

## GENERAL PURCHASING CONDITIONS OF TBS GLOBAL B.V.

### Article 1 **Definitions**

- 1.1 In these General Conditions of Purchase (hereinafter referred to as "**Purchasing Conditions**") the following definitions shall apply:
- (a) "**The Purchased Items**": the products and/or the performance of services and/or work relating thereto included therein;
  - (b) "**Order**": the order from TBS Global to Seller to supply The Purchased Items to TBS Global;
  - (c) "**Contract**": the agreement entered into between the parties to which these Purchasing Conditions apply;
  - (d) "**Seller**": the person to whom TBS Global issues the Order or the person who supplies The Purchased Items to TBS Global;
  - (e) "**TBS Global**": the private company with limited liability TBS Global B.V., having its registered office in Rotterdam, registered in the Trade Register of the Chamber of Commerce under number 87477777 user of these Purchasing Conditions.

### Article 2 **Applicability of these conditions and terms**

- 2.1 These Terms and Conditions apply to every enquiry and Order issued by TBS Global, every offer and quotation made by the Seller and every contract between TBS Global and the Seller, whereby TBS Global acts as principal and/or acquirer of goods, services and/or related items.
- 2.2 These Purchasing Conditions also apply to all contracts with TBS Global, the performance of which requires the involvement of third parties.
- 2.3 TBS Global is at all times entitled to amend and revise the text of these Purchasing Conditions. In that case the latest text of these Purchasing Conditions will always apply.
- 2.4 The applicability of any general terms and conditions of the Seller is expressly rejected by TBS Global.
- 2.5 In the event that the Purchasing Conditions and the Contract contain conflicting clauses, the Contract will prevail.

- 2.6 If one or more provisions of these Purchasing Conditions are null and void or annulled, the other provisions of these Purchasing Conditions shall remain fully applicable. TBS Global and the seller will then consult to agree on new provisions to replace the void or voided provisions, whereby if possible the purpose and meaning of the original provisions will be observed.

### **Article 3 Quotations/offers, formation of the Contract**

- 3.1 A request from TBS Global is followed by an offer or quotation from the Seller. If an Order follows an offer or quotation by the Seller, the Contract shall come into existence at the time the Order is dispatched by TBS Global. TBS Global is entitled to withdraw the application at any time. Furthermore, TBS Global is entitled to cancel an Order within 5 (five) days.
- 3.2 An application issued by TBS Global is valid for 14 (fourteen) days unless otherwise specified in the application.
- 3.3 If the Order is given by TBS Global without a prior offer or quotation from the Seller, the Contract shall nevertheless be formed if either a (job) confirmation from the Seller is received by TBS Global within five (5) days of the quotation being sent or the Seller executes the Order within this period in accordance with the Order. TBS Global reserves the right -even after confirmation of the Order by the Seller- to revoke the Order within five (5) working days, without being liable to pay any compensation to the Seller.
- 3.4 If the Seller provides TBS Global with any data, drawings, models, examples or other forms of information, however named, TBS Global may assume the accuracy thereof and shall be entitled to base its enquiry and Order thereon. TBS Global is not obliged to examine the accuracy of the information provided by the Seller.
- 3.5 The Seller shall ensure that all information which TBS Global indicates is necessary or which the Seller should reasonably understand is necessary for the performance of the Agreement is provided to TBS Global in good time. If the data required for the performance of the Agreement are not provided to TBS Global in time, TBS Global shall have the right to suspend the performance of the Agreement and/or to charge the Seller for the additional costs resulting from the delay in accordance with its usual rates.
- 3.6 Any supplementary agreements or amendments made at a later date, as well as (verbal) agreements and/or undertakings made by TBS Global's personnel or on behalf of TBS Global by sellers, agents, representatives or other intermediaries, shall bind TBS Global only if and insofar as they have been confirmed in writing by TBS Global by authorised persons.
- 3.7 Changes to the Order, including expansion or contraction of the Purchased Items and related work, shall come into effect at the time of dispatch of the change by TBS Global, unless the Seller objects to the change in writing, giving reasons, within eight (8) days of dispatch.

- 3.8 The Agreement supersedes and replaces all previous proposals, correspondence, agreements or other communications, whether written or oral.
- 3.9 Without the written consent of TBS Global, the Seller is not permitted to subcontract its obligations under the Contract to third parties.

#### *Article 4* **Price/price increase**

- 4.1 The prices agreed between the Seller and TBS Global are fixed and cannot be unilaterally changed by the Seller. Quoted prices are in euros and are exclusive of VAT.
- 4.2 Any changes in inter alia, but not exclusively, import duties, air freight rates, customs tariffs, transport prices, exchange rates and the like cannot be passed on by Seller to TBS Global.

#### *Article 5* **Payment**

- 5.1 Unless otherwise agreed in writing, payments shall be made no later than 60 (sixty) calendar days after receipt of the invoice, provided that receipt and approval of the Purchased Articles and - to the extent applicable - receipt of all related documentation, drawings, quality and warranty certificates by TBS Global has taken place. Seller shall send an invoice within 7 (seven) calendar days after delivery of the Purchased Items, failing which TBS Global's payment obligation shall lapse.
- 5.2 TBS Global is at all times entitled, in the case of partial payments, to require such security for the fulfilment of the Seller's (remaining) obligations as it deems sufficient before payment is made. Refusal by the Seller to provide the required security shall entitle TBS Global to dissolve the Contract without being obliged to pay any compensation to the Seller, without prejudice to TBS Global's right to full compensation.
- 5.3 TBS Global is at all times authorised to set off all that it owes to the Seller, whether or not due and payable, conditionally or temporally, against all that the Seller owes to TBS Global. The Seller shall never be authorised to set off any obligation on its part, whether or not due and payable, against any obligation of TBS Global to the Seller.
- 5.4 Payment by TBS Global in no way implies waiver of any right or approval of the Purchased Items.

#### *Article 6* **Delivery**

- 6.1 Delivery of the Purchased Items by the Seller shall take place at the agreed place, punctually at the agreed time and within the agreed period. The delivery times agreed between TBS Global and the Seller are strict deadlines, unless expressly agreed otherwise in writing.

- 6.2 As soon as the Seller knows or ought to know that the delivery or supply will not take place, will not take place on time, or will not take place properly, it shall immediately inform TBS Global thereof in writing, stating the circumstances giving rise to such non-performance. If TBS Global considers the delay thus announced unacceptable, it may dissolve the relevant Contract without judicial intervention by means of a written statement, without being liable to pay any compensation to the Seller.
- 6.3 The time of delivery of the Purchased Items is the time at which the Purchased Items are received by TBS Global. Receipt of the Goods purchased does not imply acknowledgement of their soundness.
- 6.4 Until TBS Global has taken delivery of the Purchased Articles, they are at the risk of the Seller. In the event that the delivery is returned by TBS Global, then the risk of the relevant Articles shall rest with the Seller from the time of despatch by TBS Global.
- 6.5 Deliveries earlier than agreed may be refused by TBS Global.

**Article 7 Transport, risk and quality**

- 7.1 Packaging and transport of the Purchased Items shall be at the sole expense and risk of the Seller. Seller shall take out adequate insurance against this risk.
- 7.2 The method of transport, shipment and packaging shall, if no further order has been issued by TBS Global, be determined by the Seller as a good contractor, in compliance with the applicable statutory regulations. In any event, the following specifications shall be stated on the packaging:
- (a) the product name;
  - (b) batch or serial number;
  - (c) net, gross and total weight;
  - (d) "track-and-trace information";
  - (e) any further specifications required by TBS Global.
- 7.3 Without prejudice to the provisions of Article 8, the Seller warrants that the goods supplied and the production process are of good quality and comply with all applicable industry requirements and statutory regulations. The Seller shall take out adequate product liability insurance and provide TBS Global with a copy of the policy at its first request. If in its opinion TBS Global is forced to take measures to prevent (further) damage (e.g. instituting a "Recall Action"), Seller shall be liable for all costs and damages incurred and suffered in connection with such measures. The Seller furthermore guarantees that the goods comply with all European and Dutch (consumer) safety requirements (this therefore applies, inter alia, to composition and design).

- 7.4 All goods delivered to TBS Global must be properly packaged. The Seller must supply products for which the (plastic) packaging applies that PVC is not permitted as packaging material. The Seller shall be liable for damage caused by insufficient and/or faulty packaging. If the packaging must be modified, these costs shall be borne by the Seller.
- 7.5 TBS Global is committed to making the entire chain transparent and then continuously sustainable all the way to the source. Suppliers should cooperate with TBS Global to make the entire supply chain behind their product transparent and understandable. TBS Global will request this transparency by completing questionnaires on various aspects of the production conditions of your own production and those of its suppliers.
- 7.6 TBS Global finds the use of child labour and/or forced labour unacceptable. We expect our suppliers to also not accept these things from their suppliers and to include this in their supplier contracts. Seller therefore guarantees that no child or slave labour is involved in the production and transportation of the goods.

#### *Article 8* **Guarantee**

- 8.1 Seller warrants that the Purchased Items:
- (a) comply with the Agreement;
  - (b) comply with applicable laws and regulations;
  - (c) are suitable for their intended use, are of good quality and have no defects.
- 8.2 If at or after delivery it is discovered that the Purchased Items wholly or partly do not comply with the provisions of the first paragraph of this Article, Seller shall remedy the defects within a reasonable period of time by repairing the defective items and/or replacing the items and/or by means of an additional delivery of the items. All costs incurred for this will be borne by Seller.
- 8.3 If Seller fails to comply with its warranty obligations under this Article within a reasonable period set by TBS Global, TBS Global shall be entitled to carry out the necessary repairs itself or to have them carried out by a third party or to purchase replacement and/or additional goods and/or services from a third party, all at Seller's expense.

#### *Article 9* **Intellectual Property**

- 9.1 The Seller warrants that the use by TBS Global, including resale, of the purchased Articles will not infringe any intellectual property right or other right of any third party. To the extent that the Articles purchased are subject to an intellectual or industrial property right of a third party, the Seller shall ensure that TBS Global acquires the right of use without incurring any additional costs for TBS Global beyond the agreed purchase price. TBS Global is entitled to agree the right of use directly with the relevant third party or parties at the Seller's expense.

- 9.2 If it appears that the use by TBS Global, as referred to in the first paragraph, infringes or threatens to infringe any (intellectual or industrial property) right of a third party, the Seller shall have the obligation to: either, replace the Purchased Items concerned with equivalent goods that do not infringe any third party rights; or, modify the Purchased Items concerned in such a way that the infringement is removed, all: in consultation with TBS Global, and without incurring additional costs for TBS Global beyond the agreed purchase price; and without the possibilities for use being more limited than those of the Purchased Items originally to be supplied.
- 9.3 The Seller shall indemnify TBS Global against claims for compensation or penalties arising from any infringement of third party (intellectual or industrial property) rights.
- 9.4 TBS Global is entitled, if third parties hold TBS Global liable in respect of infringement of (intellectual or industrial property) rights, to dissolve the Contract in writing, out of court, in whole or in part, without prejudice to its other rights.

#### *Article 10* **Liability and indemnification**

- 10.1 The Seller is obliged to indemnify TBS Global in respect of-and to hold TBS Global harmless from-any claim by TBS Global or any third party relating to the sale and/or delivery of the Purchased Items. The Seller shall be liable to compensate TBS Global for all damages, losses, costs and charges that TBS Global may incur in respect of such claim, including but not limited to attorney's fees and all other legal costs and charges.
- 10.2 TBS Global shall not be liable to compensate any loss suffered by the Seller as a result of its acts or omissions, except to the extent that such loss is the result of wilful intent or wilful recklessness on the part of TBS Global or its management.
- 10.3 TBS Global will never be liable for any loss of any nature whatsoever resulting from incorrect and/or incomplete information provided by the Seller.
- 10.4 The Seller indemnifies TBS Global against any claims of third parties who suffer damage in connection with the performance of the Contract.

#### *Article 11* **Termination / dissolution**

- 11.1 TBS Global may terminate all or part of the Contract without notice of default and without judicial intervention by written notice with immediate effect if:
- (a) the Seller loses the free administration or free disposal of its goods or part thereof, in particular in the event of bankruptcy, application for a moratorium on payments or if its goods are seized in whole or in part by third parties, not including prejudgment attachment;
  - (b) Seller fails to strictly comply with the terms of this Agreement or acts in breach thereof;

- (c) if after the conclusion of the agreement circumstances come to the knowledge of TBS Global which give TBS Global good reason to fear that Seller will not fulfil its obligations.
- 11.2 In the cases referred to above, TBS Global is authorised to suspend its payments or to dissolve the Contract, all without prejudice to TBS Global's right to claim damages.
- 11.3 Upon termination of the Agreement, each of the parties shall immediately hand over to the other party all goods, items and documents in its possession that belong to the other party.

*Article 12* **Settlement of disputes, choice of forum**

- 12.1 The Contract or any Order placed by TBS Global is governed exclusively by Dutch law. The applicability of the Vienna Sales Convention (C.I.S.G.) is expressly excluded as is the applicability of other international treaties and/or regulations.
- 12.2 All disputes (including those regarded as such by only one of the parties) which may arise between the parties in connection with this Contract or any contracts arising from it shall be settled exclusively by the competent court in the district of Rotterdam.
- 12.3 TBS Global is entitled to opt for another form of dispute resolution, including but not limited to arbitration or mediation.