

of TGW Software Services GmbH
for the purchase of systems, equipment and components

07/2014

1. Area of application

For all - also future - inquiries, orders, purchases as well as other legal transactions and services, the following TGW General Terms and Conditions of Purchase shall be applicable. The contractor shall expressly acknowledge that TGW already now objects to all deviating regulations in an order confirmation or in any other commercial document of the contractor. Deviating terms and conditions of the contractor and agreements which deviate from the present Terms and Conditions of Purchase shall only become valid upon express written agreement. Acceptance of deliveries and services or their payment shall not constitute consent to the contractor's general terms and conditions.

The present Terms and Conditions of Purchase shall be applicable as framework agreement also for any further legal transactions with the contractor. In case an e-commerce agreement exists, these General Terms and Conditions of Purchase shall be supplemental to the e-commerce agreement.

In the event of conflicts among the contractual basis, the following order shall apply:

- special agreements (e.g. delivery contract, quality assurance agreement, etc.) provided that they were acknowledged by TGW in writing
- the present TGW Terms and Conditions of Purchase
- non-mandatory provisions of commercial and civil law

2. Quote, purchase order, contract

Quote: In his quote the contractor shall exactly adhere to the details specified in TGW's tender/enquiry in terms of quantity and condition of the goods to be delivered and notify TGW in writing of possible deviations beforehand. If the contractor fails to provide this written notification, he will not be entitled to claim a higher payment in case of such deviations. All quotes of the contractor shall be binding and free of charge.

Purchase order, contract: Only written orders (including orders via fax and email) or orders effected via the "myTGW" system shall be valid. Agreements made by word of mouth or telephone require written confirmation to be binding for TGW. Deviations from the purchase order in the contractor's confirmation of the order shall not take any effect.

3. Contractor obligations

- Written notification of the contractor's responsible contact persons
- Compliance with the laws and regulations applicable on the respective construction site, in particular with respect to national technical standards, taxes, permits, duties, registrations etc.
- Compliance with a professional standard of care, as the contractor's supplies and services are destined to become part of the overall system to be installed by TGW or of an existing system
- Provision and consideration of any information which determines and may influence the system, environmental and

procedural conditions of the contractor's supplies and services, especially with respect to interfaces. An on-site inspection of the respective installation may be carried out after consultation with TGW. The contractor will specify its interfaces in the respective requirements specification.

- Compliance with the relevant quality management and environmental management standards by presenting current certificates of himself and his subcontractors as proof. TGW reserves the right to audit the quality and environmental management system of the contractor and his subcontractors at agreed dates for conformity to standards and to demand corrective and preventive measures as required.

4. Prices

The agreed price shall include all deliveries, services, documentation and financing costs to be provided in accordance with the agreed conditions etc. These particularly comprise all costs for packaging, customs, insurance and other transportation costs or shipping expenses including the costs for a transport permit. The prices are fixed all-inclusive prices which may not be increased for any reason whatsoever.

For approved order extensions and additions, in particular for spare and wear parts, the same terms and conditions and price reductions as for the main order will apply.

5. Invoicing and payment

Invoices must comply with the legal regulations, in particular with the Value Added Tax Act and other separately made agreements; invoices must in any case include the complete purchase order number and the order/contract date. The contractor shall be liable for any additional or consequential costs caused by incorrect or incomplete invoicing.

The payment terms shall depend on the respectively agreed payment plan. Payment does not represent a recognition of the correctness of the delivery nor a waiving of claims of any kind. The contractor shall not be allowed to assign claims against TGW to third parties.

If the contractor fails to perform a delivery or service as provided in the contract, TGW shall be entitled to retain the corresponding payment until the delivery or service has been performed according to contract.

The last payment will not be released until transmission of a total final invoice at the agreed terms and after fulfilment of all agreed conditions.

6. Change Request procedure

If services outside the agreed scope of supply and services of the contractor arise during the performance of the contract, the contractor will have to give written notice to TGW in advance of possible additional charges. Any changes and/or events having an influence on the scope of supply and services shall be made known to TGW in good time for a decision to be taken on them listing the causes, the effects and the necessary measures. This means that any changes which may be relevant in terms of costs, contract and/or schedule shall in any

event require the written consent of TGW and may only be recognised with these facts being presented.

7. Delivery

Any delivery shall be made in accordance with Incoterms® 2010: DDP TGW Lindenweg 13, D-92552 Teunz, unless a different precise place of destination is specified in the tender/on the order form. The property in the scope of supply and services shall pass to TGW upon delivery at the construction site.

8. Schedule

All delivery periods and dates shall be binding according to schedule. Acceptance of delayed deliveries shall always be effected under TGW's reservation of all claims. Partial deliveries or deliveries ahead of schedule require a prior written shipping approval by TGW. Early deliveries shall not oblige to early payments. In the event of early deliveries TGW reserves the contractor's debit including all related costs (warehouse rent etc.). The receipt of the goods at the receiving office or place of use specified by TGW or the timeliness of successful acceptance shall be decisive for the compliance with the date of delivery or the term of delivery. The acceptance of delayed deliveries shall always be made under the reservation of any possible claims. The contractor shall only be entitled to plead absence of necessary documents to be provided by TGW, if he demanded their submittal in writing and did not receive them within a reasonable period of time; in such a case no delay in delivery will occur as long as TGW fails to submit the required documents. The burden of proof thereof shall rest with the contractor.

In the event of changes to the agreed delivery dates which are not caused by the contractor, the contractor shall agree to properly store the goods on behalf of TGW for a period of up to three months at its own expense and risk. The parties may enter into separate arrangements regarding the payment for such goods against a declaration of transfer of ownership and/or bank guarantee etc.

9. Contract penalties

Unless otherwise agreed to the contrary, the final deadline subject to the following contractual penalty:

1% of the order value per week of delay or part thereof, to a maximum of 5% of the order value. TGW shall be entitled to retain an amount corresponding to the contractual penalty of the overall price agreed by contract. Furthermore, TGW shall be at liberty to withdraw from the contract if the contractor is at fault. No rights of any kind shall be due to the contractor against TGW in the event of such withdrawal of contract. Further claims for compensation of all damages caused by the delay and adverse effects of whatsoever kind shall remain unaffected.

Contractual penalties for the non-fulfilment of assured properties/performances/performance data may be defined in the technical specifications or annex.

Reservation of contractual penalty already at the moment of acceptance is not necessary, it may rather be claimed until the final payment is made, in particular the penalty may be deducted from the final invoice.

10. Shipping

Every shipment must include a TGW identification card or delivery note. The contractor shall be liable for any damage, expenses, demurrage etc. arising from the non-compliance with this provision. The delivery will not be accepted without the corresponding shipping documents, but deferred at the contractor's cost and risk. Shipments have to be packed properly for the means of transportation used, in particular observing TGW's shipping instructions. If the contractor fails to observe these instructions, he shall bear all related costs.

Partial deliveries shall only be permitted upon TGW's prior written consent, otherwise it shall have the right to refuse acceptance. In any case, partial deliveries shall not be deemed as independent transactions and must be identified as such indicating the total quantity and the quantity of the respective partial delivery.

11. Contract documentation

The contractor must not use any of the specifications, drawings and other technical documents, which have been provided by TGW to the contractor for the production of the delivery item or which the contractor has produced according to TGW's special specifications, for any purpose other than the production according to the respective order, nor copy them or make them available to third parties. The above-mentioned documents shall remain the sole property of TGW and will have to be returned to TGW together with any extracts and copies immediately upon request. If the contractor shall not be able to deliver, for whatever reason, he will have to return the entire documentation to TGW immediately without being called upon to do so. The orders and all work relating to them shall be regarded as business secrets and are to be treated with confidentiality. The contractor shall be liable for all damages caused to TGW arising from an infringement of one of these obligations. The contractor shall only be allowed to indicate the existing business relationship or refer to it in advertising material and publications of whatsoever kind upon the express written approval by TGW.

12. Liability

The contractor shall be liable in accordance with the legal requirements; a liability for loss of profit shall however be excluded.

13. Security

Unless otherwise agreed to the contrary for individual projects, payments are subject to retention of 10 % of the total amount (retention with final invoice) and may be covered by an abstract bank guarantee to the amount of 10 % of the total order value plus statutory value added tax with a term of 2 months beyond the warranty period. The retention money shall be withheld during the entire warranty period.

14. Completeness clause

The contractor's scope of supply and services including documentation comprises all parts and services customary within the industry or belonging to the delivery in the context of the purchase order, even if they are not expressly listed in detail.

Completeness in particular includes that the purchased components are suitable for the intended purpose and are fully functional under the conditions and influences that can be reasonably expected at the location of installation and when operated in compliance with the safety instructions, applicable standards and official regulations.

15. Transfer of risk

Notwithstanding any agreed INCOTERMS 2010, the risk shall be transferred to TGW upon final acceptance of the whole system by the end customer.

16. Documentation

With respect to the purchase order, the documentation includes all written documents, drawings and electronically produced and stored files (incl. source code and production drawings) specified in the order and required for the proper and timely completion of all activities in connection with the installation and operation of a system component.

The documentation must be submitted in electronic form and conform to the scope defined in the purchase order documents, including annex.

In the event of changes in the order, all affected technical documents as well as the documentation must immediately be updated accordingly by the contractor, so that a corrected final documentation is guaranteed.

In case CE marking is required for the deliveries and services, it must clearly and demonstrably comply with all relevant legal requirements (in particular the CE directive) and all standards in the latest valid version.

The contractor must provide any valid preference certificate (certificate of origin etc.) free of charge of the goods in international traffic.

17. Acceptance

Acceptance of services shall be effected in connection with the final acceptance by the end customer. An exact definition of the acceptance procedure will be prepared together in writing during creation of the functional specification based on the product requirements specification. The contractor must in any case prove all data, performance rates and functions specified in the quote and annex to the contract during the acceptance process, which has to be recorded in an acceptance protocol. Basically, acceptance may only be effected after having fulfilled the following conditions:

1. performance of all deliveries and services by the contractor according to the purchase order;
2. proper and complete delivery of all documents;
3. presentation of a protocol signed by both parties, giving proof of a successful completion of trial operation including certificate of performance for the overall system.

In case defects shall be detected which do not have an influence on the system's functionality, acceptance may be effected under the reservation of immediate correction of these defects. If the pending points shall not be fulfilled within the given period of time, the confirmation of acceptance shall be deemed as not given with retroactive effect.

If during the acceptance the system appears not to have been manufactured according to contract, and/or the required performance has not been achieved, the contractor will have to solicit a repetition of the acceptance procedure within a period of grace to be agreed upon. In case the agreed performance shall be not achieved again during the repeated acceptance, in particular the guaranteed performance data are not proven, the contract shall be deemed as not fulfilled.

18. Warranty

The contractor guarantees that the deliveries/services have been fully designed and/or performed and in accordance with the order specifications or delivery schedule and that the goods are suitable for the intended use; it also guarantees that the design, suitability, manufacturing methods as well as the guaranteed properties conform to the latest state of the art, have been manufactured in compliance with all applicable regulations and contain only new material of suitable and top-class quality and that the ordered item is free of defects. Furthermore, the contractor guarantees to achieve and reliably meet all performance values agreed in the contract. The contractor has to demonstrably advise TGW of all risks which may typically be expected during the use of the product. The contractor shall be liable in a corresponding manner for goods and components that have been delivered but not produced by him and/or for services rendered by him.

Unless otherwise agreed, the warranty period shall end 24 months after final acceptance of the overall system and correction of all defects, irrespective of the period of operation. The warranty includes material, personnel and any other costs. In case of hidden defects that cannot be detected immediately, the warranty period shall start from the time the defect is fully identified.

TGW shall not be obliged to inspect the goods and notify of possible defects (including quality defects), the application of § 377 of HGB (German Commercial Code) shall expressly be waived.

TGW shall at its own discretion be entitled to request at short notice from the contractor to remedy all defects detected during the agreed period of warranty at his expense and cost by correction (repair, provision of missing components) and/or replacement, or to claim reduction of price or demand redhibitory action, or correct the defects and perform not provided or defective services itself or have them corrected and performed by third parties.

In the event of a warranty claim being made, the burden of proof that the defect did not exist at the time of handover shall rest with the contractor during the entire warranty period.

In case of defects of whatsoever kind, TGW shall in any event be entitled to retain the total outstanding purchase price or works compensation until full correction of defects.

In case of rectification or replacement of defective parts the warranty period for the respective part shall start again upon successful resumption of operation. Any interruption of operation caused by the contractor within the warranty period will lead to an according extension of time.

19. Indemnity clause

The contractor undertakes to ensure that all insurance and taxation requirements applicable in the state of the construction site as well as all labour law regulations related to the employees working on the site are met and has to fully hold harmless and indemnify TGW in this respect.

20. Product liability

The contractor has to deliver written operating instructions and warning notices in German and English language and, as far as this is possible and reasonable, attach them to the delivered goods itself. If the delivered goods turn out to be defective after acceptance of delivery and/or TGW detects that the properties of the product do no longer conform to the state of the art of science and technology in terms of § 1 II No. 5 of the German Product Liability Act (ProdHaftG), the supplier shall be obliged to take such goods back and refund the complete purchase price.

If claims are made against TGW due to services performed by the contractor, the contractor shall be obliged to immediately deliver any of the means of evidence requested by TGW at his own cost, such as in particular quality and inspection protocols, certificates and so forth.

21. Industrial/intellectual property rights

The contractor asserts that his scope of supply and services as well as the documentation and drawings provided do not infringe any property rights (patent, trademark or sample rights, copyrights, equipment, product names, know-how, territorial protection and rights of a similar kind, in fact even if their granting has been applied for as needed). TGW shall not be obliged to check whether there are immaterial rights on the goods or whether such rights are infringed, but shall be entitled to assume that the contractor has all the rights necessary to perform the order properly towards third parties. The contractor shall fully indemnify and hold TGW harmless from and against all third-party claims.

Without prejudice to further rights, TGW shall in such case be entitled to refuse acceptance of the goods, to place already accepted goods at the contractor's disposal again at its own cost and to retain payment of the total purchase price until the entitlement to the claims made has been clarified.

22. Non-solicitation agreement

The contractor shall not be allowed to solicit employees away of TGW or to directly or indirectly offer them a job without prior written consent (both cases hereinafter referred to as "solicitation").

If the contractor infringes this provision, he shall be obliged to pay a penalty which corresponds to the respective annual gross remuneration, the solicited employee received from TGW for his last year of employment; in case of a shorter term of contract, the annual gross pay is projected to a year.

Consequential claims of TGW for compensatory damages resulting from the solicitation shall remain valid, the penalty being deducted from the total amount of compensation.

23. Insurance

The contractor undertakes to maintain a public liability insurance with sufficient coverage during the order execution including the duration of the warranty periods. The contractor shall provide a corresponding confirmation of insurance coverage to TGW prior to conclusion of the contract without being requested.

24. Force Majeure

The contracting parties shall be exempt from the performance of the contract in due time in part or in full, in case they are hindered therefrom by events of force majeure. Such events of force majeure shall exclusively include: war, insurrection, natural disaster, fire, official strike, economic sanctions, import or export prohibitions.

25. Cancellation of contract

In the event of delayed delivery, violation of fundamental contractual obligations, events of force majeure, suspension of payments, adjudication of bankruptcy by the contractor or refusal of bankruptcy because of lack of assets as well as adjudication of bankruptcy by the end customer, TGW shall be entitled to withdraw from the contract either in part or in full without setting a period of grace. TGW may in particular withdraw from the contract, if the end customer, for whatever reason, withdraws from his contract with TGW. No rights of any kind shall be due to the contractor against TGW in the event of such withdrawal of contract. The contractor shall be obliged to immediately report circumstances of this nature to TGW.

26. Termination of contract

TGW shall have the right to cancel the contract in full or in part even without the contractor's fault. In such case, TGW shall be obliged to reimburse the contractor for the contract price in proportion to the already provided deliveries and services and, in addition, make up for the proven costs incurred for deliveries and services in process. The burden of proof thereof shall lie with the contractor. The contractor shall be obliged, upon declaration of termination, to make every effort to keep the costs to be made up for by TGW to a minimum.

27. Suspension

TGW shall have the right to demand interruption of the contract performance at any time.

28. Amendment to contract

Possible amendments to or corrections of the contract must be made in writing to be effective. The same shall apply to a possible waiver of the written form requirement.

29. Subcontractors

TGW must be informed in writing about the assignment of subcontractors. TGW reserves the right to reject the assignment of subcontractors for material reasons.

30. Confidentiality

The contractor may have access to certain proprietary and confidential information of TGW or its customers. Therefore, the contractor agrees to treat this information as confidential and use the respective information or disclose it to third parties exclusively for services within the framework of this agreement

and not for any other reason. Every already existing non-disclosure agreement between TGW and the contractor shall remain fully valid. The contractor agrees to indemnify TGW for any damages or costs caused by a breach of his duty to maintain confidentiality.

31. Customer protection

The contractor shall be obliged to process any transactions in connection with projects realised together with the end customer exclusively via TGW. This shall also apply to any deliveries of extensions, spare and wear parts as well as maintenance services of the contractor.

In case of infringement of the present provision, TGW shall be entitled to demand a contractual penalty to the amount of 100,000 Euros.

32. Spare parts

The contractor shall guarantee spare parts supplies at least for a period of 15 years.

33. Place of fulfillment, choice of law and court of jurisdiction

For all rights and obligations arising from the legal transactions between TGW and the contractor, the place of fulfillment for both parties shall be the respective construction site address, or, failing to name an address, TGW in Teunz, Germany.

This agreement shall exclusively be subject to the laws of Germany. Conflict of laws of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG) shall expressly be excluded.

The competent court in Teunz/Germany, shall have jurisdiction for all disputes arising from or in the context of this contract.

However, TGW shall be entitled at its own discretion to claim against the contractor at any other court which may be competent under national or international law.

34. Severability clause

Should individual terms of this Agreement be ineffective or lose their effectiveness due to later circumstances or should a loophole emerge in this Agreement, the legal effectiveness of the other provisions is not affected. The invalid contractual provision shall be replaced or the loophole filled by an appropriate provision which comes as close as possible to what the parties to the Agreement would have wanted, had they considered the point.

35. Final provisions

The titles of the provisions contained in the present General Terms and Conditions of Purchase shall only serve for better clarity and must not be used for interpretation.

No business development taking place between the contractor and TGW and no delay or default regarding the exercise of a right, legal remedy or means granted to us according to the present TGW's General Terms and Conditions of Purchase shall be deemed as waiver of these rights. Any of the rights and legal means granted in these TGW Terms and Conditions of Purchase or any of the legal remedies granted in these TGW Terms and Conditions of Purchase shall be cumulative and exist coequally and additionally to other legally granted rights, legal remedies and means.