

Conditions of Purchase

TPS TECHNITUBE RÖHRENWERKE GmbH

1. General Information

- 1.1. Our conditions of purchase are solely decisive for all of our orders. We expressly dispute the inclusion of the supplier's general terms and conditions, in particular conditions of sales and delivery. They will not become part of the contract.
- 1.2. Orders placed verbally or by phone do not become legally binding until drawn up in writing and signed.
- 1.3. Documents used by the contractor (= supplier) in business communication with us (the client) need to state the following: order number, factory, delivery address / reception centre, full item text / object name, quantities and quantity units as well as tax ID number.
- 1.4. Agreements made verbally after contract conclusion, in particular later changes and additions to our conditions of purchase as well as subsidiary agreements of any kind also need to be confirmed in writing to become effective.
- 1.5. If the supplier fails to accept the order within two weeks of receipt we are entitled to cancellation. Delivery recalls become binding unless the supplier objects within two working days after receipt.

2. Pricing

- 2.1. The agreed prices apply as fixed rates and exclude freight and packaging as of our delivery address / reception centre, unless expressly defined otherwise (no freight costs are being paid). Estimates of costs are non-binding; their creation remains cost-free for the client unless expressly agreed otherwise. No freight and additional charges are being paid. Packaging is only paid if expressly agreed.
- 2.2. Measurements, weights and quantities defined by us are decisive for payment.

3. Delivery Item

- 3.1. Our order is decisive for contents and scope.
- 3.2. Drawings, descriptions, etc. belonging to the order are binding for the suppliers, but they have to check them for irregularities and notify us without delay of any discovered or suspected errors. The supplier continues to remain solely responsible for drawings, plans, and calculations created by them even if they have been approved by us.
- 3.3. Insofar as no further requirements are defined in the order, the articles of sale are to be delivered in commercially available quality, and, insofar as DIN, VDI, DVGW or equal standards are applicable, in agreement with these standards. In any case, the articles of sale are to be manufactured and equipped such that they comply with statutory provisions applicable on the day of delivery at the place of fulfilment, in particular on technical resources, hazardous working substances, accident prevention, emission protection, and occupational health and safety as well as with significant ergonomic findings. Non-stationary electric equipment and electric installation material need to be manufactured pursuant to VDE regulations. The products need to be checked as per VDE, and qualify for and permanently carry the VDE mark.
- 3.4. Input weights as established by our factory scales apply for identifying weights. Insofar as weighing is not possible at our premises, those weights apply as are ascertained by railroad officials and specified on the waybill or, in case of delivery by lorry, established by official scales. If weighing of the delivery item is not possible the supplier has to ascertain its construction weight.

4. Scope of Works

- 4.1. Scope of works includes, among others, that the contractor transfers to the client ownership of the entire technical documents (this also applies to sub-suppliers) as well as of other documents required for new production, maintenance, and operation. These technical documents need to be written in German complying with the international SI system of units.
- 4.2. All usage rights required for using the deliveries and services are to be transferred to the client or third parties taking into account potential patents, supplementary protection certificates, trademarks, and utility models.
- 4.3. The client is to be given unrestricted authority so they themselves or third parties can perform repairs and modifications on the added service.
- 4.4. In case of a deviation from the agreed scope of work the contractor is entitled to additional charges or deadline alterations only if a corresponding written supplemental agreement has been made prior to execution.
- 4.5. The ordered quantities are binding. In case of excess deliveries the client is entitled to refuse them at the expense of the contractor.

5. Delivery

- 5.1. Deliveries have to be made to the delivery address / reception centre or to the address for shipment specified on our order, unless agreed otherwise. If a price has been agreed as "ex works" "ex stock" the client only bears the lowest freight costs in either case.

5.2. The specified addresses for shipment apply. Delivery to a reception centre other than the one specified by the client effects no transfer of risks for the contractor even if this centre accepts the delivery. The contractor bears the client's extra costs resulting from delivery to a centre other than the agreed reception centre.

5.3.1. Partial deliveries are to be marked as such. Each delivery is to be equipped with three copies of verifiable delivery notes. They need to contain our order number, the quantities and precisely name the goods. With third-party deliveries we also require timely receipt of a detailed shipping advice or copy of the delivery note. We are not obligated to accept partial or excess deliveries unless expressly agreed. The same applies if goods are delivered prior to the agreed delivery date. If applicable, we are entitled to return the goods or store them at third parties at the supplier's expense and risk.

5.4. Insofar as the contractor is entitled to return the packaging required for delivery, the delivery papers need to indicate this clearly. In the absence of such indication the client will dispose of the packaging at the contractor's expense; in such a case, the contractor's entitlement for return of packaging lapses.

5.5. Storing objects required for rendering the service at the client's premises is only allowed in assigned yards. The contractor bears full responsibility and risk for these items.

5.6. For transport, follow the statutory regulations, in particular legal provisions about transporting hazardous goods, of the applicable dangerous goods regulations, including the respective enclosures and attachments.

5.7. Declaration of goods in the waybills is to be effected for despatch by rail as per the applicable railroad regulations. The service provider bears the costs and damage caused by incorrect or unobserved declaration.

5.8. The service provider is to have the delivery address / reception centre specified on the receipt of delivery in writing.

6. Delivery Time

6.1. The agreed delivery dates and terms are binding.

6.2. The delivery time is deemed kept if the delivery is available to us on the agreed date at our factory and/or at a specially agreed delivery address / reception centre after confirmation of acceptance by the person authorised to take delivery. If delivery delays occur all the same, we are to be notified of them immediately after their occurrence by specifying the earliest possible delivery date.

6.3. Failure to adhere to agreed delivery terms and delivery dates entitles us, after duly announcing a period of grace, to withdraw from the contract and claim damages. The latter also applies if we have accepted delayed deliveries without reservation. The above period of grace is not required if a "fixed" delivery date was agreed. The stated right of withdrawal applies regardless of whether the supplier is responsible for the failure to adhere to the delivery terms, e.g., if failure to deliver was caused by acts of God, strike, lockout, etc.

7. Termination

7.1. The client is entitled to terminate the contract entirely or partially without giving reasons. In such a case they are obligated to pay for all the deliveries and/or services rendered by that date as well as to adequately reimburse procured material and rendered work; in addition, Sect. 649, P. 2, Clause 2 BGB applies. The contractor has no further claims.

7.2. The client is also entitled to termination if, among others, legal insolvency proceedings for the contractor's estate have been applied for or if the contractor suspends payment. The client has the right to take over material and/or semi-finished products including potential special resources at appropriate conditions.

8. Guarantee, Notification of Defects, and Liability

8.1. The supplier is liable for their deliveries complying with approved codes of practice and statutory regulations, such as occupational health and safety and environmental protection, and showing the contractually agreed properties. They are also responsible for meeting the quality, consistency, dimensions, style, professional construction and completeness of their delivered goods as well as for the specified or agreed service.

8.2. In case of a faulty delivery or service, we are entitled to assert statutory claims for faults.

8.3. In urgent cases or if the supplier fails to fulfil their obligations for supplementary performance without delay after our corresponding request, we are entitled to mend or replace defective parts and remove respective damage at their expense.

8.4. Claims for technical faults lapse within the statutory period. For the same period, the supplier assumes unlimited warranty for the goods' contractual conformity. For a period of six months after transfer of risk the supplier bears burden of proof for the fact that the goods were free of defect at transfer of risk.

8.5. For parts of the delivery which are renovated or repaired within the period of limitation of our claims for faults, the period of limitation restarts when the supplier has fully met our claims for supplementary performance.

8.6. If we incur costs due to the defective services of the contractual object, in particular transport, working, and material costs or costs for reception control in excess of the customary scope, the supplier has to bear these costs.

8.7. If, due to defectiveness of the contractual object delivered by the supplier, we (i) cancel products we have manufactured and/or sold; or (ii) suffer a lowering of the purchase price; or (iii) are claimed against, we reserve recourse against the supplier, and our warranty rights require no further notice.

8.8. Notifications of defect are deemed timely according to Sect. 377 HGB if the supplier is notified of unresolved errors within three weeks after their detection. In case of hidden defects a period of no less than six months since delivery applies.

8.9. In case we are claimed against due to product liability the supplier is obligated to safeguard us against such claims if and insofar as the damage was caused by an error of the contractual object delivered by the supplier. In cases of liability based on culpability this only applies if the supplier is culpable. If the cause of damage is within the supplier's sphere of responsibility they will bear the burden of proof in that respect. In those cases, the supplier bears all costs and expenses including costs of potential legal proceedings or recall campaigns. Apart from that, statutory provisions apply.

The client assumes that the supplier supports a third party liability insurance covering a flat amount of no less than EUR 3M per case of material or financial damage, or an unlimited amount for personal injury. Further compensation claims by the client remain unaffected by the above. On request, the supplier demonstrates this insurance to the client.

9. Third-Party Rights

9.1. The supplier assumes full guarantee that the delivery or utilisation of the objects for delivery causes no infringement of third-party property rights or that third parties cannot claim against us for infringement of rights.

9.2. In case of infringement of third-party rights we are entitled to compensation for damages suffered by us from the supplier regardless of their culpability.

10. Manufacturing Test / Final Inspections

10.1. During production and prior to delivery, we reserve the right to check (i) the quality of the material used; (ii) the measurement and quantity precision; and (iii) the other quality of the manufactured parts as well compliance with other regulations of the order at the supplier's and their suppliers' factories.

10.2. If we reserve the right of final inspection of the completed delivery item at the supplier's factory by us and/or by a third party assigned by us, we or the assigned third party are to be notified of the readiness for final inspection in writing 14 days prior to the date unless another arrangement has been agreed. The supplier bears the technical costs for manufacturing test and final inspections.

10.3. If we have instructed a third party with the final inspection of the completed delivery items, the supplier is to initiate the final inspection by that third party at no charge to us and forward us the inspection result without delay, but no later than together with the dispatch documents.

10.4. The manufacturing tests and final inspection do not release the supplier of their fulfilment and warranty obligations pursuant to Sect. 8 above.

11. Drawings / Models / Tools / Standards / Specification

11.1 Drawings, models, tools, production documents, etc., left to the supplier by us for creating the goods to be delivered to us, may not be used for other purposes, duplicated, or left to third parties. They remain our property and are to be returned to us without prompting and immediately following completion of the order. If the supplier or third parties make unauthorised use of the production documents, the supplier pays a contractual penalty, subject to claiming higher damages, in the amount of the purchase price of the objects manufactured according to the documents. The supplier relays this identical obligation to sub-suppliers when awarding a contract.

11.2. Products manufactured according to (i) documents we have designed; or (ii) our specifications; or (iii) using our tools; or (iv) using copied tools, may be used neither by the suppliers themselves nor offered or delivered to any third parties.

11.3. Tools left by us to the supplier on a loan basis are to be treated with care and stored accurately as well as maintained serviceable in accordance with the latest revision. On request, the tools are to be returned to us without delay. The supplier is to insure the tools at their own expense against fire, theft, and other damage.

11.4. Unless the specified standards / specifications / drawings have a date of publication / revision number, the latest issue applies. With your delivery and for all the products, we receive the safety datasheet pursuant to Directive 91/155/EEC filled in by you in German. In case of changes / additions we receive the latest documents without prompting.

12. Import and Export Provisions, Customs Duties

12.1. Deliveries and services from a country within the EU outside of Germany require the supplier's EU value added tax identification number.

12.2. Imported goods are delivered duty paid. Within the provisions of EU Directive No. 1207 / 2001, the supplier is obligated at their own expense to provide explanations and information, allow inspections by customs authorities, and procure required official acknowledgments.

12.3. The supplier is obligated to inform us in detail and in writing about potential duties to obtain a permit for (re-) exports pursuant to German and European export and customs provisions as well as export and customs provisions country of origin of the goods and services.

13. Transfer of Risk and Ownership

13.1. The risk is transferred to us as soon as the goods have arrived at our factory and have been duly handed over to the responsible receiving office.

13.2. The client refuses to acknowledge potential ordinary or extended reservations of title.

14. Execution of Work

14.1. Anyone performing tasks on the premises to fulfil the contract are to follow occupational health and safety provisions.

14.2. Any liability for accidents happening to these persons on the premises is excluded unless those accidents have been caused by deliberate or grossly negligent breach of duty of our legal representatives or assistants.

15. Submission of Invoice, Payment, Delay, Offset, Transfer

15.1. All invoices are to be submitted to us individually by order and including our order number. Invoices are not considered an order confirmation at the same time.

15.2. Invoices are payable within 60 days after receipt of goods and receipt of invoice or, at our own discretion, within 30 days at 3% cash discount. The day when our bank receives the remittance order counts as the payment date.

15.3. In alteration of the statutory provisions, failing to pay in due time assumes that the client has received a reminder.

15.4. Payments do not mean that the delivery or service has been recognised as being according to contract. In case of defective or incomplete delivery or service we are, our other rights notwithstanding, entitled to retain a reasonable portion of payments on receivables from the business relationship until proper fulfilment.

15.5. The client is entitled to offset all the receivables against the receivables owed to the contractor by the client.

15.6. The transfer of receivables against us to third parties is excluded.

16. Unacceptable restrictions of competition

16.1. Provided evidence the supplier has agreed upon a behaviour which constitutes unacceptable restrictions of competition, an indemnification of 15% of the net contractual value (excluding discounts and value added tax) is due to the client. The parties reserve the right for proof a higher or lower damage. Regardless of termination or fulfilment of contract, the obligation of indemnification shall prevail. Other contractual or statutory rights of the client remain unaffected.

16.2. Unacceptable restrictions of competition are in particular anti-competitive practices and agreements (concerted actions) with other suppliers related to

- prices,
- tie up of capital or remuneration / charges,
- profit mark-ups,
- processing margins or other price components,
- terms of payment or delivery or other terms of contract, as far as they directly affect the price,
- payment of loss compensation or other redundancy payments, as well as profit share, recommendations or other contributions, unless that behaviour and agreement are permitted by the Act Against Restraints of Competition (Gesetz gegen Wettbewerbsbeschränkungen (GWB)).

17. Concluding Provisions

17.1. Place of jurisdiction for deliveries and payments as well as all the other obligations arising from the contract is exclusively the client's place of business.

17.2. The legal relationship between the supplier and us is judged exclusively pursuant to German law excluding the regulations of the United Nations Convention on Contracts for the International Sale of Goods.

17.3. The potential ineffectiveness of any of the above terms does not affect the validity of the remaining terms.