

General Conditions of Purchase and Contract of TÜV NORD GROUP

Definitions

The following terms are used in these General Conditions of Purchase and Contract with the following meaning:

"Principal" is the company of TÜV NORD GROUP in the name of which the contract will be signed.

"Agent" is the contractor mandated by the Principal.

"Written" is a declaration submitted by letter, email or fax, unless otherwise stipulated in these General Conditions of Purchase and Contract.

1. Scope

These General Conditions of Purchase and Contracts exclusively apply to all orders of companies of TÜV NORD GROUP, also for future business. Opposing or deviating conditions of the Agent are not accepted by the Principal, unless he gave his written approval to their applicability. The following conditions of the Principal also apply if the Agent accepts with knowledge of opposing or deviating conditions of the Principal, the Principal's performance or delivery without reservation.

2. Conclusion of Contract

2.1 If the Principal submits an offer to the Agent by placing an order, the Agent may accept this offer by written confirmation within a deadline of 14 days. Upon expiration of this deadline, the Principal is no longer bound to his order. If there is no written acceptance and the Agent carries out the delivery or other service, the Principal will only accept this at the conditions included in his order placed in writing.

2.2 If the Agent makes an offer to the Principal, the Agent is also bound to his offer for 14 days.

2.3 All agreements which were made between the Principal and the Agent for the enforcement of the contract, including these General Conditions of Purchase and Contract, are entirely fixed in writing. There are no verbal side agreements.

2.4 Remuneration or compensation for the visits or for the preparation of offers, projects, plans etc. will not be granted by the Principal, neither in those cases when there is no order.

3. Extent of the Offer, Documentation

3.1 The order includes the handover of all documents required for the use of the object of purchase and the use of the contractually owed services, such as operations manual, plans, drawings and statistical calculations in copyable format, as well as obtaining potentially required permissions by the Agent. The responsibility of the Agent for material, performance and execution will not be affected by this permission. Changes after the permission are only valid with written approval of the Principal.

3.2 For wear parts, the Principal has to be provided with workshop drawings and spare part indices.

3.3 The Principal keeps all property and copyrights on images, drawings, samples, software and other documents which were provided to the Agent; they have to be kept confidential vis-à-vis third parties and must not be made available to third parties before the express written approval of the Principal. They are only to be used for the production on the basis of the Principal's order; after completion of the order, they have to be returned to the Principal unsolicited.

4. Prices

4.1 The price indicated in the order is plus VAT, as far as it accrues, at the statutory amount. Other taxes, customs and charges are borne by the Agent, unless otherwise agreed. The agreed price is binding independent from the contract duration.

4.2 Unless otherwise agreed in writing, the price includes "free delivery to the point of use" and packaging. All costs for documents which come with the products (conformity declarations, examination bulletins, material bulletins, security data sheets, manuals, operating guides, drawings) and extras (tools, accessories (kits) etc.) are included in the price. Upon the Principal's request, the Agent will take back packaging and duly recycle it, however, the Principal is only obliged to return if this is separately agreed in writing.

5. Payment Conditions

5.1 VAT has to be listed separately in the invoice; if the Agent provides services exempt from VAT, the legal basis for VAT exemption has to be included in the invoice.

5.2 Invoices have to comply with the legal requirements and the regulations included in the Principal's order, in particular the order number mentioned therein has to be indicated. For each order, a separate invoice has to be issued; if various orders are summarized in one invoice, the respective order numbers have to be listed separately.

5.3 The Principal shall pay the purchase price within 14 days with 3% cash discount or within 30 days net, calculated as from contractual delivery or completion of the service and receipt of a duly issued invoice.

5.4 Offsetting and retention rights are granted to the Principal to the extent provided by law. The Agent is only entitled to offsetting of counter-claims due to him when his counter-claims are undisputed or legally valid. The Agent may only exercise a right for retention on the basis of transfer or pledging of claims which result from the same contract as the Principal's claims. The retention or pledging of claims which are due to the Agent from the business relationship with the Principal is excluded. In addition, the Principal is entitled, on the basis of claims which are due to an affiliated company of the Principal within the meaning of § 15 of the German Stock Companies Act (AktG) vis-à-vis the Agent, to declare offsetting or to exercise a right of retention with regard to the Agent.

5.5 If, in addition to an existing main claim, the Agent owes interest and expenses, the Principal reserves the right, in the event of a payment which is insufficient for the clearance of the total amount, to decide whether the payment is first calculated on the main claim, then on interest and at last on the expenses. The Agent is not allowed to refuse payment on the basis of such a determination of payment.

6. Time of Delivery/Time of performance

6.1 The delivery or performance dates indicated in the order are binding. Deadlines for delivery/performance start with the date of receipt of the order by the Agent. Essential for the compliance with date or deadline for delivery/performance is the receipt of the goods or receipt of the performance at the point of reception or usage indicated by the Principal.

The Agent shall inform the Principal in writing without delay if circumstances arise or become apparent which might result in the non-compliance with agreed deadlines or dates. In the event of default, the Principal has the right to statutory claims. In particular, the Principal is entitled to withdraw from the contract and to claim damages. Furthermore, the Principal is entitled in such case to claim a contractual penalty in an amount of 0.2% of the net price of the goods delivered with delay or the performance provided with delay, however, in total no more than 5% of the aforementioned net price.

If the Agent has provided partial deliveries or partial performance, and if the Principal is not interested in these partial deliveries or partial performance without the goods delivered with delay or the performance provided with delay, the aforementioned calculation of the contractual penalty shall be done on the basis of the total order price (net) of provided and outstanding partial deliveries/performance. The Principal is entitled to claim the contractual penalty in addition to the fulfillment and, as a minimum amount, a damage claim owed by the Agent according to the legal provisions; the right to claim further damages remains unaffected. The right to a contractual penalty remains in force despite the unconditional acceptance of the delayed performance or delivery, insofar as it is asserted at the latest at the time of payment of the invoice claim, in the event of contractually agreed partial payments at the latest at the time of the final payment by the Agent.

6.2 Partial deliveries or partial performance respectively are only valid with the Principal's written approval. An early delivery made by the Agent without the Principal's approval does not affect the payment deadlines which draw on the agreed dates of delivery.

6.3 If, for the provision of a performance, access needs to be granted to the location of the performance or another cooperation of the Principal is required, the Agent has to agree the start of the performance with the Principal in good time so that the Principal is enabled to make potential necessary preparations.

7. Terms of Delivery

7.1 Delivery has to be effected at the point of reception or usage indicated by the Principal. Shipment has to be announced to the Principal in writing in such a way so that he has knowledge in due time before receipt of the goods on quantity, measures and weights as well as potential particular regulations with regard to the handling of the goods, in particular for transport and storage in the business area of the Principal. If acceptance is refused, the Agent bears the costs of another delivery unless he demonstrates that he duly announced the delivery.

7.2 The Agent shall attach to the outside of the unopened shipment a delivery order which contains all information stipulated in the Principal's order, in particular order number and order date, recipient, cost center as well as information on type and quantity of the delivered items. Partial and final instalment deliveries have to be marked separately. If this is not done by the Agent, the Principal cannot be held responsible for the resulting delay in handling. The Principal reserves the right to refuse deliveries without duly filled-in delivery papers.

7.3 The costs for transport insurance are only covered if the Principal has expressly ordered the same in writing before shipment of the delivery.

7.4 If an order is carried out in the form of partial deliveries, the Principal may decide in which sequence the parts have to be delivered. The Principal has the right to start using the delivered parts before receipt of the entire delivery without thereby accepting contractual delivery. If partial deliveries were not expressly agreed at the time of placement of the order, the Agent has to bear the higher costs for shipment, packaging and transport insurance.

8. Transfer of Risk

The Agent bears the risk of accidental loss or accidental deterioration of a product which is to be delivered until the handover at the point of reception or usage indicated by the Principal. If the subject matter of the contract is the provision of service in relation with the item, the Agent bears the risk of accidental loss or accidental deterioration until the acceptance of the works.

9. Acceptance

9.1 If the requirement of acceptance of the performance is stipulated by statutory provisions or contractually agreed, acceptance will be provided only by written acceptance declaration of the Principal. The Principal expressly reserves the right to assert warranty claims due to defects.

9.2 Finalization of the performance has to be indicated to the Principal and the date of acceptance has to be mutually agreed. If, because finalization is not indicated or coordination of dates is not done by the Agent, acceptance cannot be provided by the date envisaged by the Agent, the Agent has to bear additional costs if any in relation to a new delivery date.

10. Inspection for defects

The Principal will inspect the goods delivered by the Agent within an adequate time frame for potential quality or quantity deviations. The notice of defects which arose during the orderly examination has been provided in time if it is received by the Agent within a deadline of 10 working days after the defect was discovered. The notice of hidden defects has been done in time if it is received by the Agent within a deadline of 10 days after the defect was discovered.

11. Quality Standard and Commissioning of Third Parties

11.1 The Agent assures that all deliveries and performances are in accordance with the newest technical standards, the respective applicable legal provisions and the respective applicable regulations of authorities, professional and trade associations. If, in individual cases, variations from these regulations are necessary, this has to be expressly indicated and the Principal's written approval in this regard has to be obtained. The warranty obligations or respectively guarantee obligations of the Agent are not affected by this approval.

11.2 Subcontracting with third parties by the Agent requires the Principal's express written approval. This also applies for another subcontracting of these third parties. The Agent has to ensure that the third party fulfills the contractual obligations in the same way as the Agent. The Principal reserves the right to refuse the commissioning of a third party or to request the replacement of a third party in case of malperformance or culpable breach of other contractual duties by the third party.

12. Warranty

12.1 The Principal shall be entitled to statutory claims for defects without restriction. The Principal is entitled to request supplementary performance by way of removal of defects or delivery of an item free of defects (replacement delivery) or production of a new item respectively; the Agent is obliged in this case to bear all expenses necessary for the removal of defects or the replacement delivery. The Principal expressly reserves all legal rights for damages or reimbursement of expenses, rescission or reduction.

12.2 For delivery of goods, the warranty period ends 24 months after delivery. Notwithstanding the former, for the delivery of materials which were used according to their typical use for a building and caused it to be defect, the warranty period is five years as from delivery. If acceptance has been agreed, the warranty period starts with acceptance. For works, the statutory warranty periods apply without limitation. The limitation periods for warranty rights are suspended by the Principal's written notice of defects as long as the Agent has not rejected the claims in writing. In the event of supplementary performance or the replacement of deficient parts by the Agent, the warranty period starts again.

13. Liability

13.1 The Agent is liable according to the statutory provisions without limitation. He indemnifies the Principal from damage claims of third parties for which he is responsible. In the relationship with the Principal, the Principal's staff and clients, the Agent waives the possibility for relief as per § 831 para 1, sentence 2 German Civil Code (BGB).

13.2 The Agent is obliged to indemnify the Principal from damage claims of third parties arising from personal or property damage which are based on a default of the product caused within his control and organization and for which he is himself liable in relation to third parties. In this context, the Agent is also obliged to refund potential expenses which result from or in connection with a product recall. The Principal shall inform the Agent of the content and extent of the recall measures to be carried out, insofar as this is possible and reasonable, and will give him the opportunity to comment in this regard.

13.3 The Agent is obliged to conclude company liability and product liability insurances in an adequate amount, however, at least with a cover of EUR 3 million lump sum per damage event for all incurring personal and material damage and financial loss, and to verify the insurance cover at contract conclusion and afterwards at least every 6 months unsolicited; if the Principal has the right to further damage claims, these remain unaffected. Omitting to verify the insurance cover does not release the Agent from the obligation to track the insurance cover.

14. Property Rights

If by the purchase and use of the Agent's deliveries and performances third party property rights in the country of production or the country of destination known to the Agent are violated and if the Agent is held liable in this respect by a third party, the Agent is obliged to indemnify the Principal from these claims, unless the Agent proves that he is not responsible for the violation of the property rights. The duty of indemnification includes all expenses which the Agent inevitably incurs from or in connection with the third party claims. The Principal will not enter into any agreement with the third party without the Agent's approval and in particular will not conclude a settlement.

15. Confidentiality, Non-Competition and Non-Solicitation

15.1 The Agent as well as the Principal are obliged to keep silence on confidential information of the respective other contractual partner and to not hand them over to third parties. Affiliate companies of the Principal within the meaning of § 15 of the German Stock Companies Act (AktG) are not considered third parties for the purpose of this agreement. However, the Principal is only allowed to pass on information to an affiliated company if he as previously bound the company to confidentiality to the same extent. The confidentiality obligation remains in force after termination of the contract for a duration of five years. Excluded from this obligation is information

a) which were verifiably already known to the recipient at the time the contract was concluded or which became known afterwards from a third party without violation of a confidentiality agreement, legal provisions or authority regulations; b) which are publicly known at the time the contract is concluded or which are made public afterwards, insofar as this does not rest on a violation of the contract; c) which have to be disclosed due to legal obligations or upon request of a court or an authority. Insofar as it is permissible, the recipient obliged to disclose will previously inform the other contractual partner and give him the opportunity to start proceedings against the disclosure; d) which the recipient independently developed or had developed by someone without knowledge of the confidential information.

15.2 The Agent is obliged, for the duration of the assignment and then a period of one year after contract termination, not to perform a business activity vis-à-vis customers of the Principal as well as customers of the Principal's affiliated companies which have become known to him by the contract with the Principal and by which he would enter into competition with the Principal or one of the Principal's affiliated companies through a performance which is subject matter of his assignment by the Principal. The Agent is furthermore obliged not to headhunt staff of the Principal or of one of the Principal's affiliated company, directly or indirectly, for the aforementioned time period. Affiliated companies within the meaning of the aforementioned regulation are affiliated companies as per § 15 of the German Stock Companies Act (AktG). In the event of a violation of the aforementioned obligations, for each case of violation and by waiving the objection of continuation of offense, the Agent is obliged to pay to the Principal a contractual penalty which is immediately due, the amount of which has to be stipulated by the Principal as per § 315 of the German Civil Code (BGB) with its reasonably exercised discretion, which, however, may not exceed the order amount, in the context of a general or continuing obligation, the order amount is the total remuneration paid by the Principal in the last year before the violation occurred. Higher damage claims are not excluded by this clause.

16. Data Protection, Order Data Processing

The Principal is entitled to collect, process and use the data arising in connection with the contractual relationship in accordance with applicable data protection legislation as well as to pass on this data to the Principal's affiliated companies as per § 15 f. of the German Companies Act (AktG) for the purpose of the procurement across the group, and to store these after termination of the contract for potential further orders.

17. Place of Jurisdiction and Choice of Law

If the Agent is a merchant, a legal entity under public law or a special fund under public law, place of jurisdiction is Hanover. The Principal is not participating in a dispute settlement procedure before a registered consumer dispute resolution board. For all business and all legal relationships between the Principal and the Agent, solely the law of the Federal Republic of Germany applies. The application of the United Nations Conventions on Contracts for the international Sale of Goods (CISG) is excluded.