

## Section 1 General Clauses

- 1.1 The General Purchasing Terms and Conditions (GPTC) shall apply to all orders and contracts from Streif Bauleistik GmbH (hereinafter referred to as "SBL") unless expressly agreed upon otherwise in writing. Any other terms in place by the contractor (hereinafter referred to as "Supplier"), its GPTC or order acknowledgements shall hereby be expressly objected. The unconditional acceptance of deliveries or order acknowledgements, even in the awareness of terms and conditions contrary or in deviation to such within these GPTC, may not be interpreted as recognition of said terms.
- 1.2 Upon the first-time supply of goods / performance of services subject to the GPTC at hand, Supplier shall recognize their exclusive validity for all future orders.
- 1.3 Only orders received in writing shall be binding. Oral agreements and subsidiary arrangements shall require written confirmation by SBL. The same shall apply to any changes and additions to orders.
- 1.4 SBL is to be notified immediately concerning any necessary changes and additions to the scope of supply / services and such shall require the written authorization by SBL.
- 1.5 These GPTC shall not apply to consumers.

## Section 2 Delivery and Shipping

- 2.1 Unless agreed upon otherwise, deliveries are to be made free unloaded to shipping address. This shall be the place of fulfillment.
- 2.2 Each delivery must include a packing slip, which is to provide the purchase order number and project number / cost center of SBL as well as a description of the content of the delivery broken down by type and quantity.
- 2.3 Supplier is to agree to accept the immediate return of transport packaging and means once goods have been delivered. Where Supplier does not comply with this obligation, SBL shall have the right to dispose of said material at the expense of Supplier under specification of Suppliers Interseroh number.
- 2.4 Construction machines and equipment must be accompanied by technical descriptions and a user's manual prepared in German at no additional cost. For software products, said supply obligation shall be considered satisfied where the complete system (user) documentation has been provided. Programs developed specifically for SBL must include the source format.

## Section 3 Lead Times / Delivery Dates

- 3.1 The lead times / delivery dates noted in the purchase orders shall be binding. Decisive for observance of the delivery date or lead time shall be the receipt of defect-free goods at the place of fulfillment pursuant with section 2.1 or – insofar as a work and services agreement was entered into – upon acceptance of the goods supplied or service rendered.
- 3.2 Should any circumstances prevent Supplier from observing the agreed upon delivery deadline, it shall be required to notify SBL immediately as soon as this information is known and to provide reasons for the delay and the expected effects. Notification in this manner shall not release Supplier from its delivery obligations.
- 3.3 Deliveries made early, deliveries made outside of the goods receiving hours specified by SBL as well as partial and excess deliveries shall require approval in advance.
- 3.4 Unless otherwise agreed upon, added costs for partial delivery freight charges shall be included in the agreed upon compensation.

## Section 4 Passing of Risk, Acceptance, Title

- 4.1 For the supply that includes setup or installation and for the supply of services, risk shall be passed on upon acceptance; for any supply that does not include setup and installation, the risk shall be passed on upon receipt at the shipping address provided by SBL.
- 4.2 Title to the delivered goods shall be transferred to SBL as soon as payment has been received in full. Any extended or expanded reservation of title shall be excluded.

## Section 5 Prices

- 5.1 The prices indicated in the purchase order shall be firm prices. These prices shall include the costs for freight, packaging and the material inspection process. Claims based on additionally supplied goods and/or services may only be asserted with the prior written agreement and assignment. Otherwise, no other payment demands above the prices indicated in the purchase order shall be accepted.
- 5.2 No compensation shall be paid for demonstrations, presentations and/or the preparation of quotes, unless otherwise agreed upon in writing.

## Section 6 Invoices and Payment Terms and Conditions

- 6.1 Supplier is to issue two copies of each invoice. Invoices are to be issued immediately after the goods are shipped and are to include the purchase order number, the project number and cost center. Insofar as goods are delivered directly to a construction site, each invoice is to be issued separately by construction site. Sales tax at its legally applicable rate is to be listed as a separate line item.
- 6.2 Payments shall be made under reservation of the proper supply of goods or service and provided the stated prices are accurate and calculated correctly. Should the goods be defective, SBL shall have the right to deny payment of an appropriate amount of the compensation. An appropriate amount is generally considered twice the amount of the costs needed to remedy said defect.
- 6.3 Once the goods have been supplied / services have been rendered and all of the contractually agreed upon documents have been received in addition to a verifiable invoice, SBL shall pay the outstanding balance within 30 days after receipt of invoice unless agreed upon otherwise. Where an invoice is returned for reasons not within the responsibility of SBL, the payment deadline shall not begin prior to receipt of an invoice corrected by Supplier accordingly.
- 6.4 Where an invoice is paid via bank transfer or check, the timeliness of the payment obligation shall be determined based on the date SBL issued the transfer order or on the date the check was sent to Supplier.
- 6.5 Any payments made as well as any use / commissioning of the goods / services shall not imply an acknowledgement of receipt of the supplied goods or service rendered as contractually specified.

## Section 7 Offsetting and Assignment

- 7.1 Supplier may only offset a payment against indisputable or legally established claims.
- 7.2 Any assignment to a third party of the outstanding balance owed Supplier as a result of this contract entered into with SBL without the prior written consent from SBL shall be prohibited.

## Section 8 Warranty Claims

- 8.1 Warranty claims shall generally be subject to legal requirements unless regulated otherwise below.
- 8.2 Supplier shall be obligated to provide the purchased items free of material defects and defects in title. Supplier shall avouch that all goods supplied and services rendered satisfy generally accepted rules and standards, relevant legal requirements and the regulations and guidelines of public authorities, professional and trade associations and that Supplier is unaware of any pending changes to the aforementioned. This shall apply in particular as concerns environmental regulations applicable in the EU, in Germany and at the location of Supplier. Supplier shall be required to notify SBL in writing of any pending changes it has become aware of.

- 8.3 In the event that the supply should be defective, SBL shall have the right, at its discretion, to demand that Supplier either remedy said defect or replace the supply in full. Should this be the case, Supplier shall be obligated to bear the expenses incurred for the purposes of remedying said defect and for a replacement delivery. Expressly not considered herein shall be the right to damage claims in lieu of the service.
- 8.4 Supplier shall be obligated to grant a warranty period of 36 months commencing as of the transfer of risk pursuant to section 4.1 unless a longer warranty period should apply in accordance to legal regulations or any other provision specifically agreed upon. The duration of the warranty period shall be suspended for the timeframe commencing as of the date a notification of defect is dispatched by SBL and shall end on the date SBL is in receipt of a defect-free supply of goods or service. For any repaired portion of the supplied goods or service or replacement thereof, the deadline mentioned in sentence 1 shall begin anew once SBL is in receipt of a defect-free supply of goods or service.
- 8.5 Immediately upon request, Supplier shall indemnify SBL of any claims asserted by third parties against SBL - irrespective of their legal basis - due to any material defect or defect in title or any other defect in the product delivered by Supplier and shall reimburse SBL the costs required to cover the legal consequences thereof. In addition, section 9.2 shall apply accordingly.
- 8.6 Supplier shall assign any and all warranties it is entitled to from its prior vendors to SBL. Said assignment is hereby accepted by SBL. Until rescinded by SBL, Supplier shall be obligated to protect the warranty rights to the benefit of SBL.
- 8.7 SBL shall reserve the right to inspect the goods immediately upon receipt for obvious and visible defects and to delay acceptance thereof until said inspection is complete. In the event a notification of defect is necessary, Supplier may be charged the costs for the inspection. The time limit for filing a claim for any type of defect shall be fourteen days for each occurrence commencing as of the date of recognition thereof. During the warranty period Supplier shall waive its right to object to delayed notification of any hidden defects.

## Section 9 Liability

- 9.1 Supplier shall be liable within the limits of the law.
- 9.2 To the extent that any third party should assert a claim against SBL based on product liability or any other legal regulations due to any material defect or defect in title or any other defect in the product delivered by Supplier, Supplier shall be obliged to, upon request, immediately hold SBL fully harmless from any claims of this kind insofar and to the extent that SBL should be directly liable in its direct relationship towards said third party. In cases where SBL is forced to recall a product as a direct consequence of an occurrence of this kind, all of the costs incurred shall be invoiced Supplier. It in turn shall be obliged to indemnify SBL of such liability upon request insofar as Supplier is liable pursuant to sections 830, 840 and 426 BGB [= *Bürgerliches Gesetzbuch*; German Civil Code]. This shall apply in particular to any recall activities governed by equipment and product safety laws.
- 9.3 Supplier shall assure that adequate product liability insurance coverage is in place. SBL shall have the right to request proof of insurance be supplied by Supplier's insurance provider respectively.

## Section 10 Intellectual Property Rights of Third Parties

Supplier shall assure that normal use of the goods supplied does not infringe upon any rights of third parties, in particular as relates to the intellectual property rights of third parties. In the event of any possible infringement on the rights of third parties, Supplier shall hold SBL harmless.

## Section 11 Use of Material Provided, Ownership Structure

- 11.1 Drawings, blueprints, samples, manufacturing instructions, company-internal data, etc., which SBL provided Supplier for the purpose of executing the order shall remain property of SBL. Such may not be used, duplicated or made available to third parties for any other purpose without prior written authorization and are to be stored employing the diligence of a prudent business person. Once the purchase order has been finalized, these and any duplicates made thereof are to be returned to SBL without further request.
- 11.2 Where Supplier is commissioned to further process the material provided or to remanufacture such, said activity shall be performed on behalf of SBL. SBL shall be the direct owner of the newly created objects. Where the material provided only accounts for a portion of the object, we shall have the right to co-ownership of the new object to the percentage equal to the value of the provided material said object consists of.

## Section 12 Confidentiality, Data Protection

- 12.1 Supplier shall be obliged to maintain confidentiality as concerns the illustrations, drawings, calculations and any other documents received along with the purchase order. These may only be disclosed to third parties with the prior written authorization from SBL, unless Supplier is obligated to disclosure based on legal regulations or rules imposed on Supplier by public authorities. The confidentiality obligation shall also apply to any personal data. The confidentiality obligation shall remain in place even after the contract has been finalized or in the event of failure. Said obligation shall expire if and insofar the skills relating to production process included in the data and other documents received have become known publicly. Prior vendors are to be obligated accordingly.
- 12.2 Supplier is to treat the conclusion of this contract as confidential information. Any business dealings with SBL may only be referenced in the advertising materials of Supplier with the express written consent of SBL. SBL and Supplier shall be obligated to treat all business-related and technical details not known to the public, which they may become aware of as a result of their mutual business relationship, as subject to confidentiality. Prior vendors are to be obligated accordingly.

## Section 13 Severability Clause

- 13.1 To the extent an issue is not governed within these GPTC, legal regulations shall apply unless agreed upon otherwise by the contractual parties in writing.
- 13.2 Should one or more of the provisions of these GPTC be or become ineffective, as such, this shall have no effect on the legal validity of the remaining provisions. The parties are in agreement that the ineffective or impracticable provision shall be replaced by a legally effective provision closest in nature to the original economic intent. The same shall apply in the event of a loophole.

## Section 14 Contract Language

Contracts shall be negotiated and prepared in German. This provision shall also imply that dealings relating to the contract, including the construction work to be executed, shall be conducted in German both orally and in writing, unless otherwise agreed upon by the contractual parties in written form.

## Section 15 Applicable Law

The contractual relationship shall be subject to the laws of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts and the conflicts of law rules applicable in international civil law.

## Section 16 Code of Conduct

Supplier shall observe the HOCHTIEF/SBL Code of Conduct in all matters concerning the supply of goods and services and shall bind its employees and subcontractors to the

observance of such accordingly. The Code of Conduct can be viewed online at [www.streif-baulogistik.de](http://www.streif-baulogistik.de) or may be requested in writing from SBL.

## **Section 17 Legal Venue**

Unless there are no other mandatory legal provisions to the contrary, legal venue for all disputes resulting from this contract shall be, at the discretion of SBL, either Essen or the registered office of the responsible branch location.