

General terms and conditions of purchase, 30.11.2019

General

These General terms and conditions of purchase (hereinafter referred as GTCp) shall apply to any delivery of Goods between an entity of SIJ – SLOVENSKA INDUSTRIJA JEKLA, D.D. group (hereinafter as the Purchaser) and the Supplier of the Goods (hereinafter as the Supplier) and shall further apply to any purchase order of Goods (hereinafter Purchase order) on a standalone basis, unless it has been agreed otherwise by the Parties in writing.

Any provisions or conditions, stipulated by the Supplier will be applicable only if confirmed in written form. Neither the fact, that the Purchaser does not expressly object to the Supplier's conditions or provisions, nor any conclusive act, such as acceptance of the Goods or payment shall be construed as acknowledgement of Supplier's conditions or provisions.

Purchase order and scope of Agreement

The Purchaser shall issue Purchase order specifying the Goods to be delivered, delivery term and specific purpose of use, if any. Supplier shall within 5 working days reject Purchase order, otherwise Purchase order shall be deemed accepted.

All documents by the Supplier shall include reference to Purchaser order no., tariff code, and country of origin for the Goods.

The Purchaser shall not be bound by Purchase order, if the Supplier confirmation or acceptance contains any changes from the Purchase Order.

Supplier's scope of Agreement comprises of manufacturing, assembly, testing, supply at the agreed Place of delivery and rendering other services for proper execution of Purchase order. Scope of Agreement shall include also, without additional charge to the Purchaser, all relevant information of the origin, manufacturing and materials used, licences, permits, certificates, notifications, marking of the Goods and declarations of use where and when applicable, verifying compliance with the Agreement and all relevant laws and regulations.

Price and payment terms

Unless otherwise agreed in writing the price for the Goods i. is fixed price and no unilateral price changes are permitted; ii. Is exclusive of VAT but inclusive of all taxes and duties applicable, payable on or prior to delivery; iii. Is inclusive of any storage, handling, packaging and other expenses and charges of the Supplier.

If not otherwise agreed, payment terms for the Goods is agreed to 120 days after final delivery of the Goods.

Splošno

Splošni nakupni pogoji (v nadaljevanju SNP) se uporabljajo za vse nakupne posle med družbami skupine SIJ – Slovenska industrija jekla, d.d. (v nadaljevanju naročnik) in dobavitelj blaga. SNP se uporabljajo tudi za vsa posamična naročila blaga, razen če se stranki pisno ne dogovorita drugače.

Vsa določila oz. splošni pogoji dobavitelja se uporabljajo samo, če jih naročnik pisno potrdi. Nobeno konkludentno dejanje naročnika, (kot na primer prevzem blaga ali plačilo), niti dejstvo, da naročnik določilom oz. splošnim pogojem ni izrecno oporekal, ne šteje kot soglasje k njihovi uporabi.

Naročilo in predmet dogovora

Naročnik bo v izdanem posamičnem naročilu specificiral blago, ki je predmet naročila, dobavni rok in, po potrebi, specifičen namen uporabe. Dobavitelj mora v roku petih delovnih dni zavriniti naročilo, sicer šteje, da je naročilo sprejeto.

Dobavitelj mora na vseh dokumentih navajati referenčno številko naročnikovega naročila, carinske kode in državo porekla blaga.

Naročnika naročilo ne zavezuje, če je dobavitelj v potrjeno naročilo vnesel kakršnekoli spremembe.

Dobaviteljev obseg dobave je izdelava, sestava, testiranje, dobava na kraj dobave in ostale storitve za pravilno izpolnitev naročila. V obseg dobave brez dodatnih stroškov za naročnika spadajo tudi relevantni dokumenti o izvoru, proizvodnji, sestavi materialov, dovoljenjih, licencah, certifikatih, notifikacijah, označbah blaga in deklaracijah, kjerkoli in kadarkoli so te potrebne za verifikacijo blaga in preverjanje skladnosti blaga glede na zakonske zahteve.

Plačilo in plačilni roki

Če ni izrecno dogovorjeno drugače, je cena dogovorjena: i. fiksno, enostranska sprememba cene ni dopustna; ii. brez DDV, vendar vključno z vsemi s transakcijo povezanimi davki in dajatvami; iii. tako, da vključuje vse stroške manipulacij z blagom, embalaže, skladiščenja in ostale z blagom povezane stroške.

Če ni izrecno dogovorjeno drugače, je rok plačila 120 dni po dobavi blaga.

Payment shall be deemed effected at the day of the od the transfer of the amount from Purchaser account. For late payments 70% interest for late payments in accordance to Prescribed interest rate for default interest Act (Zakon o predpisani obrestni meri zamudnih obresti (ZPOMZO-1)).

The Purchaser herein reserves the right to set-off any payments to the Supplier against any amount due to the Supplier and may withhold such amount accordingly.

Delivery and delivery terms

If not otherwise agreed in writing, delivery term shall be DDP Purchaser business address.

Delivery term, as specified in the Purchase order, shall be obligatory for the Supplier. Purchaser reserves the right to postpone the delivery/performance of all or part of Purchase order for a period of 60 days, no costs to be borne by the Purchaser.

Partial delivery shall be accepted only if agreed by the Purchaser in writing.

Purchaser reserves the right, without prejudice to any other remedy available to the Purchaser under the Agreement or under the provisions of governing law, to charge to the Supplier liquidated damages for delay in delivery in amount of 1% of the delayed Goods value for each starting week of the delay.

In case of delay with the delivery The Purchaser is entitled to cover purchase. The Purchaser may charge to the Supplier price difference, if any.

Passing of risk and title

The risk and the title for the Goods shall pass to the Purchaser in accordance to the agreed INCOTERMS.

Warranties

The Supplier warrants, that the goods supplied are: i. free from any Defects; ii. Comply with all specified or implied characteristics and purpose of use; iii. Comply with the order quantity and quality.

Warranty period, if not specified in the Purchase order shall be 12 months after delivery. Purchaser assumes the obligation to notify any defect within 15 days after it has been discovered.

The Supplier shall, without prejudice to any other remedy available to the Purchaser under the agreement of under provisions of governing law, repair or replace (at the Purchaser sole option) any defected Goods or part thereof. Any costs related to repair or replace of the defected Goods shall be borne by the Supplier. Response time for repair/replacement shall not exceed 5 days. Warranty period of 12 months shall apply for the repaired/replaced part.

Plačilo šteje za izvedeno, ko naročnikova banka sprovede nalog za plačilo, ne glede na to, ali so sredstva prispela na dobaviteljev račun. Zamude pri plačilu se obrestujejo v višini 70 odstotkov zakonitih zamudnih obresti skladno z Zakonom o predpisani obrestni meri zamudnih obresti (ZPOMZO-1).

Naročnik si pridržuje pravico, da medsebojno pobota terjatve dobavitelja z morebitnimi obveznostmi dobavitelja do naročnika, in ima pravico zadržati te zneske do steka pogojev za pobot.

Dobava in dobavni rok

Dobavitelj blago dobavi po pogojih DDP naročnikov poslovni naslov, razen če ni drugače pisno dogovorjeno.

V naročilu določen dobavni rok je za dobavitelja obvezujoč. Naročnik si pridržuje pravico prestaviti datum dobave za celotno ali del blaga za obdobje 60 dni, ne da bi pri tem utrpel ali bil dolžan nositi dodatne stroške.

Delne dobave niso dovoljene, razen če se naročnik s tem izrecno strinja.

Naročnik si pridržuje pravico, brez poseganja v ostale ugovore in zahtevke, ki bi jih imel na podlagi teh SNP oz. zakona, zaračunati dobavitelju pogodbeno kazen za zamudo pri dobavi blaga v višini enega odstotka vrednosti blaga, ki je v zamudi, za vsak začetni teden zamude.

V primeru zamude pri dobavi ima naročnik pravico do kritnega nakupa. Dobavitelj je v tem primeru naročniku dolžan poravnati morebitno razliko v ceni.

Prehod nevarnosti naključnega poškodovanja ali uničenja in prehod lastninske pravice

Lastninska pravica na blagu in tveganje poškodovanja in uničenja blaga preide na Naročnika skladno z INCOTERMS.

Jamčevanja za napake

Dobavitelj jamči: i. da je blago brez napak; ii. da je blago skladno z zahtevanimi specifikacijami in namenom uporabe; iii. da količina in kvaliteta ustrezata naročilu.

Če v naročilu ni določeno drugače, jamčevalno obdobje traja 12 mesecev po dobavi blaga. Naročnik mora o napaki obvestiti dobavitelja v roku 15 dni po odkritju pravnih ali stvarnih napak.

Dobavitelj je dolžan blago z napako, brez poseganja v morebitne ostale zahtevke, ki jih ima naročnik na podlagi veljavnega prava, popraviti ali nadomestiti (po izbiri naročnika). Vsi stroški, povezani s popravilom ali nadomestitvijo blaga, bremenijo dobavitelja. Odzivni čas za popravilo/nadomestitev ne sme biti daljši od petih dni. Dvanajstmesečno jamčevalno obdobje za nadomeščeno/popravljeno blago začne teči znova.

In case of defected Goods the Purchaser reserves the right to withhold, in whole or in part, payment for the defective Goods until the warranty claim is finally resolved.

Confidentiality

The Supplier shall keep confidential and shall not disclose any of the data, documents, marketing material or any other information regarding the order to any third parties.

Supplier is liable for any unauthorised disclosure under the applicable rules of civil law. .

Intellectual property rights

Supplier warrants that the Goods and use of the Goods do not infringe any third party right, including intellectual property rights.

The Supplier grants, where applicable, to the Purchaser worldwide, perpetual, royalty free and transferable rights and license to use the Intellectual property rights in the Goods.

Liability

The Supplier shall defend, hold harmless and indemnify the Purchaser and any of its Affiliates from and against any claim, suit, liability, cost, loss, expense or damage (direct and indirect) incurred by the Purchaser of any affiliated companies which relates to: i. Death or personal injury; ii. Damage to property, caused by the defect of the Goods or any act or omission by the Supplier; iii. Non-compliance by the Supplier with any of its warranties or obligations under the Agreement.

Secure sourcing

Supplier assumes the obligation to notify within 6 months in advance any of its decision relating to cease of manufacture for divest its right to Goods or spare parts related thereto.

Anti-corruption clause

The Supplier and the Purchaser hereby undertakes that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind (or implied that they will or might do any such thing at any time in the future) in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.

Force majeure

In case of force Majeure event, resp. party obligations shall be suspended for the same term as Force majeure event. Respective party shall promptly inform the other party regarding Force Majeure event.

V primeru dobave z napakami si naročnik izrecno pridržuje pravico do zadržanja dela ali vseh plačil do dokončne razrešitve zahtevkov iz naslova jamčevanja za napake.

Varovanje poslovnih skrivnosti

Dobavitelj je dolžan vse informacije in podatke, ki jih prejme od naročnika, varovati kot poslovno skrivnost in se zavezuje, da teh podatkov ne bo posredoval tretjim osebam.

Dobavitelj je za vsako nepooblaščenno razkritje teh podatkov odškodninsko odgovoren po splošnih pravilih civilnega prava.

Pravice industrijske lastnine

Dobavitelj jamči, da naročnik z uporabo blaga ne bo kršil ali posegal v morebitne zavarovane pravice tretjih oseb (pravice industrijske lastnine).

Naročnik z nakupom pridobi po vsem svetu veljavno, stalno, brezplačno in prenosljivo pravico uporabe intelektualne lastnine, povezane z blagom.

Odgovornost za škodo

Dobavitelj bo naročniku povrnil vso škodo, ki izvira iz katerekoli zahtevka, odgovornosti, stroška, tožbe, izgube ali druge neposredne ali posredne škode, ki jo utrpri naročnik ali katerakoli z njim povezana družba, zaradi : i. smrti ali telesnih poškodb; ii. škode na premoženju, povezane z napakami blaga ali dejanji oz. opustitvami dobavitelja; iii. neizpolnitve ali nepravilne izpolnitve obveznosti iz teh SNP.

Predvidljivost bodočih dobav

Dobavitelj se zaveže, da bo o svoji nameri prekiniti proizvodnjo blaga ali odprodati pravice do proizvodnje blaga ali rezervnih delov naročnika obvestil vsaj šest mesecev pred prekinitvijo proizvodnje oz. odprodajo pravic.

Protikorupcijska klavzula

Dobavitelj in naročnik se zavezujeta, da na dan začetka veljavnosti pogodbe sama, njuni direktorji, uslužbenci ali zaposleni niso ponudili, obljubili, dali, odobrili, zahtevali ali sprejeli kakršnekoli nepotrebne denarne ali druge ugodnosti ali koristi (ali implicirali, da bodo ali bi lahko kaj takega storili kadarkoli v prihodnosti) na kakršenkoli način, ki je povezan s pogodbo, in da sta sprejela vse razumne ukrepe, da se prepreči enaka ravnanja podizvajalcev, zastopnikov ali drugih tretjih oseb, ki so pod njunim nadzorom.

Višja sila

V primeru višje sile obveznosti stranke, ki jo je prizadel dogodek višje sile, za čas, ekvivalenten trajanju dogodka, mirujejo.

Vsaka stranka je dolžna o dogodku višje sile nemudoma obvestiti nasprotno stranko.

Termination

In case the Supplier is in breach of any of its obligations under the Agreement, which is not remedied even after additional term, no longer than 10 days, Purchase may by notice to the Supplier terminate the Agreement with immediate effect. Notice may be served via post or e-mail in electronic form.

Miscellaneous

No amendment or modification to this Agreement is valid, if not agreed in written form and confirmed by both Parties.

The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

This agreement is construed in English and Slovenian language. In case of contradictions, the English version shall prevail.

Governing law and dispute resolution

This Agreement shall be governed by the laws of the place where the Purchaser is domiciled, excluding any conflict of laws' provisions contained therein.

All disputes in connection to the agreement shall be finally resolved by a competent local court at the place where the Purchaser is domiciled.

Odpoved in razdrtje

Če dobavitelj krši katerokoli obveznosti iz teh SNP ali naročila, kršitve pa tudi po dodatnem roku, ki ni daljši od desetih dni, ne odpravi, ima naročnik pravico razdreti naročilo s takojšnjim učinkom. Naročnik pošlje pisno izjavo o razdrtju dobavitelju. Izjava je veljavna tudi, če je poslana po elektronski pošti.

Razno

Morebitna odstopanja od teh pogojev so veljavna le, če so sklenjena v pisni obliki in jih potrdita obe stranki.

Morebitno neuveljavljanje oz. opustitev katerekoli izmed pravic ali obveznosti po teh SNP ne pomeni, da se je stranka svojim pravicam za bodoče primere in za vselej odrekla.

Ti SNP so sestavljeni v angleškem in slovenskem jeziku. Če si slovenska in angleška različica nasprotujeta, se uporablja angleška različica.

Veljavno pravo in razreševaje sporov

Ti SNP s sklenjeni in se razlagajo skladno z določili prava po sedežu naročnika.

Vsi morebitni spori med strankama bodo dokončno razrešeni pred sodiščem, ki je krajevno in stvarno pristojno po sedežu naročnika.