

## General Purchasing Terms and Conditions for the SPIE Deutschland & Zentraleuropa GmbH group of companies (as of 07/2019)

### 1. General / scope of application

1.1 For all orders of the companies of the SPIE Deutschland & Zentraleuropa GmbH corporate network (hereinafter referred to as SPIE or Customer), these General Purchasing Terms and Conditions (GPTC) apply exclusively unless otherwise agreed in writing on a case-by-case basis or it concerns orders for consumers.

1.2 No later than the initial delivery/service based on these GPTC, the Contractor shall agree on the exclusive application of the GPTC for other orders. In the event that special agreements that deviate from these GPTC have been agreed for certain orders, these GPTC shall apply subordinately and supplementarily.

1.3 Application of the General Business Terms and Conditions of the Contractor is hereby contradicted even for the case that they are transmitted to the Customer in confirmation letters or other methods.

1.4 Oral collateral agreements and the exclusion, amendment and/or supplementation of these GPTC require the express written confirmation of the Customer to be effective.

### 2 Illustrations / models / tools

The Customer retains all ownership, intellectual and/or property rights to all figures, illustrations, models, templates, calculations, construction plans and other documentation as well as tools that the Customer made available or purchased for execution of the order. This documentation may be used only for the fulfilment of the order. The Contractor must check the documentation for disagreements and must point out discovered or suspected defects to the Customer.

The Customer's consent to the Contractor's illustrations, calculations and other documentation does not affect the Contractor's sole responsibility.

### 3 Quality management / inspections

The Contractor declares that it has a suitable quality management system and is able to ensure effective quality assurance during service provision. Upon request, it must provide evidence thereof. After reasonable prior registration, the Customer and/or third parties it names shall be granted access at any time to the production facilities of the Contractor and/or its subcontractors and suppliers in order to review, in particular, the use of suitable material, the deployment of required specialists and the correct execution of the service. Such an inspection neither replaces an acceptance nor limits in any way the Contractor's sole responsibility with regard to its services. In particular, no objection to contributory negligence on the part of the Customer can be derived therefrom.

### 4 Replacement parts

The Contractor assures that for each order, replacement and wearing parts are available for a period of at least 10 years after the liability for defects.

### 5 Transport of hazardous goods / marking of hazardous substances / packaging

5.1 Prior to accepting the order, the Contractor must check whether the items and/or their components must be categorised as hazardous goods in the country of origin, country of destination and/or all transit countries (e.g. colours, adhesives or chemicals; combustible, oxidising, explosive, flammable, toxic, radioactive, radioactive or corrosive goods; goods that tend to self-heat). In such cases, the Contractor must immediately and comprehensively inform the Customer and immediately send it the declarations that are legally required for sending – correctly filled out and signed in a legally binding manner.

5.2 When packaging, labelling and declaring hazardous goods, the Contractor is obliged to observe all nationally and internationally valid provisions.

5.3 The Contractor shall take back packaging material for the Customer at no charge.

### 6 Export licence

The Contractor is obliged to immediately inform the Customer in writing of whether and to what extent state export licences are required or similar legal/official requirements must be fulfilled for the order (partially or completely), and whether and to what extent they are subject to US export restrictions.

### 7 Prices / determination of prices / payment terms / delay

7.1 The contract prices agreed are fixed prices. They are understood to be in addition to the statutory amount of value-added taxes, which are shown separately on the invoices.

7.2 Unless otherwise expressly agreed in writing, the prices are understood to be cost, insurance and freight (CIF) and delivered duty paid (DDP), in accordance with INCOTERMS 2010.

7.3 Subject to deviating agreements on a case-by-case basis and at the Customer's option, payments are made either within 20 days less a 3% discount, within 30 days less a 2% discount or within 60 days without deduction. If no other conditions for payment have been agreed, the time limits commence upon receipt of a proper invoice indicating the data contained in Section 12 of this document (GPTC), but not before receipt of the goods and/or service provision and, if documentation and test certificates are part of the scope of services, not before they are provided to Customer in conformity with the contract. This shall also apply to any agreed partial invoices. In the event of such payments on account, the Contractor is still obliged to list and invoice all services and received payments in a specified final invoice. Payments on account or final payments of the Customer do

not influence the Contractor's liability and are considered to be an acceptance or recognition.

7.4 Delay occurs after the due date only based on an express written reminder. Interest on the compensation before the delay occurs is excluded. If a late payment on the part of the Customer is based on simple negligence, late payment interest is limited to 3 (three) percentage points above the basic interest rate (Section 247 BGB) to the extent that the Contractor does not provide evidence that more damage might arise following the late payment.

### 8 Voidability / right of retention / group settlement

8.1 The Customer is entitled to rights of voidability and retention even because of due claims that it has against companies affiliated with the Contractor within the meaning of Sections 15 et seq. AktG.

8.2 Rights of voidability and retention of the Contractor are excluded, unless its counterclaim is in a mutual relationship with the claim of the Customer under Section 320 (1) BGB and is uncontested or has been legally established.

### 9 Delivery period / delay in delivery

9.1 The period of delivery/service stated in the order is binding. Early deliveries and/or partial deliveries require the express written consent of the Customer.

9.2 The Contractor is obliged to immediately inform the Customer in writing if circumstances occur or are identified in which it results that the period of delivery/service cannot be maintained.

9.3 For each started calendar day of the delay with the period of delivery/service, the Customer is authorised to request a contractual penalty of 0.2% of the net overall contractual price, but not totalling more than 5% of the net overall contractual price. The order value (net) of the partial delivery is relevant for agreed partial deliveries. The assertion of further claims because of a delay remains unaffected. The Customer's right to demand the contractual penalty remains in existence until the final payment, even if this is not reserved when accepting the service.

9.4 In the event of the delay, the Customer may - after the fruitless expiry of a reasonable grace period - notwithstanding its other rights also induce substitute performance at the Contractor's expense even without revoking the order. Particularly for serious repudiation on the part of the Contractor, for danger in delay and to the extent that, to minimise the damage, setting an extension period is unreasonable for the Customer, setting an extension is unnecessary in exceptional circumstances. In each case of an authorised substitute performance by the Customer, the Contractor shall at its own expense provide the Customer with all information required for this purpose and transfer documentation in its possession, as well as provide corresponding usage rights to the extent required for the substitute performance for its own or third-party property rights contained therein, or immediately release the Customer from claims from these third-party rights. By concluding this contract, the Contractor declares its agreement with the use of its property rights for the authorised substitute performance by the Customer or third parties it commissions.

### 10 Assignment of claims / retention of title

10.1 Claims directed against the Customer may be assigned only with its prior written consent. Article 354a HGB remains unaffected.

10.2 A retention of title of the Contractor is excluded. If, on a case-by-case basis, a retention of title is agreed nevertheless, then the Customer shall be authorised in any case to perform a resale without disclosing the Contractor's retained property. A retention of title always extends only to the part of the delivery for which the Contractor still has an asking price. An extended (particularly an expanded) retention of title is not the subject of this contract.

### 11 Passing of risk

For deliveries, the Contractor bears the risk until it is transferred to the Customer. Otherwise, the legal provisions apply.

### 12 Necessary information

The Contractor is obliged to indicate the Customer's order number on all shipping documents, invoices and/or delivery slips along with marks stated in the order. Otherwise, it will bear the expenses for any and all consequences that result (e.g. further delays, additional costs).

### 13 Claims for defects / notice of defects / recourse

13.1 The Contractor guarantees that its services use the latest technology and correspond to the standards, provisions and norms (including provisions concerning safety, occupational safety and accident prevention) present in the Contractor's country and the country of destination to the quality agreed, have the guaranteed properties and are otherwise free of material defects and defects of title.

13.2 In the event of a commercial purchase, the Customer must immediately report defects of the delivery as soon as they are determined according to the conditions of proper course of business.

13.3 The claims for defects conform to the legal provisions, unless otherwise regulated below.

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13.4 In any case, the Customer may request at its own choice subsequent performance from the Contractor through the rectification of defects or replacement (replacement/reproduction). The Contractor bears all expenditures required for the subsequent performance, particularly for disassembly, assembly, travel, freight, packaging, insurance, customs and other public levies, checks and technical acceptances. In the event of the substitute performance, a time limit must be set in advance, particularly not in danger of delay or to the extent that setting an extension is unreasonable for the Customer to reduce damages. In the event of an authorised substitute performance, the Contractor is obliged to cooperate in accordance with Section 9.4. The Customer may request from the Contractor an advance payment for the expenditures required to rectify the defect.

13.5 The claims of the Customer due to defects are subject to a limitation period of 36 months, calculated from the transfer of risk (Section 11), unless a longer warranty period applies due to contractual regulations on a case-by-case basis or due to legal regulations.

13.6 The claim to rectification with the warranty period of claimed defects is subject to a limitation period of two years, calculated from access to the defect report, but not before the end of the warranty periods according to the section above. After acceptance of the rectification services, a limitation period of two years restarts for this service, but does not end before the expiration of the time limits in the section above.

13.7 If the Customer is entitled to compensation or withdrawal, it may request lump-sum compensation of 5% of the order value (net) from the Contractor. The assertion of additional claims is not excluded. The Contractor has the right to provide evidence that no damage or very little damage has arisen due to the defect.

### 14 Product liability / release / insurance cover

14.1 To the extent that third parties assert a claim against the Customer for product liability or according to other legal provisions due to a material defect or defect of title of a product delivered or used by the Contractor, the Contractor must release the Customer from claims of this nature on first written demand. In addition, the Customer is entitled to be reimbursed for all expenditures incurred by the Customer, particularly in connection with recall campaigns it induced due to this matter. To the extent possible and reasonable, the Customer shall inform the Contractor in advance about the type and scope of recall campaigns. Further legal claims remain reserved.

14.2 The same shall apply to the extent that product defects can be traced back to services and deliveries by suppliers and subcontractors of the Contractor.

14.3 The Contractor is obliged to maintain sufficient product liability insurance and to provide the Customer with written evidence thereof upon request at any time, particularly through written confirmation of the Contractor's insurance company.

### 15 REACH – EU regulation on chemicals

The Contractor is obliged to check whether the substances/mixtures/products relating to it fall within the scope of application of REACH – the EU regulation on chemicals (hereinafter referred to as REACH). If and to the extent that the scope of application of REACH applies, the Contractor shall ensure that all substances/mixtures/products within its discipline correspond to REACH requirements and are registered/pre-registered. The Contractor is obliged to provide written confirmation to the Customer of a corresponding (pre-)registration and conformity of the substances/mixtures/products with REACH.

Moreover, the Contractor is obliged to make available to the Customer all necessary information, e.g. extended safety data sheets and/or substance safety reports, for the purpose of coordinating work and safe handling of such substances/mixtures/products that are included under REACH. The Contractor is responsible for checking the information on the respective safety data sheet as well as the exposure scenarios in the context of the risk assessment for plausibility and taking corresponding protective measures. If the Contractor subcontracts services, it is obliged to ensure that, during service provision, its subcontractors are in conformity with REACH and to provide evidence thereof to the Customer in verifiable form.

### 16 Liability for environmental damage

The Contractor is liable for all damage that arises in connection with its services as a result of violating provisions concerning environmental law (e.g. emission control laws, used oil and water management laws, laws on the removal of waste, and/or ordinances pertaining thereto). In conjunction herewith, it must release the Customer from all possible third-party claims to compensation on first written demand. In addition, it must pay for the damage arising for the Customer. Further legal claims remain unaffected.

### 17 Protected privileges

In the event of a deliberate violation of third-party rights in connection with fulfilling its order, the Contractor shall also release the Customer from all third-party claims resulting therefrom in the course of liability for defects on first written demand. The release obligation relates to all expenditures that arise out of necessity for the Customer from and/or in connection with such utilisation.

### 18 Obligation of confidentiality

18.1 The Contractor undertakes not to make public statements, disclose or publicise other information relating to this agreement and the information contained herein, or use orders for reference and/or promotional purposes without the Customer's express written consent.

18.2 The Contractor undertakes to ensure confidentiality with care and diligence, for a term of 10 years after the end of the business relationship, of all documentation that it received to perform the agreed services as well as all business and trade secrets, operational methods, operating figures, illustrations, sketches and images and other documentation that it became aware of in connection with the activity. Without the Customer's consent, they may not be published, reproduced or made accessible to third parties and must be retained with the care and diligence of a conscientious businessman. All documentation must be returned to the Customer or destroyed at its choice upon request.

18.3 The obligation of confidentiality does not apply to information that is proven to be generally known, that was already known to the recipient at the time of transmission, that was transmitted to it by a third party without violating an obligation of confidentiality or that has been independently devised by the recipient.

18.4 The Contractor undertakes – for the term of the contract – to communicate with the client, particularly in terms of correspondence etc., exclusively through the Customer.

### 19 Subcontractors

19.1 The deployment of subcontractors is permitted only with the Customer's express written consent. The Contractor's suppliers and other third parties deployed by it to carry out the commissioned delivery or service are considered to be the Contractor's vicarious agents.

19.2 To fulfil its payment obligations, the Customer is authorised to make payments to the creditors of the Contractor, to the extent that they are involved in executing the delivery or service owed by the Contractor as a result of a service or work contract concluded with the Contractor and that due to a late payment, it justifiably refuses to continue the provision of services and the direct payment is meant to continue the provision of services. The Contractor is obliged – upon request of the Customer – to declare during one of these legal periods whether and to what extent it recognises the claims of its creditors; if this declaration is not submitted in a timely manner, then the conditions for direct repayment are considered to be recognised.

### 20 Compliance with all legal provisions concerning employment and social insurance

20.1 The Contractor is aware of the obligations of the relevant law of the Federal Republic of Germany concerning laws regarding the construction industry that restrict public contracts only to contractors who pay union wages [*Tariftreue*] and the German Minimum Wage Act (*MiLoG*) as well as the obligations of the German Act on the Posting of Workers (*AEntG*), and expressly declares that it ensures its full compliance and the full compliance of its subcontractors/suppliers – particularly the proper payment of each valid minimum wage and the minimum wages stipulated in a generally binding declared tariff agreement, as well as the proper payment of the overall social security amounts.

20.2 At the Customer's request, the Contractor is obliged to verify compliance with the aforementioned provisions through suitable documentation and documents.

20.3 The Contractor shall release the Customer and (where applicable) its main customer from all financial claims and third-party claims that are asserted in their respect due to a violation of the duties according to Section 20.1, particularly with regard to liability claims in accordance with Section 13 MiLoG, Section 14 AEntG, Section 28 e (3a) to (3f) SGB IV.

20.4 If the Contractor uses a subcontractor for service provision, the assurance and release obligation of the Contractor also extends to these subcontractors in accordance with the above Sections 20.1–20.3. Section 19.2 remains unaffected.

### 21 Final provisions

21.1 In the course of its service provision, the Contractor shall observe the SPIE Code of Conduct and ensure that its employees and subcontractors adhere to it as well. The Code of Conduct for suppliers and subcontractors is available at [www.spie.de/Verhaltenskodex](http://www.spie.de/Verhaltenskodex) and can be made available by written request to SPIE.

21.2 If individual contract provisions are ineffective, the effectiveness of the remaining contract provisions remains unaffected.

21.3 The place of performance for the Contractor's services is the agreed delivery address / place of execution; for the Customer's payments, it is its place of business.

21.4 The court of jurisdiction is Ratingen, North Rhine-Westphalia, Germany. However, the Customer is also authorised to file a suit against the Contractor at its place of business.

21.5 The law of the Federal Republic of Germany applies under exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and the conflict of laws of international private law.