

# GENERAL CONDITIONS OF PURCHASE FOR GOODS AND SERVICES BY SGS CZECH REPUBLIC, S.R.O.

## 1. APPLICATION OF TERMS

These General Conditions of Purchase for Goods and Services by SGS Czech Republic, s.r.o (hereinafter referred to as the "GCP") govern the rights and obligations as well as other conditions ensuing from purchase contracts, contracts for work and service contracts (hereinafter referred to as the "Contract" and jointly also as the "Contracts") concluded between the companies SGS Czech Republic, s.r.o. (hereinafter referred to as "SGS") and the supplier of the given subject of performance (hereinafter referred to as the "Supplier" or as the "Suppliers"). Unless otherwise agreed in writing or except where they are contrary to the mandatory provisions of law of the Czech Republic, all Orders for goods and services and all resulting contractual relationships shall be governed by these GCP with the exclusion of any other terms and conditions. SGS is authorised to order goods and/or services from any persons or entities established under private or public law, supplying goods or rendering services.

No terms and conditions stipulated in the Supplier's price quote or supplied therewith, or stipulated in Supplier's acceptance of the order made by SGS shall form part of the Contract. The Supplier also waives the right it might otherwise have in connection with these terms and conditions, provided that it accepts the Order made by SGS and/or supplies the goods or renders the services to SGS.

If the Supplier objects to any provisions of these GCP, it shall notify SGS in writing and the contracting process shall not be considered complete until agreement has been reached on the extent and validity of these GCP.

## 2. BASIS OF PURCHASE/ORDER/DELIVERY

For the purpose of any Contract concluded between SGS and the Supplier, an "Order" is the offer made by SGS, which becomes a binding contract and subject to these GCP when accepted by acknowledgement or acceptance, delivery or commencement of activity by the Supplier, (hereinafter referred to as the "Order").

## 3. ACCEPTANCE OF GOODS/SERVICES

SGS will examine the goods within a reasonable time period after the passing of the risk of damage to the goods (the risk of damage passes to SGS at the moment of delivery of goods), given that the nature of the goods shall be taken into account. If the goods are sent by the Supplier, examination may be deferred until the goods are delivered to the place of delivery. Goods and services purchased under the Order are subject to reasonable inspection of SGS, testing and approval at the agreed delivery time and place. SGS reserves the right to refuse or reject goods or services not delivered/not rendered in accordance with the Order or Supplier's express or implied representations and warranties. SGS shall charge the Supplier the costs of inspecting rejected goods or rejected services and the Supplier agrees to pay such costs. Any rejected goods may, at the discretion of SGS, be either returned to the Supplier or held by SGS as a lien at the Supplier's risk and expense. Payment made by SGS for any goods or services supplied/rendered under an Order shall not be deemed acceptance of the goods or services.

## 4. DELIVERY OF GOODS, PROVISION OF SERVICES

The time of the delivery is of the essence and if the goods are not delivered and/or the services provided by the delivery deadline stated in the Order or otherwise agreed, SGS may, in addition to its other rights and remedies and without incurring any liability towards the Supplier, withdraw from the Contract, effective on the day of the written notice of withdrawal being

served to the Supplier, but not later than on the 5<sup>th</sup> (fifth) day following the sending of the notice of withdrawal by SGS, in the case of goods yet to be sent to SGS and/or services yet to be rendered. SGS shall be entitled, at its discretion, to purchase substitute goods and/or arrange for the providing of services at the Supplier's cost, and charge Supplier any losses incurred.

## 5. CUSTOMS, TRANSPORT, TITLE AND RISK

- 5.1 Unless otherwise agreed in writing, the following shipment (delivery) terms shall apply:  
DDP according to INCOTERMS2010
- 5.2 The precise term for the delivery of the goods/providing of the services will be stipulated in the Order and the Supplier shall comply with this proposed term for delivery/providing, unless otherwise agreed in writing with SGS. In the absence of a specific agreement, customs fees charged upon delivery, transport costs and risks shall be borne by the Supplier until the agreed delivery deadline and the agreed place of delivery (which, unless otherwise specified, shall be the registered address/relevant business premises of SGS). SGS shall acquire the ownership title to the goods on the day when the goods are handed over to it at the place of delivery, but only upon its acceptance by SGS without prejudice to the right of SGS to reject the goods, which may accrue subject to inspection as per Article 3 above. Any loss of or damage to the goods prior to the acquisition of the ownership title to the goods by SGS shall be borne by the Supplier.



## **6. WARRANTY**

Supplier expressly warrants that goods shall be in good condition, shall conform to the Order, specifications, drawings or description relating to such goods, shall be fit for the intended purpose, and shall be free from defects in materials and workmanship. Supplier further expressly warrants that the services ordered shall be provided by qualified, skilled and trained personnel acting transparently and with due diligence and loyalty to SGS, in accordance with accepted industry standards and without any conflict of interest. Supplier warrants that it has clear title to the goods and services and that such goods and services will be delivered free of rights of third parties (liens, encumbrances). All of the above mentioned warranties shall be deemed to be made not only to SGS or products into which such goods may be incorporated.

## **7. PRICE AND PAYMENT CONDITIONS**

- 7.1 Unless otherwise expressly agreed in writing, the Contract is concluded on the basis of the price stipulated in the Order of SGS being the fixed and final price, including all applicable taxes and levies, and not subject to alteration for any reason whatsoever. The Supplier shall issue accounting documents (invoices, credit notes) (hereinafter referred to as an "Invoice") for the defined Order. Invoices will be issued by the Supplier within 15 days of the date of the delivery of the goods or the date of completing the rendering of services to SGS. Invoices shall be designated with the number of Order made by SGS. If the Invoice does not contain the information required by law and/or contains errors, then SGS shall be entitled to withhold payment without being in delay with the payment of the Invoice.
- 7.2 All amounts due by the Supplier to SGS can be set off against the claims of SGS arising from this or any other Contract concluded between SGS and the Supplier. Unless agreed otherwise in writing, Invoices –the payment for goods and services, shall fall due 30 (thirty) days from the date the Invoice was delivered to the SGS. The payment made by SGS shall be without prejudice to any

entitlements or any other rights that SGS may have against the Supplier ensuing from the delivery of goods and/or providing of services.

## **8. REGULATORY COMPLIANCE**

The Supplier shall provide the goods and/or services in compliance with all the relevant legislation and standards for environmental, safety and hygiene matters (in manufacturing, packing, shipping, delivering) in the country where SGS's registered office is located (Czech Republic), including countries through which the goods may pass during delivery. The Supplier shall inform SGS of any significant adverse event which may or does adversely affect regulatory compliance. The Supplier shall implement promptly any corrective action that may be necessary or required by SGS, including corrective measures complying with the environmental, safety and health standards of SGS.

## **9. LIABILITY FOR DAMAGE AND INDEMNITY**

- 9.1 The Supplier undertakes to defend, indemnify and hold harmless SGS for all claims, liability, damage, losses and expenses, including reimbursement of legal and attorney fees incurred relating to or caused by the following circumstances:
  - Actual or alleged infringement of a patent, copyright or a trade mark or infringement of any other intellectual property rights resulting from the purchase, sale or use of goods or services specified in the Order.
  - Actual or alleged defect in the services or in the design, manufacturing/design or material of the goods.
  - Actual or alleged breach of warranty.
  - Failure to deliver the goods or provide services at the agreed time and to the agreed place.
  - Failure of the goods or services to comply with applicable laws and regulations.
  - Any encumbrance over the goods.
  - Any incidental or consequential loss howsoever arising.

- 9.2 The liability of the SGS under the Contract, tort or otherwise, including its liability resulting from negligence, whether arising from or in connection with the Contract, shall not exceed the price stated in the Order.

## **10. RETURN OF GOODS**

If goods are returned on account of defects, non-compliance with specifications, applicable legal regulations, or for any other reason within the Supplier's control, the Supplier shall bear all costs and expenses associated with this return, including without limitation the costs of returning the goods, lost profits and other expenses incurred in order to meet obligations towards third parties.

## **11. INSURANCE**

The Supplier shall maintain in force, at its expense, the appropriate liability insurance covering any damages caused by the Supplier, its employees, its subcontractors or its agents for the goods supplied and the services rendered to SGS. If requested, the Supplier shall furnish SGS with a certificate of such insurance.

## **12. CONFIDENTIALITY OF INFORMATION**

- 12.1 The Supplier acknowledges that information pertaining to SGS and third parties, which it may gain access to in the course of performing the Order for SGS shall be deemed confidential. The Supplier undertakes to refrain from using such information in the course of business for itself or for any third party or from disclosing such information, without the prior written consent of SGS, except for the information that is publicly available or information, the disclosure of which is required by law or by the binding decision of the competent authority.

12.2 To the extent the services ordered by the SGS include the creation, development and/or modification of documents and/or works, including computer hardware or software, or any other activity pertaining to computer hardware or software, Supplier acknowledges that SGS owns such document and/or works, including but not limited to source codes, object codes, software documentation and any other patentable or copyrightable works, and all related intellectual property, all of which for all purposes shall be deemed to have been created by Supplier for or on behalf of SGS as works made for hire. Neither Supplier nor any of its contractors shall have any right, title or interest in any such works, and Supplier and its employees and contractors hereby assign any and all such rights in and to any inventions and creative works to SGS, free of all rights of third parties (liens, encumbrances).

Supplier, its employees and subcontractor providing the above mentioned services to SGS will provide all documentations relating to assign all of the above mentioned rights and owner to the works.

### **13. ASSIGNMENT/SUB-CONTRACTING**

The Supplier shall not assign its obligation to perform the Order nor shall it sub-contract any part thereof without the prior written consent of SGS.

### **14. SUSTAINABILITY**

The Supplier shall carry out its procurement activities in an environmentally and socially responsible manner. In accordance with its environmental, health, safety and employment policies, Supplier shall strive to incorporate environmental and social considerations into its goods and service selection process. Supplier recognises that it is its responsibility to encourage its suppliers, contractors and subcontractors to minimise the negative environmental and social effects associated with the goods and services provided. Supplier shall also strive to ensure that local and smaller suppliers are not discriminated against in the procurement process and specifications.

### **15. TERMINATION OF THE CONTRACT**

If the Supplier fails to provide services and/or supply goods by the delivery deadline or as otherwise specified by SGS, or if the Supplier breaches any of the terms hereof, including without limitation, the warranties, SGS shall have the right to withdraw from or cancel the Order at any time upon written notice served to the Supplier. SGS is entitled to cancel the Order at its convenience, in whole or in part at least two days prior to the agreed deadline for the delivery of the goods/providing of the services, by a written notice served to the Supplier by fax, email, or also orally or by telephone, as long as such oral cancellation of the Order is confirmed to SGS by the Supplier in writing without undue delay. No such Order cancellation shall relieve the Supplier of its obligations as regards any services and/or any goods that have already been provided/ supplied.

### **16. GOVERNING LAW AND DISPUTE RESOLUTION**

16.1 For disputes between SGS and Suppliers having its registered office in the same country as SGS – i.e. the Czech Republic:

Unless specifically agreed otherwise, all disputes arising out of or in connection with the contractual relationship hereunder shall be governed by the substantive and procedural law of the Czech Republic. All disputes shall be resolved by the court having the jurisdiction at the place of the registered address of SGS.

16.2 For disputes between SGS and Suppliers having its registered office in a country other than the Czech Republic:

Unless otherwise agreed in writing between SGS and the Supplier and unless provided otherwise herein, all and any disputes as may arise from or in connection with the contractual relations shall be governed by the substantive and procedural law of the Czech Republic excluding the rules of the international private law. All any such disputes shall be decided by a court having the jurisdiction at the place of the registered address of SGS. However, SGS shall be authorised to initiate any lawsuit against the Supplier at the general court at the place of the registered address of the Supplier. The language of the proceedings shall be Czech.



**WHEN YOU NEED TO BE SURE**