

General Terms and Conditions Vagedes & Schmid GmbH

Part II - Purchasing and Commissioning of works and services

Version November 2020

§ 1 General - Scope

- 1.1. These terms and conditions of Vagedes & Schmid GmbH (referred to hereinafter as „VS“ or „agency“) apply exclusively to purchasing and to the commissioning of works and services. Whenever the terms and conditions are worded for purchasing, they apply analogously to the commissioning of works and services.
- 1.2. VS does not recognise any terms or conditions of the supplier that contradict or deviate from these terms and conditions, unless VS has agreed to their application explicitly and in writing. These terms and conditions of VS apply even if VS unconditionally accepts the services the supplier provides in spite of being aware of terms or conditions maintained by the supplier that contradict or deviate from these VS terms and conditions.
- 1.3. All agreements made between VS and its suppliers with regard to contractual execution must be defined in writing.
- 1.4. The VS terms and conditions apply toward contractors (natural and legal persons or joint partnerships with legal capacity acting in their commercial or professional capacity).

§ 2 Offer - Change - Quantity

- 2.1. The supplier is required to submit an offer within the period that VS extends (enquiry or tender). The offer must be submitted without charge. In the offer, the supplier must adhere strictly to the details of the enquiry or the tender with regard to quantity, properties and execution. Suppliers must make explicit reference to any deviations. The offer must be binding. The offer requires explicit approval by VS.
- 2.2. VS may demand changes in the object of supply even after the contract has been concluded provided this can be reasonably expected of the supplier in due consideration of VS interests. Contractual amendments of this kind require both sides to reach a reasonable agreement with regard to their impact, in particular with regard to increases or decreases in costs as well as delivery schedules.
- 2.3. No remuneration will be paid for additional volumes the supplier provides of its own accord.

§ 3 Prices - Terms of payment

- 3.1. Following acceptance, the price listed in the offer is binding. The statutory rate of value added tax is contained in the price and is stated separately.
- 3.2. The price includes delivery „franco domicile“ to the business address of VS, i.e. to the place of use/venue of the event, including packaging. Any return of packaging must be specified in a separate agreement.
- 3.3. Advance payments or instalments on the prices are not possible unless the supplier provides an unlimited and unconditional bank guarantee.
- 3.4. VS can only process invoices if they quote the order number shown in the order in accordance with order specifications. The supplier is responsible for any consequences resulting from a failure to adhere to this obligation unless he can prove that he is not responsible.
- 3.5. VS settles invoices within 30 days, calculated from delivery and receipt of invoice. Other due dates and payment periods require explicit agreement.
- 3.6. VS is entitled to rights of offsetting and retention to the extent defined in law and such rights cannot be restricted.
- 3.7. The supplier is only entitled to lawfully assign accounts receivables from VS with written approval from VS.

§ 4 Lead time

- 4.1. The delivery schedule specified in the order and acceptance is binding. The supplier must inform VS without delay and in writing in the event that circumstances should arise that indicate an agreed delivery schedule cannot be honoured. Any subcontractors that the supplier commissions are bound by this same obligation.
- 4.2. VS will be entitled to statutory claims in the event of delayed delivery. VS is entitled in particular to demand damages in lieu of performance and declare its withdrawal from the contract after a goodwill period has expired without results. In the case of damages, the supplier is entitled to prove that he was not responsible for the breaching of his obligations. The supplier bears the risk of any delays caused by subcontractors.

§ 5 Inspection for defects - Liability for defects

- 5.1. VS must inspect the goods within an appropriate period to ascertain any deviations in quality and quantity. Any complaints will in all cases be deemed to be in time if received by the supplier within a period of 7 working days from the date the goods are received or following the discovery of any hidden defects.
- 5.2. VS is entitled to statutory claims for defects. VS is in all cases entitled to demand at its own discretion that the supplier rectifies the defects or makes a replacement delivery. The right to damages, in particular for damages in lieu of performance, is explicitly reserved.
- 5.3. The statute of limitations is 24 months, calculated from the transfer of risk, unless otherwise agreed or mandatory under law.

§ 6 Product liability - Exemption - Liability insurance

- 6.1. Insofar as the supplier is liable for product damage, he will be obligated on first request to indemnify VS from any damages claimed by third parties to the extent to which the cause of said damage lies within his sphere of control and organisation, and he is liable vis-à-vis third parties.
- 6.2. Within the framework of his liability for incidences of damage as defined under section 1, the supplier is also required to reimburse any expenses incurred as defined in §§ 683, 670 German Civil Code (BGB) or in §§ 830, 840, 426 BGB, resulting from, or in connection with any recall action that VS carries out. VS will, to the extent that can be reasonably and justifiably expected, inform the supplier of the content and scope of the recall action and will provide him with an opportunity to make a statement. This is without prejudice to other statutory claims.
- 6.3. The supplier undertakes to maintain third party product liability insurance with sufficient cover for personal and material damage as well as professional liability insurance.
- 6.4. Unless otherwise agreed, VS will not be liable for any objects that the supplier introduces unless VS has damaged or destroyed them by gross negligence or culpable intent. The supplier must himself insure any objects introduced or provided and maintain such insurance for the entire duration of their deployment.

§ 7 Property rights

- 7.1. Irrespective of culpability, the supplier is liable for ensuring that in connection with his deliveries, no rights held by third parties are violated in the countries in which he manufactures the products or commissions their manufacture, or in which the products are designated for use. The supplier will also make sure that compliance rules are adhered to such as the ban on corruption, anti-trust agreements, forced labour, child labour and discrimination, respect for human rights, promotion of health protection, fair working conditions and environmental protection and IP protection / preservation of trade secrets. The supplier will ensure that these standards are adhered to throughout his supply chain.
- 7.2. If the supplier culpably breaches his contractual obligations, he will, upon first written re-quest, indemnify VS against any claims made against VS by third parties. VS is not entitled to reach any agreements with the third party without consent from the supplier, in particular any settlement agreements.
- 7.3. This obligation of indemnification on the part of the supplier also extends to any expenses that VS necessarily incurs from, or in connection with, these claims raised by third parties.
- 7.4. The statute of limitations is 24 months, calculated from the transfer of risk, unless a longer term is otherwise agreed or mandatory in law.

§ 8 Retention of title - Provision of parts - Tools - Confidentiality

- 8.1. VS reserves title to all parts it provides to the supplier. Any processing or modifications are undertaken by the supplier on behalf of VS. In the event that reserved goods owned by VS are processed together with objects that do not belong to VS, VS will acquire co-ownership of this new object proportional to the ratio of the value of the new object (purchase price plus value added tax) to the other objects processed at the moment of processing.
- 8.2. In the event that the object provided by VS is inseparably mixed with other objects that do not belong to VS, VS will acquire co-ownership of this new object proportional to the ratio of the value of the reserved object (purchase price plus value added tax) to the other objects mixed with it at the time the mixing takes place. In the event that this mixing is performed in a manner that the object owned by the supplier is to be seen as the main component, it is deemed to have been agreed that the supplier will transfer co-ownership to VS on a pro rata basis. The supplier will retain possession of the sole ownership or co-ownership on behalf of VS.
- 8.3. In the event that security interests to which VS is entitled in accordance with section 1 and/or section 2 exceed the purchase price of all reserved goods not yet paid to VS by more than 10 %, VS will be required, at the supplier's request and at its own discretion, to release the security interests.
- 8.4. VS reserves title and copyrights to illustrations, drawings calculations and other documentation and information provided by VS (in particular concepts, materials, presentations, data of any kind). If these have been provided by a customer, the customer will reserve title and copyrights. The supplier is required to maintain strict secrecy with regard to these documents and information. Such items may only be used for the VS order and not for other productions. They must only be disclosed to third parties with explicit consent from VS. They must be returned automatically to VS following fulfilment of the order. The non-disclosure commitment continues to apply even after execution of this agreement. It only expires if and to the extent to which the manufacturing know-how contained in the documents and information provided become common knowledge. For every future incidence of a culpable breach of its confidentiality obligations, the supplier undertakes to pay a contractual fine of 10% of the order value, and at least €5,000.00. The assertion of any further-reaching compensation claim is not affected by this arrangement.
- 8.5. If the supplier creates copyrightable results in the course of fulfilling his contractual obligations, he will transfer to VS the sole rights of use and/or exploitation of such results unlimited in time, substance and space, in particular the sole right to publish, copy, distribute, make publicly accessible, the right of transmission and the right of reproduction on image or sound carriers. This includes the right of VS to transfer the rights of use and/or licensing rights to third parties and/or to make changes and/or edits and/or to use the results achieved for other types of use as well as in connection with other works. Transfer of the rights of use and licensing rights in the scope outlined above is covered by payment of the agreed fee. The supplier waives his right to be credited in the work and to make it publicly accessible.
- 8.6. All objects, in particular and including tools, machines, technical equipment and other resources that the supplier uses for the production, assembly, transport or erection of the products are and remain the property of the supplier. This also applies if the supplier uses, deposits or temporarily stores such objects in an area under the organisational control of VS, even if only temporarily. For this purpose, the supplier is required to maintain sufficient fire, water and theft insurance. VS will not accept any liability in this respect.

§ 9 Data protection

The supplier is obliged to treat personal data in accordance with the provisions of the General Data Protection Regulation and the latest version of the German Data Protection Act, and in particular, to adhere to technical and organizational measures.

§ 10 Final Clauses

- 10.1. If one or more provisions of this agreement are or become invalid or inoperable, the validity of the remaining provisions will not be affected. The invalid provision will be replaced with a provision agreed between the supplier and VS that approximates as closely as possible to the commercial and legal substance of the original provision.
- 10.2. The General Terms and Conditions of Business of VS also apply.