

## **MOTEG GmbH General Procurement Terms and Conditions**

### **§ 1 Validity / Form Requirements**

1.1. These General Terms and Conditions of Purchase (GTCP) apply exclusively to contracts between the supplier (contractor) and Moteg GmbH (client), in which Moteg GmbH is the purchaser, buyer, or client regarding the acquisition of materials, goods, products, and all related services.

1.2. These conditions apply only to entrepreneurs (§ 14 BGB), legal entities under public law, or a special fund under public law within the meaning of § 310 (1) sentence 1 BGB.

1.3. Deviating, conflicting, or supplementary terms and conditions of the contractor do not apply, even if the client does not expressly object to them in individual cases. The unconditional acceptance of order confirmations or deliveries by the client does not constitute recognition of such conditions. The contractor acknowledges the client's terms and conditions as part of the contract either by confirming the order or at the latest by executing the order or delivery. These GTCP also apply to all future orders by the client without needing to be referred to each time.

1.4. Individual agreements with the contractor (including collateral agreements, supplements, and amendments) take precedence over these GTCP. All legally relevant or binding declarations of the client require text form unless otherwise specified in the document.

1.5. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, statutory provisions apply unless they are directly modified or explicitly excluded in these GTCP.

1.6. A failure or omission by the client to assert or exercise their rights does not constitute a waiver of those rights in the future.

1.7. The Contractor and the Client shall nominate contact persons to coordinate questions concerning the implementation of the contract. In the event of absence due to vacation, illness, etc., substitute persons must be named. The parties shall notify each other immediately of any changes in the named persons. Until receipt of such notification, the previously named contact persons are considered authorised to make and receive declarations within the scope of their previous power of representation.

1.8. The contract language is German. The Contractor shall submit all written information and declarations in German. If the Client has given its express consent, the Contractor may present information and declarations in English. However, only the respective German version shall be binding; the English translation shall be for information purposes only.

### **§ 2 Inquiries / Offers**

2.1. Inquiries are non-binding and do not oblige the client to accept any services. The preparation of offers or projects by the contractor is generally free of charge unless expressly agreed otherwise in writing. The prepared offers are binding with a validity period of 4 weeks from submission.

2.2. The client retains ownership of the inquiry documents. The contractor must return the order documents with the offer. Retaining these documents, making copies for personal use, or publishing them is not permitted. In case of violations, the client may claim damages. The contractor expressly acknowledges this right by accepting the inquiry documents

2.3. The contractor remains solely responsible for any drawings, plans, and calculations created, even if approved by the client.

2.4. With each offer from the Client, the Contractor commits, in view of its expertise, to independently check the specification and requirements for the service, taking into account the communicated or recognizable intended use and other information from the Client, also for completeness, consistency, errors and mistakes, and to communicate to the Client immediately and in writing before and at the latest with the submission of the offer. This also applies if such reservations, concerns or restrictions arise before or during pre-series or series production. The Contractor shall take into account that the goods/products of the Client are distributed and used worldwide.

2.5. In its offer, the Contractor shall take into account all its own requirements and those of the Client and submit a complete offer to the Client.

2.6. The Contractor shall at all times during the term of the contract endeavour to maintain a technology, quality and price level with regard to the manufacture and sale of its services or goods that is at least as competitive as that of other manufacturers of similar goods and services for the intended applications.

### **§ 3 Orders**

3.1. Only orders placed or confirmed in writing by the Client shall be effective. Any changes and additions require written confirmation in order to be valid. The Contractor must inform the Client before accepting the order if there are incompleteness or obvious errors in the order, including the order documents, so that these can be corrected; otherwise the

contract shall be deemed not to have been concluded.

3.2. An order is also considered "in writing" if it is made with the help of automatic devices without signature and reproduction of name. Orders shall be sent via email or fax. Silence on the part of the Client in response to requests, offers or other declarations of the Contractor shall only be deemed to be consent after express written confirmation.

3.3. The Client shall be bound to orders for 7 days from the order date, unless otherwise agreed. Delayed acceptance shall be deemed a new offer and requires acceptance by the Client. The Contractor shall confirm all orders in writing within one week.

3.4. In the case of annual or blanket orders, the delivery quantity shall be specified by the Client through separate call-offs. In this case, the Client's purchase obligations shall be governed by separate contractual terms and conditions.

### **§ 4 Prices**

4.1. The prices agreed and stated in the order are fixed prices and, unless otherwise agreed, shall apply until delivery of the ordered quantity. If no prices are stated in the order, they must be communicated to the Client for approval in good time before delivery.

4.2. The price includes all activities and obligations of the Contractor on the occasion of and in connection with the provision of the service and the place of delivery specified in the order with applicable agreements and the delivery condition DDP (INCOTERMS2020), including packaging, unless expressly agreed otherwise in writing. The statutory value-added tax is not included in the prices. It shall be shown separately in the

invoice at the statutory rate on the day of invoicing.

4.3. In the event of price reductions or increases in discounts, the Contractor undertakes to allow these price advantages to take effect for the Client, even for current orders, without being requested to do so.

## **§ 5 Delivery Modalities/Default/ Contractual Penalty/Subcontractors**

5.1. Delivery shall be made under DDP (INCOTERMS2020).

5.2. The agreed or determined delivery and service dates are binding and must be adhered to. If a delivery period has been agreed on, it shall commence on the date of the order. The day of arrival of the goods at the place of fulfilment shall be decisive for compliance with the delivery date.

5.3. The place of fulfilment of the Contractor's services shall always be the place of receipt specified in the Client's order letter. If no place of receipt is specified in the Client's order letter, the place of destination shall be the Client's plant in Handewitt.

5.4. If the Contractor or the transport person is supported by the Client's employees in loading or unloading, without the loading or unloading being part of the Client's contractual obligations, the Client's employees shall act only as auxiliary persons of the Contractor or the transport person. The Client shall not be liable for loading or unloading damage, except in cases of gross negligence, intent or damage to life, body and health.

5.5. Delays in delivery recognisable to the Contractor as well as possible quality defects or quantity deviations must be communicated to the Client immediately, stating the reasons and suitable countermeasures. The Contractor shall

compensate the Client for any damage caused by delay. If deadlines are exceeded, the Contractor shall be in default without further reminder, unless it is not responsible for the delivery delay. In the event of default, the Client shall be entitled, after unsuccessful setting of an appropriate grace period, at its choice:

- To demand subsequent delivery and compensation for the damage caused by the delay,
- To carry out the service provided by the Contractor itself or
- To have a third party carry out the work at the expense of the Contractor,
- To withdraw from the contract, and/or
- To demand compensation for damages instead of delivery, or
- To demand compensation for futile expenses instead of damages, instead of delivery.

Setting a grace period is dispensable if this appears justified under the circumstances, weighing the interests of both parties (§§ 281 para. 2, 323 para. 2 BGB). The Client's right of withdrawal in the event of delivery delays does not require the Contractor to be responsible for the delivery delay.

5.6. The fact that the Contractor is not responsible for the delay in delivery in the sense of force majeure is described in Clause 15 "Force Majeure" and applies adequately.

5.7. The unconditional acceptance of the delayed delivery or service does not constitute a waiver of the compensation claim to which the Client is entitled due to the delayed delivery or service; this shall apply until full payment of the remuneration owed by the Client for the delivery or service concerned.

5.8. In addition, the Client has the right to demand a contractual penalty of 0.5%,

however, not more than 5% in total of the new value of the goods delivered late. It can be claimed until the final invoice is issued, even if the Client did not expressly reserve the right to do so when accepting the late delivery.

5.9. The present agreement of the contractual penalty and its assertion shall not affect the contractual and statutory claims and rights due to default to which the Client is entitled. The contractual penalty shall be set off against the damages for delay to be compensated by the Contractor.

5.10. The Contractor shall only invoke the absence of necessary documents, information, materials, and packaging to be supplied by the Client if it has demanded these in writing and has not received them within a reasonable period of time.

5.11. If the Contractor delivers earlier than agreed, the Client shall have the right, at its discretion:

- To return the goods at the Contractor's expense or
- To store the delivery at the Contractor's expense and risk.

5.12. The agreed quantities must be strictly adhered to. In the event of over-delivery, the Contractor shall immediately take back the excess quantity delivered at its own expense and compensate the Client for damage resulting from the excess delivery. In the event of short deliveries, the Client shall have the right to refuse acceptance of the delivery and/or to claim damages. However, the Client shall only demand compensation for damages instead of full performance if it has no interest in the partial performance.

5.13. Shipping documents and delivery notes with a precise description of the contents, stating the order number, the order date, the part number, part

description as well as the delivery location must be sent to the ordering office and the receiving point. The Contractor shall be liable for incorrect, incomplete and late incoming shipping documents.

5.14. Data sheets and, in the case of hazardous substances, safety data sheets must be supplied by the Contractor if available.

5.15. Dispatch notes or delivery notes signed by the Client shall only be regarded as confirmation of receipt of delivery without acknowledgement of their freedom from defects, completeness or fulfilment of the order.

5.16. Unless otherwise agreed, goods shall be delivered on Monday to Thursday between 6:15 and 15:00 and Friday between 6:15 and 14:00. Goods shall not be accepted on Saturdays, Sundays and public holidays.

5.17. The Contractor shall not be authorised to have the service owed by it performed by third parties (e.g. subcontractors), without the prior written consent of the Client.

5.18. In the event the Contractor uses third parties (e.g. subcontractors or suppliers) to fulfil the contract, these shall be considered the Contractor's vicarious agents.

## **§ 6 Shipping / Packaging**

6.1. Unless otherwise agreed, goods and services must be packaged in a customary, appropriate and recyclable manner. The Contractor shall inform the Client in writing in advance of possible risks associated with the Customer's packaging requirements. In addition, the Contractor agrees to take back the packaging at its own expense and risk.

6.2. The packaging units must be clearly marked with part number, part designation and quantities. Additional costs incurred due to non-compliance with agreed shipping instructions or express shipments for which the Contractor is responsible shall be borne by the Contractor.

### **§ 7 Payment Terms/ Prohibition of Assignment**

7.1. An invoice which fulfils the requirements of §§ 14, 14a UStG (Value Added Tax Act) must be transmitted to the Client electronically without delay for each delivery. The Client agrees to the electronic transmission in accordance with § 14 para. 1 sentence 7 UStG. In the invoice, the Contractor must specify in particular the order number, order date, project number, part number and description. The value-added tax (VAT) must be shown separately on the invoice in accordance with tax regulations. If the Contractor does not issue a proper invoice, the Client is entitled to reject the invoice.

7.2. The payment period shall generally only commence upon receipt of the goods, the proper delivery notes, any test certificates required in accordance with section 8 or 9.2, and upon submission of the proper invoice. If the Contractor delivers earlier than agreed, the payment period shall commence, in addition to the aforementioned conditions, at the earliest from the agreed delivery and performance date.

7.3. The Client shall not owe any interest on arrears. The statutory provisions shall apply to default in payment.

7.4. The place of payment shall be Handewitt. Payment by the Clients shall be made either within 14 days less 2% discount or within 30 days without deduction.

7.5. The Client shall make payments in payment methods of its choice. The client is entitled to set-off and retention rights as well as the defence of non-performance of the contract to the extent permitted by law. The Client is in particular entitled to withhold due payments as long as it is still entitled to claims from incomplete or defective services against the Contractor. The Contractor has a right of set-off or retention only on the basis of legally established or undisputed counterclaims. The declaration of payment or payment of an invoice from the Contractor does not constitute confirmatory acknowledgement of debt of the claim.

7.6. The Client shall become the owner of the delivery items at the latest upon payment.

7.7. Monetary claims arising from the respective order may only be assigned to third parties with the written consent of the Client.

7.8. Every payment shall be subject to invoice verification. Promissory letter

### **§ 8 Export Control/Customs**

8.1. The Contractor is obliged to inform the Client about any licensing requirements for (re-)exports of its goods in accordance German, European, US export and customs regulations as well as the export and customs regulations of the country of origin of its goods in its business documents. To this end, the Contractor shall provide the following information at least in its offers, order confirmations and invoices for the relevant goods:

- The export list number in accordance with Annex AL to the German Foreign Trade and Payment Ordinance or comparable list items of relevant export lists,

- For US goods, the ECCN (Export Control Classification Number) in accordance with the US Export Administration Regulations (EAR),
  - The commercial origin of its goods and the components of its goods, including technology and software,
  - Whether the goods were transported through the USA, manufactured or stored in the USA, or manufactured with the help of US technology,
  - The commodity code (HS code) of its goods, and
  - A contact person in its company for clarification of any queries from the Client.

8.2. Upon request of the Client, the Contractor shall be obliged to inform the Client in writing of all further foreign trade data relating to its goods and their components and to inform the Client immediately (before delivery of the goods concerned) in writing about all changes to the above data.

8.3. In principle, the Contractor must comply with all import regulations for deliveries to the Client and independently carry out the corresponding customs procedures and pay the costs incurred in this regard.

### **§ 9 Quality / Quality Assurance**

9.1. The delivered goods must correspond to the documents on which the order is based, such as drawings, specifications, initial samples, etc.

9.2. The Contractor must provide evidence of a functioning quality assurance system, documented in a quality assurance manual. The Contractor shall ensure through acceptance/testing that the deliveries comply with relevant DIN/EN and technical values/regulations. If the Client

requests quality certificates and test certificates in the order, the Contract must attach the as originals to the delivery or send them separately electronically to the Client. The Contractor shall archive the test, measurement and inspection results for the Client within the scope of the statutory retention obligations and make them accessible to the Client. Therefore, the allocation and the possibility of traceability must be ensured.

### **§ 10 Compliance and Audit Rights**

10.1. The Contractor is committed to a corruption-free business environment. The Contractor undertakes to refrain from corrupt behaviour and other punishable acts and to take all necessary measures to avoid them. The Contractor further undertakes to ensure that throughout the entire supply chain of the delivery items, legal regulations, in particular the Supply Chain Duty of Care Act, and internationally recognized standards for environmental protection and respect for human rights, in particular prohibitions of child and forced labour and discrimination, regulations on minimum wages as well as safety and fundamental rights of workers, are observed. At the request of the Client, the Contractor shall provide evidence of compliance with these obligations by procuring and transmitting suitable documents. The Contractor is also obliged to commit its subcontractors to comply with the aforementioned compliance regulations. The Client shall be entitled to withdraw from the contract and claim damages in the event of a lack of proof or a breach of the aforementioned compliance regulations.

10.2. The Client or a third party authorised by the Client and bound to confidentiality shall have the right, after prior notification during the Contractor's business hours, to conduct an audit at the Contractor's premises with regard to the

services to be rendered and obligations to be fulfilled by the Contractor in accordance with these Terms and Conditions of Purchase and with regard to the concluded contract and to inspect the delivery items located at the Contractor's premises. For this purpose, the Contractor shall grant the Client or the third party commissioned by the Client, who is obliged to maintain confidentiality, access to its site and - insofar as is necessary and reasonable - shall permit the conduction of investigations in connection with the fulfilment of the contract. All business secrets of the Contractor are subject to the confidentiality agreement concluded between the Client and the Contractor.

#### **§ 11 Provision of Drawings/ Initial Samples /Tools /Material Supplies**

11.1. The Client reserves the right of ownership and copyright to all documents, information and aids (e.g. documents, plans, drawings, calculations, illustrations, initial samples, specimens, models, designs and similar items) and their electronic storage as well as confidential concepts and ideas that are made available to the Contractor or paid for by the Client ("Documents"). Such documents may not be handed over or otherwise made accessible to unauthorised third parties and must be returned to the Client after completion of the contract or destroyed or deleted upon the Client's request. In this case, the Client shall be provided with a corresponding confirmation of destruction or deletion. Insofar as such deletion is only possible with unreasonable technical effort, (in particular the deletion of backups) the Contractor shall be obliged to secure these documents in such a way that misuse and unauthorised access are excluded. Duplication of such items is only permitted within the scope of operational requirements and copyright provisions.

11.2. The obligation to maintain confidentiality shall also apply after termination of the contractual relationship.

#### **§ 12 Confidentiality /Third Party Rights /Advertising**

12.1. The Contractor and the Client undertake to keep the order and the resulting work, documents and technical as well as commercial order data as business secrets within the meaning of § 2 GeschGehG. Subcontractors shall be bound accordingly. Any other use, in particular for advertising purposes, requires the prior written consent of the Client. Similarly, publications of work results require the prior express authorisation of the client.

12.2. The Contractor is obliged to deliver the purchased item free of third party rights. The Contractor must indemnify the Client against claims arising from the infringement of industrial property rights in the European Union and in other countries to which the goods are delivered with knowledge of the Contractor, upon first written request and compensate the Client for the damage incurred. The reasonable costs of any legal disputes with third parties regarding property rights shall be borne by the Contractor.

#### **§ 13 Warranty /Defect Removal/ Guarantee /Supplier Recourse**

13.1. The statutory provisions shall apply to the warranty, unless otherwise stipulated below.

13.2. In particular, the Contractor shall be liable for ensuring that the delivery items have the agreed quality upon transfer of risk to the Client. Quality agreements contain the order, as well as product descriptions, drawings, initial samples and quality requirements which - in particular by reference in the Client's order or other written correspondence in the course of the order - have become the subject of the

contract. This applies insofar as the Contractor has not expressly objected to the contents of the product descriptions, drawings, initial samples and quality requirements. It makes no difference whether the product description originates from the Client, the Contractor or the manufacturer.

13.3. In particular, it is agreed that:

- The delivered items are manufactured from the flawless materials specified in the documents containing the quality agreements,
- The delivered items possess the agreed properties according to the specification in the documents containing quality agreements,
- The delivered items have been manufactured according to the latest state of science and technology, in compliance with European standards such as REACH, RoHS, etc.,
- The DIN/EN standards valid on the day of delivery have been complied with,
- The delivered items comply with the legal regulations, accident prevention regulations, relevant ordinances, directives and standards of authorities and professional associations valid on the day of delivery,
- No design and manufacturing defects are present, and
- Delivery is made in the quantities, dimensions and quality specified in the order or in the documents containing quality agreements.

13.4. The statutory provisions (§§ 377, 381 of the German Commercial Code (HGB)) shall apply to the commercial inspection and complaint obligations with the following proviso: The Client's examination obligation is limited to defects that become apparent during the incoming goods inspection under external

examination, including the delivery documents (e.g. transport damage, incorrect and short delivery) or are recognizable during quality control by random sampling. Insofar as acceptance is agreed or legally provided, there is no examination obligation. Otherwise, it depends on the extent to which an inspection, taking into account the circumstances of the individual case, is feasible in the ordinary course of business. The obligation to give notice of defects discovered later remains unaffected. Notwithstanding the duty to inspect, a complaint (notification of defect) shall be deemed to have been made immediately and timely if it is sent within seven working days of discovery or, in the case of apparent defects, of delivery.

13.5. If an item is defective, the Contractor shall, at its own expense and the Client's discretion, provide subsequent performance through repair or replacement.

13.6. In the event of rectification or replacement delivery of individual parts within the scope of the warranty, the warranty period for the respective parts shall begin anew for the respective parts, unless the Client had to assume from the behaviour of the Contractor that the latter did not consider itself obligated to the measures, but only undertook the replacement delivery or rectification of defects as a gesture of goodwill or similar reasons.

13.7. Furthermore, in the event of defective delivery, the Client may, after unsuccessful setting of a period for subsequent performance according to §§ 650 sentence 1, 437 BGB:

- Carry out repairs or replacement deliveries at the Contractor's expense or have them carried out by third parties or

- Declare a reduction in price or cancellation and
- Claim damages or demand compensation or reimbursement for futile expenses.

It is not necessary to set a deadline if the debtor refuses subsequent performance or if a waiver of the deadline is justified under the circumstances, taking into account the interests of both parties. The Client shall not be entitled to claim damages if the Contractor proves that it is not responsible for the defect.

13.8. The Contractor shall collect the defective goods from the Client immediately after notification of the defects has been made. The Client shall store the delivery for the Contractor for one week from receipt of the notice of defect by the Contractor. After expiry of this storage period, the Client's obligation to store the goods shall end and the Contractor shall be in default of acceptance. The Client shall then be entitled to return the goods to the Contractor at the Contractor's risk and expense. § 379 HGB remains unaffected. The reworking rate for reworking at the Client's premises shall be EUR 80.00 per hour. The Contractor's right to prove a lower damage remains unaffected.

13.9. The unconditional acceptance of delivery as well as payment, processing and reordering shall not constitute approval of the delivery or a waiver of claims for defects.

13.10. The Contractor shall be responsible for the fault of its subcontractors as if it were its own fault.

13.11. Changes to materials, components, dimensions or manufacturing processes must be notified to the Client by the Contractor at least six months prior to the implementation of such intended measures

and shall only be permissible after the Client's express written consent.

13.12. The Contractor undertakes to keep spare parts for the products delivered to the Client available for a period of at least 10 years after delivery. If the Contractor intends to discontinue production of spare parts for the products delivered to the Client, it shall notify the Client immediately after the decision on the discontinuation. Subject to the above clause, this decision must be made at least 6 months before production is discontinued.

#### **§ 14 Product Liability**

14.1. If product liability claims are asserted against the Client, the Contractor shall indemnify the Client insofar as and to the extent that the damage was caused by a defect in the goods delivered by the Contractor. In cases of strict liability, however, this shall only apply if the Contractor is at fault. If the cause of the damage lies within the Contractor's sphere of responsibility, the Contractor shall bear the burden of proof in this respect.

14.2. In this context, the Contractor shall also be obliged to reimburse the Client for any expenses arising from or in connection with a recall action carried out by the Client. The Client shall inform the Contractor accordingly of any recall measures to be carried out in order for the Contractor to fulfil its obligations towards the Client. The Contractor is obliged to insure itself adequately against the consequences of defective delivery (min. 5 million € product liability insurance lump sum for personal injury and property damage maximised twice per insurance year and min. 2.5 million € per recall for all recalls in an insurance year).

#### **§ 15 Force Majeure**

15.1. The hindrance of the Client in fulfilling contractual obligations due to force

majeure shall not give rise to a claim for damages by the Contractor. This provision shall also apply to hindrances to the Client caused by industrial action, official measures, energy shortages as well as significant operational disruptions.

15.2. In the event that the hindrance lasts longer than three months, the Client shall be entitled to withdraw from the contract partially or completely.

### **§ 16 Limitation**

16.1. The limitation period for reciprocal claims of the contracting parties shall be governed by the statutory provisions, unless otherwise stipulated below or in Clause 12. Notwithstanding § 438 para. 1 no. 3 BGB, the limitation period is 3 years from the transfer of risk.

16.2. In the event that the Contractor repeatedly behaves in a manner contrary to the law despite being notified to do so and does not prove that the breach of the law has been remedied as far as possible and that appropriate precautions have been taken to avoid future violations of the law, the Client reserves the right to withdraw from existing contracts or terminate them without notice.

### **§ 17 Data Protection**

The parties shall process all personal data in compliance with the applicable data protection regulations, in particular the General Data Protection Regulation "GDPR" and the Federal Data Protection Act "DSGVO". The Contractor can find more detailed information from the Client on the processing of its personal data at <https://www.moteq.de/datenschutz/>

### **§ 18 Jurisdiction / Applicable Law**

16.1. The place of jurisdiction for all contractual disputes shall be the place of the Client's registered office. However, the

Client shall also be free to take legal action at another competent court.

16.2. The law of the Federal Republic of Germany shall apply exclusively, excluding the conflict of laws as well as all international and supranational (contractual) legal systems, in particular the United Nations Convention on Contracts for the International Sale of Goods (CISG).

### **§ 19 Severability Clause**

Should a provision of these GTCP be or become wholly or partially invalid, illegal or unenforceable, the legal validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a valid provision that comes as close as possible to the economic and practical intention of the Client and the Contractor.