

## GENERAL PURCHASING TERMS AND CONDITIONS FOR SUPPLY OF GOODS AND SERVICES (01/2017)

These General Purchasing Terms and Conditions (hereinafter "GPTC") govern the relations between the companies for purchases by TEDOM a.s., registered at Výčapy 195, 674 01 Třebíč, ID number: 28466021, incorporated in the Commercial Register maintained by the District Court in Brno, section B, insert 6260 (hereinafter referred to as "TEDOM") and the other Contracting Party (hereinafter referred to as "Seller"). TEDOM is entitled to update these GPTC. The effective version of these GPTC is located on [www.tedom.com/en/downloads/others](http://www.tedom.com/en/downloads/others). If Seller confirms the order, Seller undertakes to accept these GPTC. If Seller provides TEDOM with performance pursuant to TEDOM's order even without the prior confirmation of this order, such conduct is considered to be an acceptance of the offer pursuant to Section 1744 Act no. 89/2012 Coll., Civil Code, as amended (hereinafter referred to as "Civil Code"). Even in this case this resulting contractual relationship is governed by these GPTC. Nevertheless in this case TEDOM is entitled to refuse this performance that has been delivered.

Any deviations from GPTC have to be agreed in the writing relevant contract (order - proposal for conclusion of the contract). The provisions of the contract (order) take precedence over the GPTC. In cases that are not adjusted by an order (contract) and GPTC between TEDOM and Seller or in cases that are not agreed provably between TEDOM and Seller, the relevant provisions of business conditions of Seller will be applied, if these business conditions supplement an order (contract) and if solve such a case. The rights and obligations of the Contracting Parties not specified in the contract (order) or GPTC or business conditions of Seller are governed by Civil Code.

TEDOM and Seller have agreed that they are bound by only such a business convention which is expressly mutually agreed (in writing).

If Seller confirms the order or if Seller provides TEDOM with performance pursuant to TEDOM's order without the prior confirmation of this order, Seller as well as confirms that he has been aware of TEDOM a.s. Quality Management and Environmental Management Policy that is located on [www.tedom.com/en/downloads/others](http://www.tedom.com/en/downloads/others). Seller confirms that will conduct in compliance with this document providing the performance pursuant to the order.

### I. CONCLUSION OF CONTRACT

An order (a proposal for the conclusion of the contract) may be submitted in writing, by email (may exceptionally be submitted orally). It may be for a particular supply, or may have a long-term character.

Proposal for the conclusion of the contract, submitted by TEDOM, will be confirmed by Seller within the time limit referred to in the proposal. If the time limit is not fixed by TEDOM, it will be confirmed within 10 days after receipt of the proposal.

The implementation of any changes made by Seller in the proposal submitted by TEDOM does not constitute the entitlement to the conclusion of the contract. In this case it is a proposal for the conclusion of the contract submitted by Seller to TEDOM and the contract will be created upon the date of receipt of the corresponding expression of the agreement from TEDOM. An order (a proposal for the conclusion of the contract) may be modified either only under agreement of both parties or by such a conduct if Seller provides performance pursuant to the modified order of TEDOM. TEDOM precludes by this article the agreement with an offer (order) with a supplement or a change even if the conditions of the order have not been changed fundamentally within the meaning of the provisions of Section 1740 par. 3 sent. 2nd of Civil Code.

### II. PURCHASE PRICE

Unless otherwise agreed, the price includes packaging, transportation to the place of destination, and insurance.

### III. ELEMENTS OF INVOICES AND PAYMENTS

The Contracting Parties agree that the invoice must contain at least the following elements:

- a) the invoice number
- b) the indication of the Contracting Parties (pursuant to the extract from the Commercial Register)
- c) the indication of their place of headquarters
- d) the indication of the competent section of TEDOM
- e) the indication of the responsible person who is authorized to act on behalf of TEDOM in this matter, if it is indicated in the contract (order)
- f) ID number and VAT number of the Contracting Parties

### g) the number of the contract – order

- h) the subject matter of the taxable payment in accordance with the contract (order)
- i) the invoiced amount without VAT
- j) the rate of VAT
- k) the VAT amount
- l) the total invoiced amount
- m) the currency
- n) the exchange rate
- o) the bank connection of both Contracting Parties, including the account in foreign currencies
- p) the date of the taxable payment
- q) the date of issue of the invoice
- r) the date of sending of the invoice
- s) the date of the invoice maturity (due date) or the invoice maturity

TEDOM is entitled, before the expiry of the date of the invoice maturity, to return the invoice without payment, if it does not contain any of the above agreed requirements, or if these data are listed incorrectly.

Seller is obliged to repair or newly issue this invoice (according to the nature of the shortcomings). Returning the invoice will stop the original deadline for payment of the invoice, the whole of the period will run again from the date of receipt of the corrected invoice or from the date of receipt of the new one.

Unless otherwise agreed, Seller is entitled to invoice from the date of fulfillment of the subject of the Contract and is obliged to issue a tax document (the final invoice) no later than **15 days** from the date of the taxable payment.

The invoice is due within **60 days** from its delivery to TEDOM. In the event of arrears with the payment of the invoice the Contracting Parties agree that interest on arrears will be at a maximum amount of **0.05 %** of the outstanding amount for each day of delay.

**An electronic form of invoice** is preferred. In this case either the email message, which will have an invoice in the attachment, must contain the electronic signature or the electronic signature must be on each invoice document. The invoice must be sent in non-editable form.

Email address for invoices in an electronic form:

- a) [prijemfaktur@tedom.com](mailto:prijemfaktur@tedom.com): invoices concerning goods/services for Engines Division (i.e. all invoices relating to orders addressed from TEDOM a.s., Belgická 4685/15, Jablonec nad Nisou)
- b) [fakturace@tedom.com](mailto:fakturace@tedom.com): any other invoices.

The address for invoices in a written form: TEDOM a.s., Výčapy 195, 674 01 Třebíč, The Czech Republic.

### IV. PLACE OF DELIVERY - DELIVERY COMPLIANCE

Unless otherwise agreed in the contract or order, Seller is obliged to send the subject matter and documents which are necessary for the acceptance and the use of goods or services, as well as other documents listed in the contract (order), to the headquarters of TEDOM. These documents are especially: delivery note, handover protocol, certificates, attestations inspection certificates), guarantee cards, safety data sheets for chemicals, reports about tests that were made, certificates of the professional competence of Seller and individual workers providing services for TEDOM, user manuals (for purchases in the Czech Republic in Czech), operating rules, technological processes, etc. Delivery without complete documentation cannot be considered as fulfilled and it cannot be accepted unreservedly.

The number of the contract/order must be indicated in all the documents relating to the delivery.

### V. DELAYS BY SELLER AND CHANGES IN IMPLEMENTATION OF LONG-TERM SUPPLY

If Seller has a delay, TEDOM is entitled to demand a contractual penalty corresponding to **the amount of 0.05 %** of the agreed price of compliance for each day of delay, and without the determination of additional delivery time, to withdraw from the contract (order) without prejudice to the right to damages and lost profits in whole amount. Damages and lost profits might reach up to multimillion-euro amounts as the goods is mainly used in CHP (cogeneration) technology.

If Seller is not be able to meet the commitment in time, Seller is obliged to inform TEDOM without delay and at the same time shall inform about an additional period of performance. TEDOM is not bound by such a notice and is entitled to withdraw from the contract (order) without prejudice to the right to damages and lost profits in whole amount (see paragraph above). In the case of long-term repeated supplies of goods, Seller is

obliged before the start of production to obtain the prior written consent of TEDOM to any changes in the composition of the processed material or design in comparison with the former deliveries of goods.

#### **VI. GUARANTEE PERIOD, APPLICATION OF LIABILITY FOR DEFECTS - CLAIMS**

Unless otherwise agreed, Seller undertakes to provide TEDOM with a guarantee period for the subject matter of supply for a period of **24 months** from the date of delivery. If the subject matter is the implementation of a part-supply by TEDOM to another entity, the guarantee period will run from the date of putting into service or date of delivery of this supply to another entity. In this case TEDOM is obliged to prove to Supplier the date of its putting into service or the date of delivery to another entity (if required).

The total guarantee period, however, is not more than **36 months** from the date of delivery of the goods by Seller to TEDOM.

In the event of determination of defects when the goods or services are handed over, TEDOM is obliged to notify Seller of the defects without undue delay. Seller will provide the removal of defects by replacing defective products with new ones without defects, by delivery of missing goods or by repairing of goods pursuant to the prior agreement between TEDOM and Seller. TEDOM is entitled to withdraw from the contract if the defective performance is a gross violation of contract pursuant to Art. XII of these GPTC.

In the event of complaints in the guarantee period, Seller is obliged to confirm receipt of complaints to TEDOM within **3 days** from the receipt of complaints, to send to TEDOM a written statement of complaints within **10 days** from the receipt of the request, to remove defects of the subject of complaints within 30 days from the receipt of complaints. If Seller is not able to remove the defect in the subject of the complaint within **30 days** from this receipt of complaints, he is obliged to deliver a replacement. By mutual agreement of the contracting parties, the repair (the removal of the defects on the subject of the complaint) can be made at the TEDOM's workplace by the representatives of Seller or by TEDOM at Seller's cost. In exceptional cases, by agreement of the contracting parties, it is possible temporarily lend other fully functional goods within duration/solving of the complaint.

If Seller is unable to provide a replacement and TEDOM has already paid for the subject of complaints, the price will be returned to TEDOM in the range of performance within **7 days** after receipt of the defective goods by Seller.

Seller is obliged to pay to full extent all costs incurred with the legitimate complaint procedure to TEDOM. The contractual penalty does not affect the right for damages and lost profits in whole amount. Damages and lost profits might reach up to multimillion-euro amounts as the goods is mainly used in CHP technology.

#### **VII. LEGAL DEFECTS OF GOODS**

Seller will guarantee that the delivery and the use of goods/services (the subject matter of the performance) and practices used in their manufacture do not infringe the rights of third parties.

#### **VIII. TRANSPORT AND PACKAGING, DISPOSAL OF OLD GOODS**

Seller is obliged to send the goods in such packaging, which guarantees adequate protection against damage during transport and storage in suitable premises of TEDOM.

Pursuant to the provisions of Section 10 par. 3 Act no. 185/2001 Coll., Law on waste, Seller is obliged to ensure the adequate information about the way of using and about disposal of parts of goods that have not been used, in documentation related the goods, at packaging of the goods, in user manual or by another suitable way.

#### **IX. SUBJECT MATTER OF PERFORMANCE - GOODS BY DATA, DRAWINGS AND MODELS OF TEDOM**

All information disclosed by TEDOM to Seller related the order (contract) are considered to be confidential information pursuant to provisions of Section 1730 par. 2 of Civil Code.

The goods manufactured or supplied by Seller pursuant to the data, drawings or models of TEDOM and special equipment, templates, or other similar articles intended for their production, must not be supplied to third parties by Seller without a prior written consent of TEDOM.

The same will apply if Seller arranges special equipment, templates, etc. at his own cost, or if TEDOM refuses to accept the goods due to delayed or defective deliveries or if TEDOM withdraws from the next supplies under the contract despite the delivery has been performed properly.

If improvements come about at Seller's, in the context of the implementation of the subject matter of the contract, TEDOM will have non-exclusive user rights to the industrial use of the subject of improvements and any related rights free of charge. Seller is obliged to obtain a prior written consent from TEDOM to shared use, changes or destruction of special equipment or tools produced pursuant to the data, drawings or tools bound to goods manufactured pursuant to the data, drawings or models of TEDOM.

Models, designs, drawings, technical changes or material of any kind which TEDOM handed over to Seller in connection with the contractual relationship will remain the property of TEDOM all the time and are the subject matter of his business secrets. Seller will not be allowed to use the models, designs, drawings or other technical documents of TEDOM himself or provide them to a third party.

Immediately on request Seller is obliged to return provided models, designs, drawings or other technical documents or copies to TEDOM.

In the event of violation of the above provisions provided by Seller, TEDOM has the right to charge Seller a fine agreed in specific cases of individual orders (contracts). The contractual penalty does not affect the obligation of Seller to release to TEDOM everything that has been reached regarding this matter without prejudice to the right to damages if occurred by such an act of Supplier.

#### **X. RIGHT OF OWNERSHIP OF GOODS AND RISK OF DAMAGE TO THEM**

TEDOM takes title to the goods upon handover of the goods, at the same time the risk of damage to them passes on TEDOM.

#### **XI. FORCE MAJEURE**

Contracting Parties consider as cases of force majeure those unusual circumstances (e.g. a natural disaster, changes in laws, etc.), which inhibit temporarily or permanently the performance of the obligations determined by the Contract, which occur after the entry into force of the Contract, which have a direct influence on the subject matter of the performance of the contract, and which could not be foreseen or warded off neither by TEDOM nor by Seller.

The Contracting Party which cannot perform the contractual obligations due to this force majeure shall immediately inform the other Contracting Party about the beginning of such circumstances, and shall submit documents to them about it, or inform the other party that these circumstances have a substantial impact on the performance of contractual obligations. In the event of force majeure which continues for more than **90 days**, both of the Contracting Parties are obliged to discuss an amendment to the Contract.

#### **XII. WITHDRAWAL FROM CONTRACT**

TEDOM has the right to withdraw from the contract in the event of a gross violation of the agreed conditions unreservedly.

Agreed conditions for a gross violation will be deemed to be:

- a) a delay in delivery of more than **7 days**
- b) a delivery of a defective performance in the range of defects exceeding **10 %** of the volume of the delivery
- c) a violation of Seller's obligations pursuant to Art. VI GPTC

In the event of withdrawal, TEDOM returns only that part of the performance, which is technically feasible to return. Seller is entitled to obtain an aliquot part of the purchase price reduced by **10 %** for unreturned part.

#### **XIII. ASSESSMENT OF SELLER, AUDIT BY CUSTOMER**

Seller accepts that TEDOM assesses Seller in next parameters: compliance with the required quality, the specification, delivery terms, the price and the due date of an invoice, the environmental care. The violation of these parameters can cause to an extra supervision on Seller or even excluding of Seller from the list of approved Sellers. TEDOM is entitled to carry out the customer's audit at Seller with aim to prove keeping of processes that guarantee sustainable quality of delivery of goods as well as to prove meeting processes pursuant to Environmental Management Policy. Seller is obliged to let TEDOM perform this audit within 10 days from the date of notification of the intention to provide this audit.

#### **XIV. JURISDICTION**

Any disputes arising from this contractual relationship will be judged by the competent court of the Czech Republic pursuant to the laws in force in accordance with all the documentation, which was drawn up in connection with the business case. The contractual relationship will be governed by the law of the Czech Republic. Any disputes shall be resolved amicably on

a priority basis, in the event of failure they shall be presented to the competent court of the Czech Republic pursuant to the headquarters of TEDOM.

Date:

On behalf of Seller .....

Name, Position, Signature