

## **Expleo Technology Germany GmbH General Terms and Conditions of Purchase:**

April 2019

### **1. General information**

- 1.1 These Terms and Conditions of Purchase form an integral part of all -including future- contracts of goods delivery or provisioning of services between the supplier of goods or provider of services (hereinafter "Contractor") and Expleo Technology Germany GmbH companies based in Germany (hereinafter "Client"), as long as nothing else has been agreed on in an individual contract. The contractor's terms and conditions of business shall only apply when and if the client declares his agreement with the contractor's terms and conditions of business in writing and with express reference to the contractor's terms and conditions of business. In particular, the mere reference to a written confirmation from the contractor containing or referring to his terms and conditions of business does not constitute the client's agreement to the validity of those terms and conditions of business.
- 1.2 These Purchase Terms and Conditions shall also apply if the Client accepts the delivery/services without reservation in the knowledge that the Contractor's terms and conditions of business conflict with or deviate from these Terms and Conditions of Purchase.

### **2. Offers**

- 2.1 Offers and cost estimates of the contractor are free of charge and do not create any obligations for the client.
- 2.2 The Contractor shall expressly point out any deviations from the Client's inquiry and shall additionally offer the Client solutions that are technically or economically more favourable compared to the inquiry in his offer.

### **3. Delivery date, partial deliveries / partial services**

- 3.1 The Contractor shall comply with the deadlines agreed on for the deliveries and services. The handover of the defect-free goods to the Client during usual business hours with the necessary shipping documents at the place specified (hereinafter referred to as "place of delivery") should comply with the delivery date in case of goods deliveries. If a delivery with installation / service has been agreed between the Contractor and the Client, the handover of defect-free goods after proper execution of the installation / service is decisive for the timeliness of the delivery. If acceptance is by law or contractually provided, the time of acceptance shall be decisive. Early deliveries / services or partial deliveries / partial services require the prior consent of the Client.
- 3.2 If the Contractor realises that fulfilling able to fulfil its contractual obligations in whole or in part is available, or not on time, he shall notify the Client thereof in writing without delay, stating the reasons and the expected duration of the delay. Unconditional acceptance of a delayed (partial) delivery / (partial) performance shall not constitute a waiver by the Client of any rights in respect of the untimely (partial) delivery / (partial) performance.
- 3.3 The Contractor shall be obliged to request in good time any documents to be provided by the Client for the execution of the order.

### **4. Sustainability**

- 4.1 The client is guided by the principle of sustainable development and observes internationally recognised, fundamental standards for occupational safety, health and environmental protection, labour and human rights as well as responsibility of corporate governance. The principal expects the contractor to comply with these standards. In addition, the client requires from the contractor to encourage his subcontractors and their staff to comply with the relevant standards. The Client is entitled to inspect compliance with the standards himself or through third parties commissioned by the Client.
- 4.2 When fulfilling the contract, the Contractor shall comply with the requirements of occupational health and safety and environmental protection specified in the Client's order.

### **5. Quality**

- 5.1 The contractor shall carry out and maintain an effective quality assurance system and provide evidence of this to the client upon request. Upon purchaser request, the contractor shall apply a quality management system in accordance with ISO 9000 ff. or equivalent. The purchaser is entitled to inspect this quality assurance system himself or through third parties commissioned by the purchaser.
- 5.2 Changes to the items of delivery or service require the prior written approval of the Client.

### **6. Audits during contract implementation**

- 6.1 The client has the right to check the execution of the contract. For this purpose, the Client shall be entitled to access the Contractor's works during regular working hours and -with prior notification- inspect the facilities and equipment relevant to the execution of the Agreement. The Contractor and the Client shall each bear their own expenses incurred by the inspection.
- 6.2 The client's contractual or legal rights are not affected by such tests.

### **7. Employment of sub-contractors**

- 7.1 The use of third parties to fulfil the contract (in particular subcontractors of any degree) or their replacement requires the prior written consent of the client. If the Contractor intends from the outset to use third parties in the performance of the contract, the Contractor shall inform the Client of this in its offer.

### **8. Dispatch, packaging and transfer of risk**

- 8.1 Unless otherwise agreed, the delivery of goods shall be made DAP (Incoterms 2010) to the place of delivery. Unless otherwise agreed, the delivery must be accompanied by the delivery note in duplicate, packing slip, cleaning certificates and test certificates in accordance with the agreed specifications and other necessary documents. All shipping documents and - in the case of packaged goods - on the outer packaging shall state - as far as known: order number, gross and net weight, number of packages and type of packaging (disposable / reusable), date of completion as well as place of delivery (unloading point) and recipient of

goods. In the case of projects, project number and installation construction in full.

- 8.2 In the case of deliveries to third countries (imports), the shipping documents must indicate whether the goods are duty paid or duty free. In case of duty free goods, the contractor must submit the following customs clearance documents to the Client: Shipping accompanying documents (e.g. T 1), freight documents, customs or commercial invoice, proof of preference such as Form A, EUR.1, A.TR., certificate of origin/certificate of origin and, if applicable, other documents required for customs clearance. The contractor shall ensure that the information for the customs pre-declaration procedure is complete, correct and available in good time at the office obliged to submit the pre-declaration. In the case of cleared goods, the proof of customs clearance (e.g., tax assessment number) must be noted in the shipping documents.
- 8.3 The Contractor is obliged to inform the Client in detail and in writing of any licensing requirements for (re-)exports in accordance with the respective national export and customs regulations and the export and customs regulations of the country of origin of the goods and services.
- 8.4 The contractor must carefully safeguard the interests of the Client during shipment. The goods are to be packed in a damage avoided transport way. The contractor shall be liable for damage due to improper packaging. Upon Client request, the contractor will collect all packaging, transport packaging and sales packaging at the place of destination or have it collected by third parties. The Contractor shall pack, mark and dispatch dangerous products in accordance with the relevant national and international regulations.
- 8.5 Until the handover of the goods in accordance with the contract takes place, including the documents referred to in sections 8.1 and 8.2, at the place of delivery, the contractor shall bear the risk of loss or damage. If a delivery with installation / assembly / service has been agreed upon, the transfer of risk shall take place after proper execution of the installation / assembly / service and handover. If an acceptance is provided for by law or contractually agreed, the acceptance date shall be jointly determined upon written application by the Contractor. The result of the acceptance shall be recorded in an acceptance protocol. The transfer of risk shall not take place before the successful acceptance is confirmed by the client in the acceptance protocol. Acceptance cannot be carried out in any other way, in particular by means of tests, expert opinions, certificates or proof of work. The payment of invoice amounts does not constitute acceptance.

## 9. Goods Origin

- 9.1 The Contractor shall state the non-preferential origin of the goods (country of origin) in commercial documents and shall provide a certificate/certificate of origin of the goods upon request of the Client.
- 9.2 The goods must meet the conditions of origin laid down in bilateral or multilateral preferential agreements or the unilateral conditions of origin laid down in the General System of Preferences for Beneficiary Countries (GSP),

insofar as deliveries are made within the scope of these goods movements.

## 10. Condition of the delivery / service, notification of defects and rights in case of defects

- 10.1 The Contractor is responsible for ensuring that the deliveries and services are free of defects, in particular that the agreed product or service specifications are complied with, as well as the existence of contractually guaranteed properties and features. The Contractor shall also warrants that the supplies and services correspond to the state of the art and - if relevant - to the generally recognised state of safety engineering, occupational medicine and hygiene, are provided by qualified personnel and comply with all relevant legal provisions. If machines, devices or systems are the object of the delivery, they must comply with the requirements of the special safety regulations for machines, devices and systems applicable at the time of the fulfilment of the contract and must have a CE mark.
- 10.2 The Client shall notify the Contractor of obvious defects within fourteen (14) days after receipt of the goods at the place of delivery. Defects that only become apparent at a later date shall be notified by the Client within fourteen (14) days of their discovery. The date on which the notification is sent to the Contractor shall be decisive for compliance with the deadline. In this respect, the Contractor waives the objection of delayed notification of defects.
- 10.3 In case of defects, the client is entitled to demand subsequent performance in accordance with the statutory provisions. The choice of the type of subsequent performance is at the discretion of the client. For the subsequent performance the goods shall be delivered to the contractor at the discretion of the Client at the place of delivery or at the place where the goods are located when the defect is discovered. The contractor shall bear the expenses necessary for subsequent performance. The Contractor shall be guided by the operational concerns of the Client when handling the subsequent performance. If the supplementary performance has not been carried out within a reasonable period of time, if it has failed or if the setting of a deadline was dispensable, the Client may assert the further statutory rights in the event of defects.
- 10.4 If the Contractor does not properly fulfil its obligation of subsequent performance - without rightfully refusing subsequent performance - or if the Contractor seriously and finally refuses subsequent performance, or if subsequent performance has failed, or if a loss of use is to be feared, or if the removal of the defect cannot be tolerated for other reasons, the Client is entitled to remove the defect itself at the expense and risk of the Contractor, or to have it removed by third parties, and to demand reimbursement of the necessary expenses from the Contractor. In all other respects the statutory provisions shall apply. Further rights of the Client arising from liability for defects or guarantees remain unaffected.
- 10.5 Warranty claims shall become time-barred thirty (30) months after the transfer of risk, unless a longer statutory period applies. A waiver of claims for defects on the part of the Client shall only be effective if it is expressly declared in writing.

## **11. Infringement of industrial property rights**

The Contractor guarantees that the delivery and / or service and its contractual use do not violate any patent rights, copyrights or other property rights of third parties. Without affecting the statutory claims, the Contractor shall exempt the Client from all claims of third parties which are raised against the Client due to violation of the above-mentioned industrial property rights. License fees, expenses and costs incurred by the Client for the prevention and/or elimination of violations of industrial property rights shall be borne by the Contractor.

## **12. Contractual penalty**

If a contractual penalty has been agreed, the client can still claim this until the final payment, without this requiring a reservation in accordance with § 341 para. 3 BGB.

## **13. Insurance**

The Contractor shall maintain adequate liability insurance at its own expense for damages for which it and its vicarious agents and persons employed in the performance of its obligations are responsible. Proof of the amount of cover per damaging event must be provided to the Client on request. The Contractor's contractual and statutory liability shall remain unaffected by the scope and amount of its insurance cover.

## **14. Invoice, Payment**

- 14.1 The agreed prices are net prices plus any value added tax owed by law. Invoices shall be issued for the deliveries and services provided and shall comply with the applicable legal requirements for invoices under the VAT law of the countries to whose VAT law the invoiced deliveries / services are subject. If the credit note procedure is used, the Contractor shall provide the Client with all data required to meet the aforementioned requirements of the applicable VAT law.
- 14.2 The Contractor shall issue one invoice per order. The invoice shall state the complete order number of the Client and, if available, the delivery note number of the Contractor. The invoice shall be accompanied by performance records and other supporting documents. Invoices shall comply with the details in the order with regard to the description of goods, price, quantity, order of items and item number. The invoice shall be sent to the invoice address specified in the Client's order.
- 14.3 Unless otherwise agreed, payment periods shall run from the date of receipt of invoices which meet the above requirements or, if the credit note procedure is used, from the date of issue of the credit note. Payment shall be made subject to the delivery / service being correct.
- 14.4 Payment does not imply acceptance of conditions and prices and does not affect the Client's rights due to improperly performed delivery / service, the Client's rights of inspection and the right to object to an invoice for other reasons.
- 14.5 If the client pays fees to foreign contractors, the client is obliged to withhold taxes at source according to § 50a of the German Income Tax Act. A waiver of withholding tax retention or a withholding tax reduction is only possible

if the contractor submits a certificate of exemption in accordance with § 50d of the German Income Tax Act.

## **15. Passing on of orders, assignment, company change, set-off an retention**

- 15.1 The contractor may only transfer the rights and obligations arising from the contract with the client to third parties with the prior written consent of the client.
- 15.2 The Contractor must inform the Client in writing without delay of any transfer of the contract that occurs by operation of law and any change in his company name.
- 15.3 The Client may transfer the rights and obligations under the contract with the Contractor to Expleo Technology Germany GmbH, Cologne or to a company affiliated with Expleo Technology Germany GmbH at any time without the prior consent of the Contractor.
- 15.4 The contractor is only entitled to offset against undisputed or legally established claims. The contractor is only entitled to a right of retention if the claim for which the right of retention is asserted originates from the same contractual relationship.

## **16. Termination/Resignation**

- 16.1 The contract can be terminated without notice for serious reasons. Good cause shall be deemed to exist in particular if - the Contractor commits a substantial breach of its duties and does not remedy the situation within a reasonable period of time set by the Client after receipt of the written complaint, or - a substantial deterioration in the financial situation of the other contracting party has occurred which jeopardises the performance of the contract or the other contracting party fails to meet its obligation to pay taxes or social security contributions, or - the purchase, use of the goods or the service is or becomes wholly or partly inadmissible due to legal or official regulations. If the Client terminates a contract for serious cause and if it is unreasonable for the Client to continue to adhere to further contracts existing with the Contractor for the same serious cause, the Client may also terminate other contracts existing at the time of termination and not yet fulfilled against proportional compensation for the service already provided. In the aforementioned case, the Contractor shall not be entitled to further claims for damages, reimbursement of expenses or remuneration.
- 16.2 If the Contractor has obtained documents, records, plans and drawings from the Client within the framework of the contract or for the purpose of its execution, the Contractor must hand them over to the Client without delay in the event of termination. This shall apply accordingly in the event of termination of the contract.

## **17. Clearance obligations of the contractor upon termination of the contract**

in case of clearance obligations of the contractor upon termination of the contract In the event of termination of the contract for any reason, the Contractor shall immediately arrange for the deinstallation and removal, at its own expense, of any plant, tools and equipment which may have been installed or stored at the Client's premises for the purpose of performing the contract. Any waste and building waste caused by the contractor's work must also be removed immediately by the contractor at his expense

and disposed of properly. If the Contractor fails to comply with these obligations, the Client may, after the fruitless expiry of a reasonable period of time, carry out the work itself or commission a third party and invoice the Contractor for the costs incurred.

## **18. Documents, secrecy and rights of use**

- 18.1 The Contractor shall hand over to the Client the plans, calculations or other documents owed in the agreed quantity in such a timely manner that the contractual execution deadlines can be met.
- 18.2 Documentation inspection by the Client does not affect the Contractor's responsibility.
- 18.3 Models, samples, drawings, data, materials and other documents provided by the Client to the Contractor (hereinafter "Client Documents") shall remain the property of the Client and shall be returned to him at any time upon his request. The Contractor shall have no right of retention to the Client's documents. The Contractor shall observe the Client's copyrights to his documents.
- 18.4 Subject to any legal, judicial or official disclosure obligations, the Contractor undertakes to keep secret, not to commercially exploit, not to make the object of industrial property rights, not to pass on to third parties or make it accessible to third parties in any other way and not to use it for any purpose other than the execution of the contract, all technical, scientific, commercial and other information which the Contractor obtains directly or indirectly within the scope of the contract, in particular the Client's documents (hereinafter referred to as "Confidential Information"). The aforementioned obligation to maintain secrecy shall apply for a period of 10 years after termination of the contract. The only exception to this obligation of secrecy is information which is already lawfully in the possession of the contractor at the time of provision by the client, is lawfully obvious or has been lawfully acquired by third parties. Furthermore, information which is disclosed to persons who are subject to a statutory duty of confidentiality shall be exempt from this duty of confidentiality, whereby the contractor undertakes not to release these persons from this duty of confidentiality. The contractor shall bear the burden of proof for the existence of this exception. The Contractor shall ensure by appropriate contractual agreements that its employees and vicarious agents affected by this confidentiality agreement are also obliged to maintain confidentiality in accordance with the provisions of these Terms and Conditions of Purchase. Upon request, the Contractor shall provide the Client with written evidence of compliance with these obligations. The Contractor undertakes to take all necessary and suitable precautions and measures to ensure that the Confidential Information obtained is effectively protected at all times against loss and against unauthorized access. This includes in particular the creation and maintenance of suitable and necessary access or access precautions for premises, containers, IT systems, data carriers and other information carriers in or on which Confidential Information is stored, as well as the implementation of suitable instructions for the persons who, in accordance with this clause, are to be provided with the information. handling of confidential information. The Contractor undertakes to notify the Client in writing without delay if the Contractor has

suffered a loss and/or unauthorized access of/to Confidential Information.

- 18.5 The obligation to maintain the confidentiality of commercially sensitive information within the meaning of the Energy Industry Act and the obligation to non-discriminatory disclosure of information that may bring economic benefits within the meaning of the Energy Industry Act remain unaffected by the above provisions.
- 18.6 The contractor grants the Client the spatially, content-wise and temporally unrestricted and freely transferable right of use and exploitation of all plans, drawings, graphics, calculations and other documents relating to the contract and which the contractor has either produced himself or had produced by third parties (hereinafter "work results") in all known media forms including electronic media, Internet and online media, on all image, sound and data carriers. In particular, the client has the right to use, copy, distribute, modify, develop, have the above-mentioned activities carried out by third parties and to grant third parties the same full rights of use and exploitation of such work results, including any modifications and further developments made in the meantime. The contractor grants the client the right of use and exploitation of the work results to the extent described above, also for types of use unknown at the time of placing the order; in this respect the statutory provisions shall apply. When procuring licenses and results from intellectual services, in particular studies, specifications, requirement and performance specifications, specific development and adaptation of software, the client shall also receive an exclusive, irrevocable right to use the performance results at the client, at Expleo Technology Germany GmbH, Cologne, and the companies affiliated with Expleo Technology Germany GmbH.

## **19. Storage of documents and support during audits**

During the period of storage provided by law - but at least for three (3) years, beginning with acceptance or delivery - the Client shall have the right to inspect all documents relating to the delivery or provision of services during normal business hours and to make copies or transcripts available for his own use. The Contractor undertakes to provide support during inspections. Insofar as the documents contain confidential data of the Contractor, such as data relating to his internal calculations, agreements or information subject to secrecy about business partners and/or employees, the Client's right of inspection is excluded.

## **20. Prohibition of advertising, severability clause, applicable law and place of jurisdiction**

- 20.1 The contractor may only refer to the existing business relationship with the prior written consent of the client.
- 20.2 The invalidity or unenforceability of a provision or parts of a provision of the contract shall not affect the existence and continuation of the respective contract.
- 20.3 The legal relationship between the parties is subject exclusively to German law. The application of the uniform UN sales law (CISG) is excluded.
- 20.4 Exclusive place of jurisdiction is Cologne.