



## **General Terms and Conditions of Delivery**

## General Terms and Conditions of Delivery Current as of: 25 January 2016

### of PSP Process-Solution-Partner GmbH

hereinafter referred to as “PSP” for contracts with customers (companies and public-law clients).

These General Terms and Conditions of Delivery are part of all supply agreements and offers and apply to all agreements, unless something else in a particular case was agreed upon in writing. Deviating conditions of purchase of the customer are explicitly rejected, and they do not apply to the PSP.

### 1. Pre-contractual Services, Offer and Acceptance

**1.1** The customer shall keep confidential all information provided under these General Terms and Conditions of Delivery and use it exclusively in the context of this. The information, data, etc. are considered entrusted within the meaning of Article 18 of the German Act against Unfair Competition (UWG). Any other use, in particular, any disclosure to third parties, is strictly prohibited.

**1.2** All offers submitted by PSP are always subject to change. Orders by the customer shall be deemed accepted by PSP only after they have been confirmed in writing. The order confirmation from PSP is decisive for the content of the contract. Oral agreements or commitments shall only be binding on PSP after written confirmation.

**1.3** All orders or offers, including any attachments, shall be submitted by the customer to PSP in writing.

**1.4** Contracts shall only come into effect after written confirmation by PSP.

**1.5** At the latest when placing the order, the customer shall inform PSP of the legal, official and other regulations and standards of the country of destination that are relevant to the execution of the deliveries and services, the commercial operation as well as disease and accident prevention. The customer is liable for any damage that PSP suffers due to the failure to comply with this information obligation.

**1.6** Oral side agreements, arrangements, deviations from these General Terms and Conditions of Delivery as well as supplements or the exclusion of these General Terms and Conditions of Delivery shall be made in writing in order to be effective. This also applies to the waiver of this form requirement.

**1.7** PSP reserves the unrestricted intellectual property and copyright-based rights to use cost estimates, drawings and other documents. The customer may only make these documents available to third parties with the prior consent of PSP.

### 2. Prices, Delivery and Payment Conditions

**2.1** Prices and terms of payment only apply if they have been previously agreed upon in writing or confirmed by PSP. The prices only apply to the respective individual order, not to additional orders, unless other written agreements have been made. All prices are quoted plus VAT in the statutory amount applicable at the time of rendering the service.

**2.2** Agreed-upon delivery dates do not apply to PSP if the customer has not provided advance/preliminary services that were agreed upon, e.g. presentation of devices, list of components, or devices to be made available.

**2.3** Our prices include order-related documentation in accordance with a written agreement.

**2.4** Precious metals are always invoiced at the current price at the time of delivery.

**2.5** No delivery and service obligations by PSP exist for any parts and services not listed in the offer.

**2.6** For deliveries and services performed by PSP, the prices exclude packaging, freight, insurance, VAT and customs duties and are ex works (Herrenberg, Germany). In the case of assembly services that are to be provided, the prices for work to be performed are based on the statutory and/or collective working hours applicable to PSP, insofar as these do not contain any deviating written agreements.

**2.7** If the customer requires PSP to work overtime, nights, on Sundays or public holidays, the additional charges listed below will also be invoiced. The normal billing rates are valid for working hours of 8 h/day or 40h/week for 5 working days. The same rates apply pro rata without surcharges for a travel time of up to max. 12 hours and a waiting period of max. 10 hours per calendar day. Additional fees to be paid are:

- a. Monday to Friday for the first two daily overtime hours (8 to 10 hours) + 25%, from the 3rd daily overtime hour + 50%,
  - b. Saturday from the first daily working hour + 25%, from the 3rd daily working hour + 50%,
  - c. for night work (from 8pm to 6am) + 25%,
  - d. for work on Sundays for all hours + 50%,
  - e. for work on all public holidays + 150%.
- Bank holidays are those of the place of performance.

**2.8** In addition to the agreed prices for the hourly rates, which are net prices, the costs for the outward and return journey of PSP employees from the factory (Herrenberg) to the place of performance, as well as the daily allowance to be paid under collective bargaining agreements, are payable at the applicable rates. Additional expenses for meals on official travel are charged pursuant to the applicable provisions of the Income Tax Act (EStG).

**2.9** Invoices are payable no later than 30 days after receipt of the invoice. Claims against PSP may only be offset or a right of retention may only be exercised if the counterclaim is undisputed or it has been established as final and absolute. All costs of the payment transaction are borne by the customer. PSP reserves the right to assign claims from the business relationship.

**2.10** Payments may only be made with a debt-discharging effect, unless expressly agreed otherwise in writing (for example, check payment), to PSP's bank account. The risk associated with the payment method is borne by the customer.

### 3. Retention of Title

**3.1** PSP retains title to the delivered goods until fulfilment of all claims against the customer arising from the business relationship. The customer is prohibited from selling, pledging or assigning as security the goods delivered during the period when the retention of title is in effect. The property also extends to new products resulting from the processing of the goods under the retention of title. In the case of processing, or commissioning with other items not belonging to PSP, PSP acquires co-ownership of the new item in proportion of the invoice value of the reserved goods to the value of the other used materials.

**3.2** Any claims of the customer arising from the sale of the materials remaining in PSP ownership or co-ownership to other customers shall be deemed to have been assigned to PSP in advance at the time of sale. The amount of the advance assignment is limited by the amount of PSP's claim against the customer. Until revocation by PSP, the customer is entitled to collect the claim in the customer's own name and to transfer it to PSP.

**3.3** Insofar as the value of the securities to which PSP is entitled exceeds the claims to be secured by more than 20%, the securities are to be released upon request of the customer.

**3.4** If there are legitimate doubts about the customer's ability to pay before or during the delivery or execution of the work, PSP may demand from the customer sufficient collateral to secure the payment obligations and withhold the provision of the supplies and services, pending the provision of such collateral. If the customer is unable to provide the required securities, PSP is entitled to withdraw from the contract.

### 4. Export Controls

**4.1** For PSP products that are subject to state export controls and the delivery of which is only possible when in compliance with the relevant export control regulations, any resulting delivery delays and/or delivery obstacles are not charged to PSP. The customer is obligated to strictly observe the regulations of foreign trade law when exporting the products.

**4.2** The customer shall inform PSP in detail and in writing about existing authorization requirements for (re-)exports in accordance with the provisions of the country of destination and the export and customs provisions of the country of origin of the goods and services.

**4.3** Imported goods are to be cleared for delivery. Under Regulation (EC) No 1207/2001, the customer shall, at his own expense, provide all the required statements and information to permit checks by the customs authorities and to provide the required official confirmations.

### 5. Delay and Liability for Defects

**5.1** The observance of deadlines by PSP presupposes the timely receipt of all documents that are to be supplied by the customer, required approvals and clearances, in particular of plans, as well as the adherence to the agreed payment terms and other obligations by the customer. If the customer does not fulfil these conditions in time, the deadlines shall be automatically extended in favour of PSP, unless PSP is responsible for the non-fulfilment of these conditions.

**5.2** If the failure to comply with the deadlines is due to force majeure (wars, acts of terrorism, strike, lock-out), to computer viruses or other attacks or the like on PSP's IT system or due to late or improper delivery to PSP, the deadlines are extended appropriately.

**5.3** Agreed delivery dates refer to the shipping date of the goods or, in the case of deliveries including assembly, they refer to the time of completion of the work. If PSP culpably exceeds the delivery period, the customer can assert his statutory rights only after expiry of a reasonable grace period that shall be set in writing.

**5.4** If PSP is in default, the customer may - provided that the customer claims that damage has occurred - be entitled to compensation for each completed week of procurement in the amount of 0.5%, but not more than 5% of the delivery price, or the customer may demand performance provisions. Further claims for damages on whatever legal basis and in particular, due to a violation of secondary contractual obligations, are excluded, insofar as legally permissible or insofar as not expressly permitted under these General Terms and Conditions of Delivery.

**5.5** With respect to amount, PSP's liability is limited to the order value unless product liability insurance taken out by PSP covers further losses or damage.

**5.6** Claims for damages of the customer due to delayed delivery or performance caused by PSP and claims for damages in lieu of performance that exceed the limits specified in Section 5.4 are excluded in all cases of delayed delivery, even after the time period PSP has set for subsequent performance has elapsed. This does not apply if PSP is responsible for the delay in delivery or provision of services in cases of intent, gross negligence or injury to life, body and health.

**5.7** At the request of PSP, the customer shall declare, within a reasonable period of time, whether the customer will withdraw from the contract due to the delay in the delivery or provision of services or insist on delivery or the provision of services.

**5.8** The period of limitation for claims for defects is 12 months from the date of commencement of the statutory limitation period, unless PSP is liable due to intent or gross negligence or PSP is liable for injury to life, body and health. In addition, the limitation of liability shall not apply if PSP has delivered a good that has been used in accordance with its customary use for a building and caused its defect.

**5.9** If the purchaser continues to use the object despite knowledge of a defect caused by PSP, the customer shall lose all supplementary performance and warranty claims in view of the resulting worsening of the defect.

**5.10** The customer shall report obvious defects in accordance with Article 377 of the German Commercial Code (HGB). In all other respects, the assertion of claims for defects is excluded. To meet the deadline, the timely dispatch of the complaint is sufficient.

**5.11** If the notice of defect was wrongly made, you shall, vis-a-vis PSP, replace and be invoiced the expenses incurred by PSP for the inspection and examination of the complaint.

## 6. Data Protection, Security, and Confidentiality

**6.1** We are entitled to store the data relating to our suppliers by means of electronic data processing and to process and use these data in accordance with the statutory provisions for commercial purposes.

**6.2** Contractors/Customers shall strictly adhere to our security instructions for external companies as well as - in the case of classified contracts - to the Handbook of Industrial Security as amended, issued by the Federal Ministry of Economics and Technology.

**6.3** PSP retains intellectual property rights and copyrights to illustrations, drawings, calculations or other documents as well as models, templates, designs, and prototypes.

**6.4** They may not be made accessible to third parties without the express consent of PSP. They shall be used exclusively for the performance of the contract and shall be returned to PSP, without request, upon completion of the project.

## 7. Other Legal Liabilities, Deliveries by PSP EXW (ex works)

**7.1** In all other respects, PSP shall only be liable for personal injury caused by PSP, as well as for acts based on intent or gross negligence, in accordance with statutory.

**7.2** PSP does not accept liability for damage other than direct damage to the supplied goods themselves and that exceed the scope of damage foreseen by PSP. Liability of PSP for consequential damage, in particular production failure, interruption of service, lost profits as well as loss of information and data is excluded.

**7.3** The amount of liability of PSP is - except in cases of intentional and grossly negligent causation as well as personal injury - limited to the amount of the specific respective order value from the customer. If, by way of exception, the order value does not correspond to the typically foreseeable damage, the amount of the liability shall at all times be limited to foreseeable, typically occurring damage. Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, contractors, legal representatives or vicarious agents. The mandatory provisions of the German Product Liability Act remain unaffected.

**7.4** If a contractual fee - of whatever kind, e.g. for delay or for achievement of performance values - has been agreed with the customer, this constitutes a lump-sum compensation for damage, with which all claims of the customer from the respective title (for example, for further compensation) are compensated.

**7.5** Claims for damages expire at the latest at the end of the warranty period.

**7.6** Deliveries and services by PSP are made, unless otherwise expressly agreed, EXW (ex works) in accordance with Incoterms 2010.

## 8. Force Majeure

**8.1** Force majeure, including, in particular, war, laws and other administrative orders, natural disasters, fires, traffic and operational disruptions, lack of energy, strikes and other unavoidable and unpredictable events, releases the affected contractual partner, during such event's duration and for a period of time appropriate for the elimination of the event's effects, from the performance of said contractual partner's contractual obligations. This does not apply to payment obligations.

**8.2** If, due to force majeure, a certain delivery and/or service is no longer possible, the customer is released from the proportionate payment obligation and we from the delivery and service obligation.

## 9. Place of Performance, Acceptance of the Work

The place of performance is the registered office of PSP or, in the case of material delivery, the delivering factory or, in the case of deliveries including assembly, the place of construction of the work. Acceptance is deemed to have taken place if it is not given by you within 7 working days after completion. This does not apply if there are reasons for which there is a lack of acceptance in PSP's sphere of responsibility.

## 10. Installation and Assembly

For installation and assembly by PSP, the following conditions apply, unless otherwise agreed in writing:

**10.1** The customer shall provide the following promptly and at his own expense:

- all earthworks, construction work and other ancillary works external to the industry including specialist and auxiliary personnel, building materials and tools required for this purpose,
- the necessary items and materials for assembly and commissioning, such as scaffolding, raising/lowering and other equipment, fuel and lubricants,
- energy and water at the point of use, including connections, heating and lighting
- sufficiently large, suitable, dry and lockable rooms at the assembly site for storage of machine parts, equipment, materials, tools, etc. and adequate working and common/recreation rooms for the assembly personnel.

**10.2** Prior to commencement of services by PSP, the customer shall provide the necessary information concerning the location of concealed power, gas and water lines/pipes or similar installations.

**10.3** The customer shall notify PSP of the duration of the working times of the assembly personnel on a weekly basis and of the completion of the installation, assembly or commissioning.

**10.4** If PSP requires the acceptance of the delivery or service after completion, the customer shall declare it within two weeks. The acceptance is the same if the 2-week period lapses or if the delivery or service performed by PSP is put into use.

### **11. Applicable Law and Place of Jurisdiction**

**11.1** The exclusive place of jurisdiction for all disputes arising directly or indirectly out of or in connection with the contractual relationship with the customer - including certificates, bills of exchange or checks - is the registered offices of PSP.

**11.2** The law of the Federal Republic of Germany applies to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

### **12. Partial Ineffectiveness**

If individual provisions of a contract for deliveries and services, of which these General Terms and Conditions of Delivery form a part, are or become invalid, the validity of the remaining provisions of the respective contract remain unaffected.

Herrenberg, Germany, 25 January 2016

PSP Process-Solution-Partner GmbH