

General Terms and Conditions of Purchase (Edition 04/2020) of Vulcanic-Triatherm GmbH (hereinafter referred to as the client) and the vendor (Hereinafter referred to as contractor)

1 General and code of conduct

1.1 These terms and conditions of purchase of the client apply exclusively. They are part of the contract and any subsequent contracts (orders, blanket orders, etc.). Conflicting, supplementary or deviating conditions of the contractor only become part of the contract, if the client expressly acknowledges this in writing.

This also applies to terms and conditions mentioned in the contractor's other confirmations. The acceptance of deliveries / services does not constitute acceptance of the contractor's terms and conditions. The client's purchasing conditions also apply, if the contract with the contractor is carried out without reservation, with knowledge of conflicting, supplementary or deviating terms and conditions of the client.

1.2 The contractor undertakes within the framework of the contractual relationship to take all necessary measures to avoid corruption, other criminal acts and other serious misconduct. In particular, he undertakes to take all necessary precautionary measures in his company in order to avoid serious misconduct at home and abroad. Irrespective of the form of involvement in the offense, incitement or aid treatment, serious misconduct is:

a) serious crimes committed in the course of business. These include criminal acts, which in particular represent fraud, infidelity, forgery of documents or similar offenses,

b) the offering, promise or granting of inadmissible advantages to employees of the client, their relatives or other persons (bribery or granting of advantages in the course of business),

c) violations of economic sanction measures or circumvention of sanction measures by the European Union as well as other applicable national, European and international embargo and foreign trade regulations,

such as

d) other serious criminal offenses or serious misconduct. These include criminal acts, in particular terrorist offenses, involvement in a criminal organization, money laundering and terrorist financing, child labor and other forms of human trafficking or similar offenses.

1.3 If it can be proven that a serious misconduct within the meaning of section 1.2 is committed by an employee of the contractor, the client is entitled to extraordinary termination of the contract without notice.

2 Dokumenten für die Serviceleistung

2.1 The documents provided to the contractor may not be made accessible to third parties without the consent of the client, may not be reproduced and may not be used for any purpose other than that agreed. They are to be returned on request.

2.2 The client may keep the documents provided by the contractor. The client is entitled to reproduce and use documents for training and maintenance as well as by agreement in individual cases for other purposes.

2.3 If client and contractor drawing numbers or client and contractor item / article numbers are mentioned simultaneously in the contract or in the other documents, only the client numbers are binding.

2.4 If third-party documents (customer drawings, specifications, etc.) are made available to the contractor, points 2.1 and 2.2 apply to these documents too.

2.5 Insofar as there is a need (or is requested by the client) in the course of rendering the service that the contractor will prepare further documents, these must be submitted to the client for approval upon request. For these documents the same requirements apply as in 2.1; 2.2. Unless otherwise contractually agreed, these documents are the intellectual property of the client.

2.6 A release of the documents from 2.5 does not release the contractor from his responsibility for the functional correctness and feasibility. In this case too, the contractor is fully responsible for ensuring that the relevant norms and standards are complied with.

3 Offer

3.1 Offers are generally made free of charge by the contractor. Vulnerable compensation requires prior agreement. Unless otherwise agreed, offers are valid for 6 months.

4 Basics of service provision, Provision of material

4.1 The customer may inform / inform himself within the business or operating hours about the contractual execution of the delivery / service. Upon request, the documents required for information regarding the execution of the contract must be submitted to him for inspection. The contractor's interests in confidentiality must be taken into account.

This includes visits / audits in the presence of the client's customer or independent third parties (test institutes). These visits / audits are agreed in advance between the parties.

4.2 The contractor may only transfer the execution of the delivery / service or essential parts thereof to third parties with the prior written consent of the client, which the client may not unreasonably refuse.

4.3 If an order confirmation deviates in substantial parts (price, delivery time, quality of the service, etc.) from the offer, the client is only bound to this, if he has given his consent in writing.

4.4 EU-Verordnungen / Kritische Mineralien

4.4.1 The contractor ensures that all substances used, which fall under the EU chemicals regulation REACH, are registered or approved by the client in accordance with this regulation and taking into account the contractual use of the substances. This also applies to contractors outside of the EU. At the request of the client, the contractor will provide suitable evidence of the fulfillment of this obligation.

4.4.2 Regardless of where the contractor is located or where the production site of the contractor is located (within or outside of the EU), the contractor is responsible for providing his services in accordance with the applicable EU directives / laws.

It is the responsibility of the contractor to determine the directives / laws applicable to his services and to continuously implement the current state of the same. The contractor will notify the client of any major changes. This also includes inconsistencies between the client's documents and the applicable EU directives.

The contractor is fully liable for damage caused by non-compliance with EU directives / laws of its performance.

4.4.3 If the service to be performed contains conflict minerals (gold, tungsten, tantalum, tin), the contractor will inform the client of this without being asked. At the same time, the contractor submits evidence that the conflict minerals do not come from the Democratic Republic of the Congo and the related violations of human rights and are therefore conflict-free; the evidence is provided by means of a document sent in electronic form (conflict minerals reporting template CMRT (Conflict Minerals Reporting Template)).

4.5 Provisions of material remain the property of the client and must be stored, labeled and administered separately, free of charge. They may only be used for the purposes of the respective contract. In the event of loss, damage or other improper use within its area of responsibility, the contractor is liable.

5 Concern registration, disability notification, force majeure

5.1 The contractor shall inform the client immediately in writing if he has any concerns about the manner in which the client wishes to carry out the delivery / service or if he sees himself hindered in the execution of his delivery / service by third parties or by the client.

5.2 If the execution deadline is exceeded as a result of force majeure, the customer may request the delivery / service from the contractor at a later date at the originally agreed conditions or, after a reasonable grace period, withdraw from the contract in whole or in part or terminate it.

6 Delay / consequences of delay

6.1 The delivery and service time specified in the contract is binding. The contractor will inform the client immediately in writing if circumstances arise or become apparent that the specified delivery and service times cannot be met.

6.2 In the event of default by the contractor, the client is entitled to the legal rights in full. In the event of default by the contractor, the client is entitled to demand a contractual penalty of 1% of the order value of the delayed delivery / service per week, up to a maximum of 10% thereof. The contractual penalty is to be deducted from the total damage caused by delay. The client reserves the right to enforce the contractual penalty until the final payment or offset against outstanding claims

6.3 The contractor can only refer to the absence of necessary documents or other supplies to be provided by the client, if he has requested them in good time. The delivery time will be extended accordingly.

7 Place of performance, transport, packaging

7.1 The place of performance is the location of the reception center of the client specified in the contract. Insofar as no special agreement has been made, the place of performance is the address of the client.

7.2 The services are to be packed properly by the contractor. If special care is required to remove the packaging, the contractor must notify the client in writing in advance.

7.3 The costs for transport (including insurance) and packaging are included in the fixed price. At the request of the client, the contractor must collect and dispose of the packaging materials at the reception center at his own expense.

8 Termination or withdrawal for an important reason

8.1 The right to extraordinary termination without notice for an important reason remains unaffected. There is an important reason in particular if a contractual partner violates the contract so seriously that the other contracting party cannot be expected to continue working, such as in the event of a significant violation of the principles and requirements set out in the agreed code of conduct for business partners, if several individual breaches of contract exceed the reasonable limit or if the contractor has not only temporarily stopped making payments, the management and disposal power over his assets has been transferred to a provisional insolvency administrator, insolvency proceedings have been opened against the contractor's assets or the application to open insolvency proceedings has been rejected due to lack of assets. The termination without notice presupposes a previous unsuccessful written warning.

8.2. If the contractor is behind schedule with his performance or related warranty work and a reasonable grace period has passed, the client can withdraw from the contract.

8.3 If it becomes apparent before the due date of the service that the contractor has not reached the performance date through no fault of the client and that a timely service cannot be assumed, the client can also withdraw from the contract.

8.4 A right of withdrawal also exists if it becomes apparent in the course of the provision of the service that the contractor is not able to provide the service in the agreed condition through no fault of the client.

8.5 Statutory claims for damages remain even if the contract is withdrawn.

9 Acceptance, notice period, transfer of risk, transfer of ownership

9.1 For each delivery / service of the contractor, the handover must take place at the reception center of the client against confirmation of receipt, unless an acceptance of the delivery / service has been separately agreed. A technical or official acceptance (e.g. by TÜV) does not replace the handover against confirmation of receipt.

9.2 The client checks the delivery / service for defects within a reasonable period. The delivery of something other than the contractually required or a too small amount is equivalent to the defect. In the case of obvious quality and quantity deviations, the period begins with the delivery / service being handed over to the reception center and in the case of hidden quality and quantity deviations with their discovery.

9.3 The incoming goods inspection of the client is random and does not replace the outgoing goods / final inspection of the contractor, which ensures the required quality. In this respect, the contractor releases the client from the objection of late notification of defects in accordance with HGB Section § 377 (German Trade Law).

10 Compensation of Defects, liability of the contractor

10.1 The statutory provisions apply to the client's claims for defects with the following provisions:

a) The contractor remains responsible for his delivery / service and its flawless provision even if the client has signed, approved, stamped or released the plans, drawings, calculations and other execution documents submitted by the contractor.

b) In the event of a special need for urgent action and / or a risk of delay, if the deadline for supplementary performance is unreasonable for him, the client can remedy the defect by means of self-performance and demand reimbursement of the necessary expenses. The client will immediately notify the contractor of such claims for defects as well as the type and scope of the urgent measures taken.

c) The client can set the contractor a reasonable period to remove a defective item (collection at the place of performance, other retrieval). After the expiry of the period, the client can exploit the contract performance while protecting the economic interests of the contractor at his expense, e.g. B. by sale. If recovery is not possible, the defective item can be scrapped without compensation.

d) The limitation period for claims for defects is 36 months from acceptance or acceptance against confirmation of receipt, unless a longer period is agreed in individual cases, or unless the law provides for a longer period. It is extended by the time during which the defective delivery / service cannot be used as intended due to the defect.

e) The limitation of claims for defects is also inhibited if the contractor checks the existence of a defect himself. The limitation period is only ended when the contractor informs the client in writing that the negotiation has ended or the result of the inspection is sent to the client or the contractor refuses in writing to continue rectifying the defect. The resumption of the negotiation, examination or rectification of defects again leads to the limitation of the limitation period.

f) If a defect is found, the client will charge the contractor a flat rate of EUR 50. This flat rate covers all typical costs of processing a complaint at the client side (preparation of the defect notification, communication with the contractor, separation and preparing for returning to the contractor).

g) The flat rate (f) does not include expenses related to the following activities: sorting of parts, removal and installation expenses, repetition of tests, retrieval of parts etc. as well as costs of faulty products / products of the client. The contractor will be informed of this separately. As far as possible, the client undertakes to inform the contractor of this in advance. This presupposes the setting of a reasonable period of time so that the contractor himself is able to avert these costs through his own activities. If this period has expired, the client is entitled to carry out the expenses incurred at his own discretion and to invoice the relevant costs to the contractor.

10.2 The contractor is also liable according to the statutory provisions.

11 Confidentiality

11.1 The contractor may only provide information on (partial) contract values or (partial) prices to outsiders in the cases required by law.

11.2 All information, drawings, correspondence, other documentation and any communication that the client makes available to the contractor for the preparation of an offer or the implementation of an order / service provision are to be treated confidentially and may not be used for other purposes, reproduced or accessible to third parties be made. The client has vulnerable property rights - this also includes documents that the contractor has created to implement the service.

Upon request, all documents including all transcripts, reproductions (including electronic ones) etc. must be returned to the client immediately.

12 Property rights / patent infringements / intellectual property

12.1 If a claim is made against the client by a third party due to alleged infringement of property rights, the contractor is obliged to first release the client from these claims of third parties upon first written request of the client, unless he is not responsible for the infringement of property rights. The obligation to indemnify includes all expenses incurred by the client in connection with third party claims.

The limitation period for the indemnification claim is 3 years from knowledge or grossly negligent ignorance of the client of the circumstances underlying the claim. Apart from that, regardless of the knowledge or grossly negligent ignorance, the claim for exemption becomes statute-barred ten years from its inception.

12.2 If the agreed service is a development or research project, all resulting documents, associated know-how, all intellectual property rights and other work results are available to the client.

The contractor supports the client in the enforcement of intellectual property rights and will sign any necessary documents here.

13 Invoices, prices, supplements

13.1 Each contract (including supplements) should be settled with an invoice. Partial, partial, final and final invoices are to be designated as such and numbered consecutively. Invoices without a special name are treated as final invoices.

13.2 The following must be included in the invoice in compliance with the VAT regulations: the ordering party (client), day and business sign of the contract, the contract number, the tax number issued by the tax office, the VAT ID number of the contractor, the shipping address, the receiving point, the Order item number in ascending order and the material / article number of the client.

The delivery or service documents to be handed over to the receiving point must already contain the contract number and the order item number in ascending order.

13.3 The price specified in the contract is a fixed price and excludes additional claims. The fixed price does not include the contractually owed sales tax of the contractor. The reimbursement of sales tax presupposes that the contractor is entitled and obliged to collect the tax separately according to the respective legal regulations and that the tax is shown separately on the invoice.

13.4 Additional and / or changes to the deliveries / services will only be remunerated if a written supplementary agreement has been made before the execution of this service.

14 Payment, cash discount

14.1 Payment is made by transfer to the account of the contractor specified in the invoice.

14.2 The payment period is 14 days with a 2% discount or 30 days net.

14.3 The payment period begins with the receipt of the verifiable final invoice within the meaning of Clause 13.2 at the office specified in the contract, but not before the day of delivery of the contract service against receipt or acceptance.

14.4 In the case of agreed advance payments, the payment period begins on the day of receipt of a verifiable advance invoice, but not before the provision of an agreed security.

14.5 The transfer of the transfer order to the bank / credit institution is decisive for the timeliness of the payment by the client. The application of Section 286 (3) BGB is waived.

14.6 The right to offset against counterclaims remains reserved.

15 Assignment of claims, right of retention, compensation

15.1 The contractor is prohibited from assigning his claims against the client to third parties. Section 354 a HGB remains unaffected.

15.2 The contractor has no rights of retention insofar as they result from counterclaims from other legal transactions with the client.

15.3 The contractor can only offset claims (also from other legal relationships) that are undisputed or have been legally established.

15.4 The client is entitled to the set-off and retention rights in full.

16 Force majeure

16.1 The contractual partners are not liable for the non-fulfillment of the contractual obligations due to acts of God. Force majeure is to be understood as unforeseeable circumstances occurring after the conclusion of the contract and beyond the control of the contracting parties.

16.2 The contractual partner who claims force majeure is obliged to inform the other party immediately of the occurrence and the expected duration. Otherwise, he cannot rely on force majeure.

17 Place of jurisdiction, applicable law, written form

17.1 As far as legally permissible, the place of jurisdiction is the place where the client is based. In the case of framework contracts, this responsibility also applies to disputes in connection with individual calls, irrespective of the location of the calling office. However, the client is also entitled to call the courts at the contractor's registered office.

17.2 Only German law applies to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. Only the German contract text is binding.

17.3 Any change to the contract must be made in writing to secure evidence.