**

9.1 A separate, closed invoice must be issued for each purchase order; all invoices must comply with the provisions of the German Act on Value Added Tax ("Umsatzsteuergesetz").

9.2 Unless we have agreed otherwise, the payment shall, at our option, be made either within 14 days with a 2 % cash discount or within 30 days net. The period shall commence as of receipt by us of a proper invoice, however at the earliest as of receipt of the goods/provision of the service.

9.3 Our payments shall in each case be effected subject to correction or the right to reclaim payment in the event that a complaint subsequently transpires. Payments shall not imply any acknowledgement that the delivery or performance is in accordance with the contract.

9.4 In the event of any defective delivery of goods or services we are entitled to withhold the full amount of our payments unless good faith dictates otherwise. We do not agree to any restriction of our statutory rights of set-off or to the assertion of any rights of retention.

9.5 The assignment of any claims against us shall only be effective with our written consent.

### **10. Product Liability – Indemnity – Third-Party Liability Insurance Cover**

10.1 If our customers or third parties make a claim on us under any principles of product liability principles or manufacturer's liability the supplier shall indemnify und hold harmless us from and against any such claims and the expenses, costs and damage incurred by us in this connection to the extent that the cause lays within its sphere of control and organization and it is itself directly liable in relation to third parties.

10.2 The supplier undertakes to maintain a product liability insurance with worldwide cover and an appropriate minimum cover for personal injury and damage to property and to prove said insurance cover to us upon request. This shall be without prejudice to any further-reaching claims to which we may be entitled.

### **11. Reservation of Title**

We do not agree to any reservation of title provisions which go beyond the agreement of an ordinary reservation of title, we particularly do not agree to so-called extended or prolonged reservations of title or group reservations of title ("Konzernvorbehalte").

### **12. Conformity with Laws**

When implementing the respective contract or executing the respective order the supplier shall comply with the respectively applicable laws, regulations and other legal provisions and trade practices that apply to its field of business, particularly concerning the development, manufacture, sale, transportation, export and certification of its products. This particularly concerns the statutory provisions on the safety and environmental design and method of technical products, the generally accepted rules of technology and the other provisions that reflect the state of the art at the time of performance. The supplier shall confirm compliance with the above laws etc. in writing upon request by us. The supplier shall reimburse us for any and all damage, costs and expenses, which we incur due to any failure on the part of the supplier to comply with the above provisions; the supplier shall in addition indemnify us against any claims raised against us by third parties in this connection. This shall not apply if the supplier is not responsible for the non-compliance.

### **13. Final Provisions**

13.1 The place of performance for the delivery of all goods and services and the place of payment shall be Ladenburg.

13.2 It is agreed that the Amtsgericht ["Local Court"] or Landgericht ["Regional Court"] of Mannheim shall have local jurisdiction for all disputes. We shall, however, alternatively be entitled to file a suit at the supplier's registered office (seat).

13.3 The governing law shall exclusively be the law of the Federal Republic of Germany; the provisions on the conflict of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

13.4 Please be advised that we store and process relevant data pertaining to our suppliers within the permitted limits under the German Federal Data Protection Act ("Bundesdatenschutzgesetz").

Status as per: June 6, 2013